

**TO THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY
represented by the Presidency and the Vice-Presidency of the Energy Community**

REASONED REQUEST

in Case ECS-13/17

Submitted pursuant to Article 90 of the Treaty establishing the Energy Community (“the Treaty”) and Articles 15 and 29 of Procedural Act No 2015/04/MC-EnC of the Ministerial Council of the Energy Community of 16 October 2015 on the Rules of Procedure for Dispute Settlement under the Treaty,¹ the

SECRETARIAT OF THE ENERGY COMMUNITY

against

THE REPUBLIC OF SERBIA

seeking a Decision from the Ministerial Council that the Republic of Serbia,

due to the unjustified exclusion by *Srbijagas* of the Horgoš entry point from unrestricted and non-discriminatory third party access and from open capacity allocation procedures, violates Article 32 of Directive 2009/73/EC and Article 16 of Regulation (EC) 715/2009 and, therefore, fails to fulfil its obligations under Articles 6, 10 and 11 of the Treaty,

the Secretariat of the Energy Community has the honour of submitting the following Reasoned Request to the Ministerial Council.

I. Relevant Facts

1. The Serbian natural gas market

- (1) The Serbian natural gas market is highly concentrated: While the Russian vertically integrated company *PJSC Gazprom* (“*Gazprom*”) is dominant on the market for development, production and upstream gas supply, *JP Srbijagas* (“*Srbijagas*”), dominates the Serbian market both at wholesale and retail levels.
- (2) *Srbijagas* was established by a Governmental Decision of 2005² in accordance with the Law on Public Utilities³, with the Republic of Serbia being its sole shareholder. It holds licenses for

¹ Procedural Act No 2015/04/MC-EnC of 16.10.2015.

² Decision of the Government of the Republic of Serbia on the Establishment of a Public Enterprise for Transport, Storage, Distribution and Trade of Natural Gas (Official Gazette of RS No. 60/05, 51/06, 71/09, 22/10, 16/11, 35/11 and 13/12).

³ Official Gazette of RS No. 119/12.

and is active in natural gas transmission and transmission system operation⁴, distribution⁵ and supply⁶.

- (3) At the wholesale level, *Srbijagas* is the counterparty to long-term contractual arrangements with *Gazprom* regarding the supply of natural gas from the Russian Federation to the Republic of Serbia⁷. In 2017, natural gas imports from the Russian Federation reached 2,183 bcm, i.e. 87% of Serbia's annual final consumption amounting to 2,507 bcm⁸, thus covering the majority of annual natural gas demand in Serbia. *Gazprom* is the exclusive external natural gas supplier to the Serbian market. Domestic production performed by *Naftna Industrija Srbije a.d.* – which in turn is controlled by *Gazprom* – covered the remaining share of natural gas demand.
- (4) Natural gas is imported to the Republic of Serbia through the vertically integrated undertaking *Yugorosgaz a.d.*, which acts as an intermediary in relations between *Gazprom* (in particular, *Gazprom's* subsidiary *Gazprom Export LLC*) and *Srbijagas*. Like *Srbijagas*, *Yugorosgaz* is not unbundled in line with the Third Energy Package.⁹ *Srbijagas* is a 25% shareholder in *Yugorosgaz* (the rest of the company's shares are owned by *Gazprom* (50%) and an Austrian company *Centrex Europe Energy & Gas AG* (25%)).¹⁰ Furthermore, all volumes of the natural gas procured by *Yugorosgaz* are taken over by *Srbijagas* at the Serbian-Hungarian border for its further sale on the Serbian natural gas market.
- (5) At the retail level, *Srbijagas* is the dominant market player being the major supplier both to industrial and household customers. *Srbijagas* is licensed by the Energy Agency of the Republic of Serbia ("AERS") for non-regulated supply of natural gas until September 2026¹¹ and for public (regulated) supply of natural gas until December 2022.¹² *Srbijagas* was also designated by the Government of the Republic of Serbia as a natural gas supplier of last resort and guaranteed supplier for other public suppliers until 1 July 2018.¹³ In 2017, natural gas volumes supplied by *Srbijagas* to final customers amounted to 1,799 bcm or 80% of total natural gas supplies at the retail level, whereas the individual supply share of any other licensed supplier did not exceed 3%.¹⁴
- (6) Finally, *Srbijagas* operates 95% of the natural gas transmission network of the Republic of Serbia and the remaining 5% are operated by *Yugorosgaz Transport d.o.o.*, which is fully-owned by *Yugorosgaz*.¹⁵ Although the validity of the license for natural gas transmission and transmission system operation issued by AERS in October 2006 to *Srbijagas* expired in 2016, *Srbijagas* continues to carry out the functions of transmission system operator ("TSO")¹⁶ in

⁴ Licence No. 0146/13-ЛГ-TCY, as issued by AERS on 31 October 2006 by Decision No 311.01-42/2006-Л-I for a period of 10 years.

⁵ License No. 002/06-ЛГ-24, as issued by AERS on 18 August 2006 by Decision No 311.01-43/2006-Л-1.

⁶ License No. 0216/13-ЛГ-JCH, as issued by AERS on 28 December 2012 by Decision No 311.01-99/2012-Л-I.

⁷ Based on an Intergovernmental Agreement between Serbia and Russia, *Gazprom* and *Yugorosgaz* signed a long-term contract for natural gas supply to Serbia until the end of 2021 for an annual supply of 1.5 bcm/a until 2018 and 2 bcm/a from 2018-2021.

⁸ AERS, 2017 Energy Agency Report, May 2018, Chapter 4.2, Tables 4-7 and 4-9, p. 65-66.

⁹ Decision of the Ministerial Council 2014/03/MC-EnC in Case ECS-9/13, dated 23 September 2014.

¹⁰ The AERS 2017 Energy Agency Report incorrectly lists *Central ME Energy and Gas Vienna* as the owner of these shares.

¹¹ License No 0276/16-LG-SN issued on 29 September 2016 for the period of 10 years.

¹² License No 0216/13-LG-JSN issued on 28 December 2012 for the period of 10 years.

¹³ AERS, 2017 Energy Agency Report, Chapter 4.5, p. 73.

¹⁴ AERS, 2017 Energy Agency Report, Chapter 4.5.2, Table 4-15, p. 74-75.

¹⁵ AERS, 2017 Energy Agency Report, May 2018, Chapter 4.1.2.2, p. 61.

