

STATUTORY EASEMENTS FOR GAS PRODUCTION OPERATIONS

Two recent court cases confirmed the statutory protection of the land easements in relation with gas production operations.

Art. 86 of the consolidated Gas Law no. 341 of 2004 („Gas Law”) provides that the concessionaires of gas production perimeters have:

- a. the right of use in relation to to the necessary works for the rehabilitation of the gas production installation;
- b.the right of use for assuring the normal operation and maintenance of the gas production installation;
- c. the legal underground, surface, and air right of way for the installation of pipelines power lines or other equipments related to the gas production installation, and for the access to the location of such ancillary equipment;
- d. the right to obtain the reduction or cease of activities which would endanger the public safety;
- e. right of access to utilities.

It is important to note that in addition to establishing a statutory easement for operations related to gas production, the above provision also gives the right to the concessionaire to demand the reduction of cease of activities of third parties in the vicinity of the gas installation, which could endanger the operation of the gas installations and equipment. Art. 96 of the Gas Law spells out the interdictions to build, to dig trenches, and to deposit materials in the safety area, or to carry out any works which would affect the gas production installation, and the related pipelines, and equipment.

Further, Art. 90 (1) of the Gas Law provides that the statutory easements for gas production are granted for the life of the gas production installation.

The statutory easements under discussion are free of charge, Art. 90 (2) of the Gas Law.

Private land owners now are taking legal action against concessionaires demanding payment of rent, and/or damages.

In one such case following the filing of a Reply, which outlined the legal basis of statutory easement, the defendant withdrew the legal action.

In another precedent setting case, a concessionaire filed an application for injunctive relief against two land owners, who threatened with physical harm the concessionaires’

employees, and disruption of the gas production operations. The court of competent jurisdiction issued an order, by which the land owners were ordered to permit the free access of the concessionaire to the gas production installation. The court order was immediately served on the defendants by a marshal accompanied by local police officers. The defendants were advised that if they will not comply with the court order they risk to be held in contempt of court and prosecuted. No further problems were caused by the land owners in question.

In our opinion the Gas Law provides adequate legal basis for the statutory land easements related to gas production, and for their enforcement.

Peter Buzescu
Iulian Pirlog