¹⁶ AERS, 2017 Energy Agency Report, May 2018, Chapter 4.3.1, p. 64.

accordance with Article 421 of the Serbian Energy Law,¹⁷ which authorises such activity before certification of the designated TSO. *Transportgas Srbija d.o.o*, a fully-owned subsidiary of *Srbijagas*, which is envisaged to be designated as a future TSO, remains inoperative and has not been unbundled in line with the Third Energy Package, in breach of the Decision of the Ministerial Council in Case ECS-9/13¹⁸ and subsequent Decision establishing serious and persistent breaches under Article 92 of the Treaty.¹⁹

2. Access to the Serbian natural gas transmission system

- (7) Pursuant to Article 286 of the Energy Law, access to natural gas transmission system shall be granted and transmission system capacities shall be allocated by the TSO under the terms and conditions stipulated in the Rules on Operation of the Natural Gas Transmission System ("the Rules") approved by AERS.²⁰ The obligation to grant third party access and to allocate capacities also includes cross-border capacities, *i.e.* capacities at both entry and exit points to/from the natural gas transmission system of the Republic of Serbia.
- (8) Serbia currently has two cross-border interconnection points with natural gas transmission networks of neighbouring countries: an entry point from Hungary to the Republic of Serbia (Kiskundorozsma/Horgoš IP) and an exit point from the Republic of Serbia to Bosnia and Herzegovina (Zvornik IP).
- (9) Both interconnection points are part of the natural gas transmission network operated by *Srbijagas*. There are no pipelines connected with neighbouring transmission systems within the natural gas network operated by *Yugorosgaz Transport*. Consequently, the obligation to grant access to the respective cross-border interconnection points rests on *Srbijagas* acting as TSO, including the allocation of cross-border transmission capacities and congestion management.
- (10) The Horgoš entry point has an annual technical capacity of approx. 4.55 bcm/a; in 2016, the utilisation rate of the entry firm capacity amounted to an average of 42.6%, varying according to seasons. Cross-border capacities at the Horgoš entry point are used only by *Srbijagas* itself and *Gazprom Export* (since 2014) for natural gas imports to the Republic of Serbia, and by *BH-Gas d.o.o* (since 2014) for natural gas transit to Bosnia and Herzegovina, and *Alumina d.o.o* (in 2014-2015).²¹
- (11) In accordance with the Rules under which *Srbijagas* currently operates the natural gas transmission system, an open capacity allocation procedure was initially supposed to be organised in early 2014 for the gas year starting in July 2014, but was repeatedly postponed because of the lack of unbundling of *Srbijagas*.²²

¹⁷ ANNEX 1 - Energy Law of the Republic of Serbia of 29 September 2014 (Official Gazette of the RS No 145/2014).

¹⁸ Decision of the Ministerial Council 2014/03/MC-EnC, dated 23 September 2014.

¹⁹ Decision of the Ministerial Council 2016/17/MC-EnC, dated 14 October 2016.

²⁰ ANNEX 2 - Rules on Operation of the Natural Gas Transmission System (Official Gazette of the RS No 74/13 and 14/14), and Decision amending and supplementing the Rules on Operation of the Natural Gas Transmission System, as approved by AERS Resolution No 51/2015-D-I/7 of 30 January 2015 (Official Gazette of the RS No 11/15), available at https://www.aers.rs/Index.asp?l=2&a=94.6&ted=&ed=&id_ed=&tp=&id=&idag=&tvid=&lid=&sid=1 (last access on 12 July 2019).

²¹ AERS, 2014 Energy Agency Report, May 2015, Chapter 4.3.4.2, p. 58; 2015 Energy Agency Report, May 2016, Chapter 4.3.4.2, p. 67; 2016 Energy Agency Report, May 2017, Chapter 4.3.3.1, p. 65; and 2017 Energy Agency Report, May 2018, Chapter 4.3.3.1, p. 68.

²² AERS, 2017 Energy Agency Report, May 2018, Chapter 4.3.3, p. 68.

- (12) For the first time, an open invitation for booking of annual firm capacity at entry and exit points of the natural gas transmission system was announced by *Srbijagas* on 1 April 2017.²³ By this invitation, *Srbijagas* called system users to book annual firm capacities for transmission of natural gas at entry and exit points subject to available capacities announced on the company's operational web platform.²⁴ The invitation covered three periods (gas years) from 1 October 2017 to 30 September 2020.²⁵
- (13) However, *Srbijagas* expressly indicated in the invitation that “*capacity on entry U1-PPS Horgoš will not be available for booking until further notice*” and that “*in case the capacity on entry U1-PPS Horgoš becomes available for bookings, the TSO shall inform all system users accordingly*”. Hence, *Srbijagas* explicitly excluded cross-border transmission capacities at the Horgoš entry point from this capacity allocation procedure without giving any information to the public justifying such exclusion.
- (14) AERS on 28 April 2017 informed the Secretariat of *Srbijagas*' submission of draft amendments to the Rules containing, *inter alia*, a clause by which the Horgoš entry point would be also formally excluded from the capacity allocation procedure.²⁶ AERS did not approve the proposed amendments to the Rules, thereby allegedly manifesting its disagreement with them.²⁷
- (15) On 31 March 2018, *Srbijagas* published a new invitation for booking of annual firm capacity on entry and exit points of the natural gas transmission system.²⁸ This invitation covered again three periods (gas years) from 1 October 2018 to 30 September 2021 and invited for capacity booking based on the same terms and conditions as previously announced in 2017. As before, cross-border transmission capacities on the Horgoš entry point remained excluded from open capacity allocation procedure “*until further notice*”.
- (16) Again on 31 March 2019, *Srbijagas* published an invitation for booking annual firm capacity on entry and exit points of the natural gas transmission system – with the notable exception of the Horgoš entry point.²⁹

II. Relevant Energy Community Law

- (17) Energy Community Law is defined in Article 1 of the Dispute Settlement Procedures as “*a Treaty obligation or [...] a Decision or Procedural Act addressed to [a Party].*”
- (18) A violation of Energy Community Law occurs if “[*a*] *Party fails to comply with its obligations under the Treaty if any of these measures (actions or omissions) are incompatible with a provision or a principle of Energy Community Law*” (Article 3(1) Dispute Settlement Procedures). Such failure by a Party may consist of “*any measure by the public authorities of*

²³ ANNEX 3 - *Srbijagas*: Invitation for booking of annual firm capacities, published on 1 April 2017.

²⁴ *Srbijagas*: Operational web platform, <https://ots-test.srbijagas.com/> (accessible only to registered system users).

²⁵ Gas year (G+1) 2017/2018 from 1 October 2017 to 30 September 2018, gas year (G+2) 2018/2019 from 1 October 2018 to 30 September 2019, and gas year (G+3) 2019/2020 from 1 October 2019 to 30 September 2020.

²⁶ As explained in AERS' letters No 16/2018-D-II/1 of 17 January 2018 (to the Competition Commission) and No 16/2018-D-II/06 of 8 November 2018 (to the Secretariat).

²⁷ Reply to the Opening Letter, p. 3.

²⁸ ANNEX 4 - *Srbijagas*: Invitation for booking of annual firm capacities, published on 31 March 2018.

²⁹ ANNEX 5 - *Srbijagas*: Invitation for booking of annual firm capacities, published on 31 March 2019.

the Party (central, regional or local as well as legislative, administrative or judicative), including undertakings within the meaning of Article 19 of the Treaty, to which the measure is attributable” (Article 3(2) Dispute Settlement Procedures).

(19) Article 6 of the Treaty reads:

“The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty. The Parties shall facilitate the achievement of the Energy Community’s tasks. The Parties shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.”

(20) Article 10 of the Treaty reads:

*“Each Contracting Party shall implement the *acquis communautaire* on energy in compliance with the timetable for the implementation of those measures set out in Annex I.”*

(21) Article 11 of the Treaty reads:

*“The “*acquis communautaire* on energy”, for the purpose of this Treaty, shall mean the acts listed in Annex I to this Treaty.”*

(22) Article 18 of the Treaty reads:

“1. The following shall be incompatible with the proper functioning of the Treaty, insofar as they may affect trade of Network Energy between the Contracting Parties:

(a) all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition,

(b) abuse by one or more undertakings of a dominant position in the market between the Contracting Parties as a whole or in a substantial part thereof,

[...]

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty establishing the European Community (attached in Annex III).”

(23) Article 19 of the Treaty reads:

“With regard to public undertakings and undertakings to which special or exclusive rights have been granted, each Contracting Party shall ensure that as from 6 months following the date of entry force of this Treaty, the principles of the Treaty establishing the European Community, in particular Article 86 (1) and (2) thereof (attached in Annex III) are upheld.”

(24) Article 32(1) of Directive 2009/73/EC of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (“the Gas Directive”) reads:

“Contracting Parties shall ensure the implementation of a system of third party access to the transmission and distribution system, and LNG facilities based on published tariffs, applicable to all eligible customers, including supply undertakings, and applied objectively and without discrimination between system users. Contracting Parties shall ensure that those tariffs, or the

methodologies underlying their calculation are approved prior to their entry into force in accordance with Article 41 by a regulatory authority referred to in Article 39(1) and that those tariffs – and the methodologies, where only methodologies are approved – are published prior to their entry into force.”

(25) Article 35 of the Gas Directive reads:

“1. Natural gas undertakings may refuse access to the system on the basis of lack of capacity or where the access to the system would prevent them from carrying out the public service obligations referred to in Article 3(2) which are assigned to them or on the basis of serious economic and financial difficulties with take-or-pay contracts having regard to the criteria and procedures set out in Article 48 and the alternative chosen by the Contracting Party in accordance with paragraph 1 of that Article. Duly substantiated reasons shall be given for any such a refusal.

2. Contracting Parties may take the measures necessary to ensure that the natural gas undertaking refusing access to the system on the basis of lack of capacity or a lack of connection makes the necessary enhancements as far as it is economic to do so or when a potential customer is willing to pay for them. In circumstances where Contracting Parties apply Article 4(4), Contracting Parties shall take such measures.”

(26) Article 16 of Regulation (EC) 715/2009 of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) 1775/2005 (“the Gas Regulation”) reads:

“1. The maximum capacity at all relevant points referred to in Article 18(3) shall be made available to market participants, taking into account system integrity and efficient network operation.

2. The transmission system operator shall implement and publish non-discriminatory and transparent capacity-allocation mechanisms, which shall:

(a) provide appropriate economic signals for the efficient and maximum use of technical capacity, facilitate investment in new infrastructure and facilitate cross-border exchanges in natural gas;

(b) be compatible with the market mechanisms including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances; and

(c) be compatible with the network access systems of the Contracting Parties.

[...]

4. In the event that physical congestion exists, non-discriminatory, transparent capacity-allocation mechanisms shall be applied by the transmission system operator or, as appropriate, by the regulatory authorities. [...]

(27) Article 18(3) of the Gas Regulation reads:

“For the services provided, each transmission system operator shall make public information on technical, contracted and available capacities on a numerical basis for all relevant points including entry and exit points on a regular and rolling basis and in a user-friendly and standardised manner.”

III. Preliminary Procedure

(28) According to Article 90 of the Treaty, the Secretariat may bring a failure by a Party to comply with Energy Community law to the attention of the Ministerial Council. Pursuant to Article 11

of the Dispute Settlement Procedures, the Secretariat shall carry out a preliminary procedure before submitting a Reasoned Request to the Ministerial Council.

- (29) Following *Srbijagas*' invitation for booking of annual firm capacity of 1 April 2017, the Secretariat invited *Srbijagas*, the Ministry of Mining and Energy of the Republic of Serbia ("the Ministry") and AERS to submit an explanation and to state the reasons for excluding the Horgoš entry point from the open allocation of cross-border natural gas transmission capacities.³⁰
- (30) Whereas *Srbijagas* did not reply to this letter, the Ministry, in a response dated 30 January 2018, elaborated on *Srbijagas*' alleged inability to ensure unrestricted third party access to the natural gas transmission system.³¹ The Ministry claimed this inability to be due to an alleged "technical inadequacy of metering systems" which would not allow for daily transfers of the metering data from exit points to the dispatch centre, including the data on sale of natural gas to final customers at these exit points and on deliveries to the distribution system. In particular, the Ministry claimed that "*allowing access to a third party to the entry point Horgoš, without all exits from the transmission system being equipped with daily metering, could cause major imbalances in the transmission system and thus jeopardise natural gas supply for all users of the transmission system*".
- (31) By a letter of 17 January 2018, AERS asked the Commission for Protection of Competition of the Republic of Serbia ("the Competition Commission") to investigate potential violations of competition in the Serbian natural gas market by *Srbijagas*, proposing that the Competition Commission takes appropriate measures in accordance with its powers and based on the data and information provided by AERS.³²
- (32) The Competition Commission's response to AERS of 1 August 2018³³ essentially endorsed the explanations by *Srbijagas*, in particular that technical inadequacy of the metering equipment on a large number of exit points from the transmission system prevents unrestricted third party access to and open capacity allocation at those points. The Competition Commission also followed *Srbijagas* in its argument that, should third party access be allowed, suppliers with "*speculative intentions*" could be attracted causing large-scale imbalances by delivering smaller quantities of natural gas to the transmission system which allegedly would endanger the supply of gas to all users of the transmission system. Furthermore, the Competition Commission agreed that modernisation of the metering equipment in the transmission system by mid-2020 was a precondition for enabling third party access to the Horgoš entry point. The Competition Commission did not take any action against *Srbijagas*, but suggested AERS to undertake market remedial measures and introduce a "*gradual opening*" of third party access to the Horgoš entry point only for natural gas delivery from the transmission system via exit points with daily metering and data transmission equipment from the exit point from the transmission system to the dispatch centre, including a possibility to exclude system users in case of abuse of the access (sic!). Since apart from the Horgoš entry point, about 50% of the exit points from the transmission system have daily measurement, which covers about 70% of the total amount of gas transported through the transmission

³⁰ Letter No SR/DBU/23-10-2017 of 23 October 2017 from the Secretariat to *Srbijagas*; Letter No SR/MIN/O/03/15-01-2018 of 15 January 2018 from the Secretariat to the Ministry; Letter No DIV/O/jko/75/05-04-2018 of 5 April 2018 from the Secretariat to AERS.

³¹ Letter No 312-01-00814/2015-5 of 30 January 2018 from the Ministry to the Secretariat.

³² Letter No 16/2018-D-II/1 of 17 January 2018 from AERS to the Competition Commission.

³³ Letter No 5/0-03-146/2018-6 of 1 August 2018 from the Competition Commission to AERS.

system, the Competition Commission suggested that at least these capacities should be open to competition.³⁴

- (33) However, AERS did not agree with this proposal on the grounds that this would discriminate between system users, depending on the exit and entry points used. It would also not be feasible in practice since natural gas could be delivered to transmission system users on exit points with as well as without daily metering.³⁵ AERS noted that the Rules include a solution how to set daily quantities of delivered natural gas on exit points without daily metering. The Rules required the first capacity allocation to be organised in 2014, in line with detailed procedures for the allocation of daily delivered quantities of natural gas to entry/exit points which are not equipped with daily metering. Nothing in the Rules indicates that capacity allocation can be abandoned because of technical inadequacies. AERS noted that the only precondition for the performance of capacity allocation was to complete the unbundling of *Srbijagas*, and that the unbundled TSO starts operation in compliance with all technical conditions. Therefore, AERS indicated that upon issuance of the certification and licence to *Transportgas Srbija doo Novi Sad*, it would assess the possibility to open the Horgoš entry point, taking into account issues related to the availability of adequate metering equipment under the Rules.
- (34) Since the Horgoš entry point continued to remain excluded from unrestricted third party access and open capacity allocation procedures, on 27 July 2018, the Secretariat sent an Opening Letter to the Republic of Serbia concluding that due to the unjustified exclusion by *Srbijagas* of the Horgoš entry point from unrestricted and non-discriminatory third party access and from open capacity allocation procedures, the Republic of Serbia violates Article 32 of the Gas Directive and Article 16 of the Gas Regulation and, therefore, fails to fulfil its obligations under Articles 6, 10 and 11 of the Treaty.³⁶ The Republic of Serbia was requested to submit its observations on the points of fact and law raised in the Opening Letter by 8 October 2018.
- (35) On 28 September 2018, the Republic of Serbia sent a reply to the Opening Letter (“the Reply to the Opening Letter”),³⁷ arguing that AERS performed its activities in line with its competences and claiming that *Srbijagas* is implementing measures in order to create the technical preconditions for enabling third party access to the Horgoš entry point. The Ministry emphasized the fact that Article 32 of the Gas Directive and Article 16 of the Gas Regulation had been transposed into Serbian law, as well as the absence of any legal procedure against *Srbijagas* concerning the exclusion of the Horgoš entry point from unrestricted access. It further explained the alleged technical inadequacies of existing metering equipment on interconnection points, which would prevent *Srbijagas* from granting unrestricted third party access. It also contended that third party access would be granted once *Srbijagas* implements “a series of activities aimed at modernising the transmission system” scheduled for the end of 2020.
- (36) Considering the Reply to the Opening Letter, the Secretariat submitted a Reasoned Opinion on 19 April 2019.³⁸ The Republic of Serbia was requested to rectify the breaches identified therein by 20 June 2019.

³⁴ See also Competition Commission Opinion, p. 3.

³⁵ Letter No 16/2018-D-II/06 of 8 November 2018 from AERS to the Secretariat; AERS Opinion, p. 1.

³⁶ ANNEX 6.

³⁷ ANNEX 7.

³⁸ ANNEX 8.

- (37) On 17 June 2019, the Republic of Serbia provided a reply to the Reasoned Opinion (“the Reply to the Reasoned Opinion”).³⁹ It refers to an opinion of *Srbijagas* (“*Srbijagas* Opinion”), an opinion of the Competition Commission (“*Competition Commission* Opinion”) and an opinion of AERS (“*AERS* Opinion”). The Secretariat will assess them below.
- (38) As the Republic of Serbia did not rectify the breach and in the absence of any further development, the Secretariat decided to refer this case to the Ministerial Council for its decision.

IV. Legal Assessment

- (39) As ruled by the Court of Justice of the European Union (“the Court”), third party access to transmission systems constitutes “*one of the essential measures*”⁴⁰ which Contracting Parties must implement in order to discharge with their commitments under the Energy Community Treaty. Pursuant to Article 32(1) of the Gas Directive, Contracting Parties shall ensure the implementation of a system of third party access to the natural gas transmission system for all system users and applied objectively and without discrimination, based on published tariffs. Articles 16(1) and (2) of the Gas Regulation impose the obligation on the TSO to make available to market participants the maximum capacity at all relevant points, taking into account system integrity and efficient network operation, and to implement and publish non-discriminatory and transparent capacity allocation mechanisms. Under Article 18(3) of the Gas Regulation read in conjunction with paragraph 3.2(1)(a) of Annex I thereto, relevant points shall include all entry and exit points to and from the natural gas transmission network operated by the TSO.
- (40) The obligations related to third party access to the natural gas transmission system stemming from the Energy Community *acquis* were transposed into Serbian national law by the Energy Law⁴¹ and must be implemented by the TSO in accordance with the Rules.⁴² The Secretariat does not challenge the correct transposition of the requirements established by the Energy Community *acquis* concerning third party access to the natural gas transmission system.
- (41) However, the Secretariat challenges the implementation of these obligations by *Srbijagas* and the failure of the authorities competent to enforce the respective obligations to actually do so. *Srbijagas*, *i.e.* the company currently acting as the natural gas TSO in the Republic of Serbia and in charge of all entry and exit points to/from the Serbian natural gas transmission system, continues to unilaterally exclude cross-border natural gas transmission capacities at the Horgoš entry point from open capacity allocation procedures and thus fails to ensure third party access at the respective entry point. This has not been contested in the course of the preliminary procedure. Furthermore, neither AERS nor the Competition Commission took measures effectively ensuring third party access to the Horgoš entry point.
- (42) The restriction of third party access to the Horgoš entry point does not only result in breach of requirements stemming from the Energy Community *acquis* (and Serbian law), but also

³⁹ ANNEX 9.

⁴⁰ Judgment of 22 May 2008, *citiworks* AG, C-439/06, ECLI:EU:C:2008:298, para. 44; judgment of 9 October 2008, *Sabatauskas and Others*, C-239/07, ECLI:EU:C:2008:551, para. 33; judgment of 29 September 2016, *Essent Belgium NV*, C-492/14, ECLI:EU:C:2016:732, para. 76.

⁴¹ See Articles 283, 284, 285 and 286 of the Energy Law.

⁴² Compliance of the Rules with the Energy Community *acquis* is not a subject of this Case and any reference thereto are provided only to specify the regulatory regime applicable for operation of *Srbijagas*’ transmission network.

threatens the very possibility for an open and transparent Serbian gas market and its integration in the single market established by the Energy Community. This is because interconnection points such as Horgoš serve as link between national markets, thereby playing a vital role in connecting and integrating national markets with the aim of establishing a single natural gas market.

1. Failure to grant third party access to the natural gas transmission system

(i) Failure to grant unrestricted system access to third parties

- (43) Under Article 32 of the Gas Directive and Article 16 of the Gas Regulation, third party access to all entry and exit points to/from the transmission system, including both national and cross-border networks, must be granted. In case of *Srbijagas*' transmission networks, the obligation to grant third party access applies to all internal connection points as well as to all cross-border points, and in particular the only entry point (Horgoš) and the only exit point (Zvornik). Third party access to the natural gas transmission system must be granted objectively and without discrimination between system users. As defined by Article 2(23) of the Gas Directive, a system user is any natural or legal person supplying to, or being supplied by, the system. Consequently, non-discriminatory access to the natural gas transmission system has to be ensured for all system users interested in booking respective capacities, including suppliers of natural gas and eligible customers.⁴³ Under Article 16(2) of the Gas Regulation, the TSO is obliged to implement and publish non-discriminatory and transparent capacity-allocation mechanisms to be applicable for allocation of capacities at all relevant points. Capacity allocation mechanisms meant to ensure third-party access to *Srbijagas*' natural gas transmission network are indeed set out by the terms and conditions stipulated in the Rules.
- (44) Even though data on available capacities at each of the connection points on the operational web platform of *Srbijagas* is not publicly accessible, *Srbijagas*' capacity booking invitations of 1 April 2017 and 31 March 2018 and 2019 indicate that system users were given the possibility to book capacities at all relevant points of the transmission network, with the notable exception of the Horgoš entry point. Third-party access to the latter was explicitly excluded by *Srbijagas* in its published invitations.
- (45) Although the invitations for capacity bookings of 1 April 2017 and 31 March 2018 and 2019 published by *Srbijagas* refer to the Rules for the purpose of registration of system users interested in capacity booking and for submission of booking applications, the exclusion of the Horgoš entry point from the open capacity allocation procedures means that the Rules were not applied to it and not complied with. No other mechanism is in place to ensure non-discriminatory and transparent allocation of capacities at the Horgoš entry point.
- (46) Instead, *Srbijagas* continues to allocate cross-border transmission capacities at the Horgoš entry point only for its own needs and to two other system users based on their bilateral contractual relationship with *Srbijagas*. By doing so, it excludes such access by any other potentially or actually interested system user. The Court, in a line of case law dating back to the landmark ruling in Case C-17/03 *VEMW* of 2005 has consistently held that the Directive's provisions on third-party access "*preclude national measures that grant an undertaking*

⁴³ Judgment of 9 October 2008, *Sabatauskas and Others*, C-239/07, ECLI:EU:C:2008:551, para. 44 and 45, judgment of 29 September 2016, *Essent Belgium NV*, C-492/14, ECLI:EU:C:2016:732, para. 74 and 75.

*preferential capacity for the cross-border transmission of electricity, whether those measures derive from the system operator, the controller of system management or the legislature”.*⁴⁴

(47) The Secretariat respectfully submits that *Srbijagas*' failure to ensure unrestricted and non-discriminatory third party access to the Horgoš entry point and to apply objective and non-discriminatory capacity allocation procedures to this entry point, constitutes a violation of Article 32 of the Gas Directive and Article 16 of the Gas Regulation read in conjunction with Article 18(3) and Paragraph 3.2(1)(a) of Annex I thereto.

(ii) Lack of valid justification for the refusal of access

(48) Pursuant to Article 35(1) of the Gas Directive, natural gas undertakings may refuse access to the system only (i) on the basis of lack of capacity or (ii) where the access to the system would prevent them from carrying out the public service obligations which are assigned to them, or (iii) on the basis of serious economic and financial difficulties with take-or-pay contracts having regard to the criteria and procedures set out in Article 48 of the Directive. This constitutes an exhaustive list of possible grounds based on which a TSO may refuse to grant access to its networks, as also acknowledged by the Ministry in its Reply to the Opening Letter.⁴⁵ The same list is also transposed into Serbian law under the first paragraph of Article 285 of the Energy Law. In line with the Court's case law, the exhaustive character of the list means that there can be no other circumstances allowing the TSO to refuse access other than those provided by the Directive.⁴⁶ Taking into account that any refusal under Article 35(1) of the Gas Directive concerns exemptions to the general and overriding principle of third party access under the Energy Community *acquis*, the scope of the exemptions is to be interpreted strictly.⁴⁷ Moreover, duly substantiated reasons must be given for any such a refusal.

(49) First, *Srbijagas* did not give any reasons for the refusal of access to the Horgoš entry point, as confirmed by the Ministry in its Reply to the Opening Letter.⁴⁸ As specified in the capacity booking invitations of 1 April 2017 and 31 March 2018 and 2019, it simply excluded the Horgoš entry point “*until further notice*”, without any justification provided. This, in itself, constitutes a breach of Article 35(1) of the Gas Directive which requires that “[d]uly substantiated reasons shall be given for any such a refusal.”

(50) Second, the burden of proof of circumstances rests on the person alleging the circumstances: “*it is normally for the person alleging facts in support of a claim to adduce proof of such facts.*”⁴⁹ In particular, the reasons invoked by a Contracting Party by way of justification must be

⁴⁴ Judgment of 7 June 2005, *VEMW*, C-17/05, ECLI:EU:C:2005:362, para. 88.

⁴⁵ Reply to the Opening Letter, p. 3.

⁴⁶ Judgment of 22 May 2008, *citiworks AG*, C-439/06, ECLI:EU:C:2008:298, para. 55: “*Having regard to the importance of the principle of open access to transmission or distribution systems, that margin of discretion does not, however, authorise them to depart from that principle except in those cases where Directive 2003/54 lays down exceptions or derogations.*”

⁴⁷ Judgment of 26 June 1990, *Velker International Pol Company*, C-185/89, ECLI:EU:C:1990:262, para. 19; judgment of 5 June 1997, *SDC*, C-2/95, ECLI:EU:C:1997:278, para. 20; judgment of 12 September 2000, *Commission v United Kingdom*, C-259/97, ECLI:EU:C:2000:426, para. 64; judgment of 8 March 2001, *Skandia*, C-240/99, ECLI:EU:C:2001:140, para. 32; judgement of 20 November 2003, *d'Ambrumenil*, C-307/01, ECLI:EU:C:2003:627, para. 36, 34 and 52.

⁴⁸ Reply to the Opening Letter, p. 3.

⁴⁹ Judgment of 27 October 1993, *Enderby*, C-127/92, ECLI:EU:C:1993:859, para.13; judgement of 15 December 2010, *E.ON*, T-141/08, ECLI:EU:T:2010:516, 119 et seqq.

accompanied by specific evidence substantiating its arguments.⁵⁰ Therefore, it would be up to *Srbijagas* to adduce the appropriate evidence for any alleged grounds of impossibility, which it failed to do.

- (51) Third, *Srbijagas*' exclusion of the Horgoš entry point from third-party access as well as objective and transparent capacity-allocation procedures does not satisfy any of the criteria for refusal of access stipulated under Article 35(1) of the Gas Directive and the Energy Law for the following reasons.
- (52) There is no lack of capacity which would justify a refusal under Article 35(1) of the Gas Directive. As has been pointed out above, the Horgoš entry point has an annual technical capacity of approx. 4.55 bcm/a;⁵¹ and capacities are available even in winter months, *i.e.* during the peak consumption of natural gas in the country. The utilisation rate of the firm capacity on the Serbian-Hungarian border amounted to an average of only 51.57% in 2017 (compared to 42.6% in 2016 and 41.4% in 2015). This is far from the levels of the interconnector's full utilisation. As reported by AERS, even the highest daily quantity of natural gas withdrawn into the Serbian natural gas transmission system on the Serbian-Hungarian border amounted to 11.26 mcm/day out of available 13 mcm/day for both Serbia and Bosnia and Herzegovina's needs combined.⁵² Consequently, due to the abundance of the available capacity, *Srbijagas* cannot restrict or refuse access to the Horgoš entry point on grounds of lack of capacity.
- (53) *Srbijagas* also did not provide any justification invoking possible prevention from carrying out public service obligations or potential economic and financial difficulties with take-or-pay contracts in case unrestricted third party access to the Horgoš entry point and open allocation of cross-border transmission capacities were introduced. Any such public service obligation or take-or-pay derogation would have had to be notified to the Secretariat and comply with the rules and principles set out by Article 3 of the Gas Directive and other relevant provisions, including on State aid. *Srbijagas*' unspecified claim⁵³ that capacity reservations are needed to ensure the security of supply to Bosnia and Herzegovina does also not pass that test.
- (54) Finally, in its Reply to the Opening Letter, the Ministry elaborates on inadequacies of the metering system in *Srbijagas*' natural gas transmission network, which allegedly prevent the company from granting unrestricted third party access to the Horgoš entry point. *Srbijagas* follows the same line of argumentation in its opinion attached to the Reply to the Reasoned Opinion.
- (55) *Srbijagas* essentially argues that the obligation to make the maximum capacity at all relevant points available to market participants, "*is always conditional upon this not jeopardizing system integrity and efficient network operation*" and tries to explain why the opening of the market before the necessary technical prerequisites (*i.e.* modern metering equipment with daily records and the option of remote metering reading and making the data available to system users, ultrasound meters, allocation platform) are in place jeopardizes the integrity and efficient operation of *Srbijagas*' network.⁵⁴

⁵⁰ Judgement of 7 July 2005, *Commission v Austria*, C-147/03, ECLI:EU:C:2005:427, para. 63.

⁵¹ AERS, 2015 Energy Agency Report, May 2016, Chapter 4.3.4.2, p. 67; 2016 Energy Agency Report, May 2017, Chapter 4.3.3.1, p. 65-66; and 2017 Energy Agency Report, May 2018, Chapter 4.3.3.1, p. 68-69.

⁵² AERS, 2017 Energy Agency Report, May 2018, Chapter 4.3.3.1, p. 69.

⁵³ *Srbijagas* Opinion, p. 6.

⁵⁴ *Srbijagas* Opinion, p. 2-3.

- (56) The Ministry also argues that *Srbijagas* undertakes a number of measures modernising the natural gas transmission system “*in order to create technical preconditions enabling third party access*” which requires significant financial investments, namely (i) installation of field metering equipment on system all entry and exit points allowing daily metering of natural gas in order to reduce or prevent losses in the system, (ii) introduction of a metering platform in order to collect and process metering data gathered from all system entry and exit points, which enables monitoring and consumption at any point, (iii) installation of an operational platform (software support) for the use of the transmission system and access thereto, and (iv) installation of the Scada system as well as a certain number of operating stations (and replacing existing ones).⁵⁵ These measures are supposed to be finalised by the second half of 2020.⁵⁶
- (57) In this regard, the Secretariat notes at the outset that, as a matter of principle, technical shortcomings in the natural gas transmission system cannot be a sufficient ground for the TSO to restrict or refuse access to its system, unless they cause any of the conditions listed in Article 35(1) of the Gas Directive. Contrary to *Srbijagas*’ argumentation, system integrity and efficient network operation are not *prerequisites* for granting third parties access to the system, but rather must be “*taken into account*” when making the maximum capacity available to market participants, as clearly stipulated by Article 16(1) of the Gas Regulation.
- (58) It is the TSO’s responsibility under Energy Community and national law to manage, operate and invest in the system in a way which ensures its proper functioning, including unrestricted third party access thereto.⁵⁷ It is the TSO’s duty to address any technical problems through adequate system developments which are compensated through regulated tariffs. The failure to comply with these obligations cannot be used to justify the failure to comply with a different set of rules and obligations which are instrumental to ensure transparent and open gas markets in the Energy Community.
- (59) Even if one were to assume, for the sake of argument, that the lack of state of the art technology in the gas transmission system could legitimize refusal of access to the system, it remains unclear in the present case how the fact that technical measures may be needed to improve the proper functioning of the Serbian natural gas transmission system affects the obligation to grant unrestricted third party access to the transmission network. *Srbijagas* argues that efficient operation of the network requires that each system user can easily and efficiently make nominations and re-nominations, that the gas taken over by each system user at the entry point and delivered to each system user at the exit point is continuously metered, and that any differences are subject to operational balancing by collecting an imbalance charge from the user reliably determined to have caused such imbalance. This is allegedly currently not possible due to the state of the technical equipment of *Srbijagas*’ network.⁵⁸ According to *Srbijagas*, the current metering and other technical equipment of the transmission system does not provide sufficient precise data on quantities taken over by users at exit points to enable the differences to be treated by way of operational balancing, and thus to base imbalance charges on objectively measurable data.⁵⁹ However, this does not explain why third party access to the Horgoš entry point would jeopardize system integrity or efficient working of the network.

⁵⁵ Reply to the Opening Letter, p. 5-7.

⁵⁶ See Appendix 1 to the Reply to the Opening Letter.

⁵⁷ See, for example, the TSO’s tasks under Article 12 of the Gas Directive and Articles 247-248 of the Energy Law.

⁵⁸ *Srbijagas* Opinion, p. 2.

⁵⁹ *Srbijagas* Opinion, p. 6.

- (60) The alleged causality is further disproved by the fact that *Srbijagas* has no problems allocating cross-border transmission capacities at the Horgoš entry point for its own natural gas import needs and to selected system users on the basis of bilateral contracts. The allocation of cross-border capacities on the Horgoš entry point to these parties seem not to have caused any of the technical or commercial disturbances claimed by the Ministry and *Srbijagas*.
- (61) Moreover, the alleged technical shortcomings in the natural gas transmission system cannot justify exclusion of the Horgoš entry point from third party access because such technical inadequacies such as the absence of state-of-the-art metering systems would not affect the Horgoš entry point only. Any technical inadequacies as referred to in the Ministry's Replies could reasonably be expected to affect the entire natural gas transmission system, and not the Horgoš entry point selectively. However, in the invitations for capacity bookings of 1 April 2017 and 31 March 2018 and 2019 only the Horgoš entry point was excluded, whereas capacity allocation procedure on all other relevant system points was organised in compliance with the Rules, and in spite of any alleged technical inadequacies.
- (62) Furthermore, AERS actually confirmed⁶⁰ that even if certain exit points from the transmission system should indeed not be equipped with a meter allowing for measuring daily quantities of delivered natural gas, the Rules (in paragraph 13.2) provide for a temporary regulatory solution to determine the respective daily delivered natural gas quantities (based on the total volume delivered during the timeframe and in accordance with the real or assumed daily temperature). *Srbijagas* claims that this solution is intended for situations where metering equipment is temporarily non-functional (in "extreme situations").⁶¹ Yet, it is clear that this section of the Rules provides a solution for the functioning of the system in regular operational mode, namely whenever an absolute coverage by the daily metering instruments on entry and exit points is not in place; this cannot be qualified as "extreme situation". This auxiliary regulatory solution could and should have been used in case of the problems allegedly encountered by *Srbijagas*, rather than refusing third party access to the Horgoš entry point in a discriminatory manner.
- (63) Therefore, the Secretariat maintains that *Srbijagas*, failed to grant unrestricted third party access to the Horgoš entry point without discrimination between system users and to apply objective and non-discriminatory capacity allocation procedures to this entry point in violation of Article 32 of the Gas Directive and Article 16 of the Gas Regulation.

2. Imputability to the Republic of Serbia

- (64) Article 32(1) of the Gas Directive requires "[t]he Contracting Parties [to] ensure the implementation of a system of third party access". Therefore, the ultimate responsibility for the establishment and implementation of unrestricted third party access to all entry and exit points of the natural gas transmission system lies with the Contracting Parties, in this case the Republic of Serbia.
- (65) Moreover, according to Article 41 of the Gas Directive, the regulatory authority shall *inter alia* ensure compliance of TSOs with their obligations under the Gas Directive and other relevant Energy Community legislation.

⁶⁰ Letter No 16/2018-D-II/06 of 8 November 2018 from AERS to the Secretariat.

⁶¹ *Srbijagas* Opinion, p. 4.

- (66) As has been laid down in detail above, *Srbijagas*' exclusion of the Horgoš entry point from the capacity allocation procedures amounts to a breach of Article 32 of the Gas Directive and Article 16 of the Gas Regulation. Therefore, under its duties enshrined in the Gas Directive (and national law), it was obliged to ensure *Srbijagas*' compliance with these provisions.
- (67) Although several suppliers stated that their access to the transmission system had been restricted (namely, GEOPLIN doo Belgrade, PRVO PLINARSKO DRUSTVO doo Belgrade, ELGAS ENERGY TRADING doo Belgrade), the Ministry argues that AERS could not act since they did not file a complaint and it did not have the competence to act *ex officio* on the basis of refusal of access via a general act.⁶² AERS therefore claims to have acted within the powers entrusted to it by the Energy Law.
- (68) Although the Secretariat notes that AERS is competent to act in case of non-compliance of system operators with the Energy Law (Article 58 et seqq of the Energy Law), the crucial point at stake is non-compliance with Energy Community Law, such as the Gas Directive, (and not its transposition into national law). Any potential lack of competences under national law does not justify any non-compliance with Energy Community law. Furthermore, the lawfulness of a refusal to grant third party access does not depend on whether or not potential system users formally complained about such conduct. Therefore, AERS cannot be relieved from its duty to ensure compliance of the TSO with and under the Gas Directive.
- (69) Moreover, as a matter of fact, a general and systematic exclusion such as the one pursued by *Srbijagas* affects entry to gas networks and markets even more effectively than a one-off refusal. Therefore, the concept of refusal of access covers both individual denials of access and general acts of the system operator excluding the access to its networks systematically.
- (70) In its Reply to the Opening Letter, the Ministry also claims that due to the alleged lack of options for AERS to take actions by itself, AERS could only refer the case to the Competition Commission for assessing potential competition infringements.⁶³ The Competition Commission proposed to AERS a partial opening of the Horgoš entry point only for natural gas delivery from the transmission system via exit points with daily metering. However, AERS rejected even this proposal (which would in any case only have opened access at the points which have daily metering, therefore excluding the Horgoš entry point and not rectifying the failure to implement unrestricted third-party access at Horgoš entry point).
- (71) For the sake of completeness only, the Secretariat recalls that Article 18(1)(b) of the Treaty prohibits the abuse of a dominant position. The Court of Justice has consistently stressed that dominant firms have "*a special responsibility not to allow its conduct to impair genuine undistorted competition on the common market*".⁶⁴ The refusal to supply its products or services or to grant access to its facilities may constitute such an infringement of the prohibition of abuse of dominance.
- (72) The European Commission even considers such conduct not only unlawful but as an enforcement priority if (i) the refusal relates to a service that is objectively necessary to be able to compete effectively on a downstream market, (ii) the refusal is likely to lead to the elimination of effective competition on the downstream market, and (iii) the refusal is likely to lead to

⁶² Reply to the Opening Letter, p. 4; AERS Opinion, p. 2.

⁶³ Reply to the Opening Letter, p. 4.

⁶⁴ Judgement of 17 February 2011, *TeliaSonera*, C-52/09, ECLI:EU:C:2011:83, para. 24.

consumer harm.⁶⁵ The Horgoš entry point is the only entry point to the Serbian natural gas transmission system, i.e. a bottleneck for gas supply to Serbia, and access to the natural gas transmission system is necessary in order to supply the Serbian market, granting access on a non-discriminatory basis is necessary to compete on the downstream market. If access of third parties to the transmission system is limited or even excluded, effective competition on the Serbian market for natural gas supply is eliminated, as evidenced by *Srbijagas*' market shares. Consequently, the Serbian market is not open to new market entrants, customers have no choice to switch supplier, and there are no options for diversified internal supplies of natural gas, which ultimately harms consumers.⁶⁶ Serbian customers are therefore deprived from the benefits of a functioning, open and transparent Serbian natural gas market.

- (73) This non-competitive market conduct of *Srbijagas* was confirmed by AERS.⁶⁷ However, no actions were taken either by AERS or the Competition Commission to properly address *Srbijagas*' market conduct from the perspective of energy regulatory or general competition law, including possible legal enforcement measures, and thus to remedy the situation.
- (74) In conclusion, the actions of *Srbijagas*, as a public undertaking, and the failure of AERS and/or the Competition Commission, as public authorities, are attributable to the Republic of Serbia in accordance with Article 3(2) of the Dispute Settlement Procedures. Therefore, the Republic of Serbia is accountable for the failure to comply with Article 32 of the Gas Directive and Article 16 of the Gas Regulation.

ON THESE GROUNDS

The Secretariat of the Energy Community respectfully proposes that the Ministerial Council of the Energy Community declares in accordance with Article 91(1)(a) of the Treaty establishing the Energy Community that

due to the unjustified exclusion by *Srbijagas* of the Horgoš entry point from unrestricted and non-discriminatory third party access and from open capacity allocation procedures, the Republic of Serbia violates Article 32 of Directive 2009/73/EC and Article 16 of Regulation (EC) 715/2009 and, therefore, fails to fulfil its obligations under Articles 6, 10 and 11 of the Treaty.

On behalf of the Secretariat of the Energy Community

Vienna, 12 July 2019

⁶⁵ Guidance on the Commission's enforcement priorities in applying Article 82 of the EC Treaty to exclusionary conduct by dominant undertakings, OJ 2009 C 45/7, para. 81.

⁶⁶ Energy Community Secretariat, Annual Implementation Report 2017/2018, 1 September 2018, p. 162-163.

⁶⁷ AERS: Assessment of infringement of competition rules in the natural gas market in the Republic of Serbia, 17 January 2018, <http://www.aers.rs/Index.asp?l=2&a=541&id=207> (last access on 12 July 2019); Letter No 258/2018-D-II/2 of 23 April 2018 from AERS to the Secretariat; Letter No 16/2018-D-II/06 of 8 November 2018 from AERS to the Secretariat.

A handwritten signature in blue ink that reads "Janez Kopač".

Janez Kopač

Director

A handwritten signature in black ink, appearing to be "Dirk Buschle".

Dirk Buschle

Deputy Director/ Legal Counsel

List of Annexes

- ANNEX 1 Energy Law of the Republic of Serbia of 29 September 2014
- ANNEX 2 Rules on Operation of the Natural Gas Transmission System
- ANNEX 3 *Srbijagas*: Invitation for booking of annual firm capacities, published on 1 April 2017
- ANNEX 4 *Srbijagas*: Invitation for booking of annual firm capacities, published on 31 March 2018
- ANNEX 5 *Srbijagas*: Invitation for booking of annual firm capacities, published on 31 March 2019
- ANNEX 6 Opening Letter in Case ECS-13/17, dated 27 July 2018
- ANNEX 7 Reply to the Opening Letter by the Republic of Serbia, dated 28 September 2018
- ANNEX 8 Reasoned Opinion in Case ECS-13/17, dated 19 April 2019
- ANNEX 9 Reply to the Reasoned Opinion by the Republic of Serbia, dated 17 June 2019