



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

REQUEST

in Cases ECS-10/17 S and ECS-13/17 S

Submitted pursuant to Article 92(1) of the Treaty establishing the Energy Community and Articles 39 to 42 of Procedural Act 2008/1/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

seeking a Decision from the Ministerial Council that

1. The failure by the Republic of Serbia to implement Ministerial Council Decisions 2019/02/MC-EnC and 2021/1/MC-EnC and thus to rectify the breaches identified therein constitutes a serious and persistent breach within the meaning of Article 92(1) of the Treaty.
2. The Republic of Serbia shall take all appropriate measures to rectify the breaches identified in Ministerial Council Decisions 2019/02/MC-EnC and 2021/1/MC-EnC in cooperation with the Secretariat, and shall report to the Ministerial Council in 2022 about the implementation measures taken.
3. The Secretariat is invited to monitor compliance of the measures taken by the Republic of Serbia with the *acquis communautaire*. If the breaches have not been rectified by 1 July 2022, the Secretariat is invited to initiate a procedure for imposing measures under Article 92 of the Treaty.

The Secretariat has the honour of submitting the following Request to the Ministerial Council under Article 92(1) of the Treaty:

I. Relevant Facts

1. Case ECS-10/17

- (1) On 2 July 2018, the Secretariat initiated dispute settlement procedures against the Republic of Serbia, by way of submitting an Opening Letter, based on the view that certifying *Yugorosgaz-Transport, LL* ("*Yugorosgaz-Transport*") as independent system operator ("ISO") constitutes a breach of Articles 10, 14(2)(a), 14(2)(b), 14(2)(d), 15 and 11 of Directive 2009/73/EC ("the Gas Directive") as well as Article 24 of Regulation 715/2009 ("the Gas Regulation"). As the Republic of Serbia did not rectify the breach, the Secretariat submitted the case to the Ministerial Council by way of a Reasoned Request dated 26 April 2019.
- (2) On 13 December 2019, the Ministerial Council upheld the Secretariat's Reasoned Request by adopting Decision 2019/02/MC-EnC on the failure by the Republic of Serbia to comply

¹ As amended by Procedural Act No 2015/04/MC-EnC of 16.10.2015, hereinafter: Dispute Settlement Procedures.

with the Energy Community Treaty.² Serbia was obligated to rectify the breaches established in Article 1 of Decision 2019/02/MC-EnC until 1 July 2020. In its Decision, the Ministerial Council also invited the Secretariat to initiate a procedure under Article 92 of the Treaty, if the identified breach was not rectified by Republic of Serbia by 1 July 2020.

- (3) According to the Decision, the breach by Republic of Serbia subject to Case ECS-10/17 consists in “*not complying with requirements ensuring effective unbundling of the gas transmission system operator Yugorosgaz-Transport,*” by which Republic of Serbia “*has failed to comply with its obligations under Articles 14(2)(a), 14(2)(b), 14(2)(d), 15 and 11 of Directive 2009/73/EC as well as Article 24 of Regulation 715/2009, as incorporated in the Energy Community.*”
- (4) In the aftermath of Decision 2019/02/MC-EnC, the Republic of Serbia was reminded several times of the obligations arising from it and necessary measures to implement in order to rectify the breach.
- (5) On 2 February 2021, the Secretariat sent a letter to the Ministry of Mining and Energy of the Republic of Serbia, requesting a roadmap for ensuring the compliant unbundling of *Yugorosgaz-Transport*.³ On 2 April 2021, the Ministry sent a *Plan for Implementation of Activities for the Purpose of Certification of Yugorosgaz-Transport* according to the ITO model.⁴
- (6) That plan envisaged that the activities for unbundling and certification of *Yugorosgaz-Transport* under the ITO model are initiated in May 2021. This required the ratification by ... of the amended Intergovernmental Agreement (IGA) between the then Federal Republic of Yugoslavia and the Government of the Russian Federation of April 11, 1996. The plan further envisages that the conditions for certification are fulfilled within 11 weeks the IGA has been effectively amended, and that the starts operating whole within 49 weeks after those amendments.
- (7) To date, *Yugorosgaz-Transport* and the relevant Serbian institutions have not implemented the Plan for unbundling; In the absence of the ratification of a Protocol amending the IGA, none of the other steps envisaged in that Plan have been initiated, let alone achieved.
- (8) On 15 July 2019, the Energy Agency of the Republic of Serbia (“AERS”) had adopted a decision revoking the certification issued to *Yugorosgaz-Transport* for lack of unbundling.⁵ However, even without certification, *Yugorosgaz-Transport* continues to hold a valid license for gas transmission (until 2023) and continues to operate a gas transmission network in Serbia. *Yugorosgaz*, the mother company, also continues to trade and supply gas in Serbia, including as a contractual party in a gas import contract with the state-owned incumbent *Srbijagas*.
- (9) Therefore, Serbia continues with the failure to implement unbundling of its natural gas transmission system operator *Yugorosgaz-Transport* in compliance with the Gas Directive and based upon a certification procedure.
- (10) The violation by the Republic of Serbia of its obligations under the Treaty established by Article 1 of Decision 2019/02/MC-EnC thus continues. As will be reasoned below, this failure is to be qualified as a serious and persistent breach. Therefore, the Secretariat follows up on the Ministerial Council’s invitation to initiate a procedure under Article 92 of the Treaty.

2. Case ECS-13/17

² Annex I

³ Annex II

⁴ Annex III

⁵ Decision No. 311.01-2/2016-S-I.

- (11) On 27 July 2018, the Secretariat initiated dispute settlement procedures against the Republic of Serbia by way of submitting an Opening Letter. The case concerns the unjustified exclusion by *Srbijagas* of the Horgoš entry point from non-discriminatory third party access and from open capacity allocation procedures. In the Secretariat's view, the Republic of Serbia violated Article 32 of the Gas Directive and Article 16 of the Gas Regulation, and therefore its obligations under the Treaty. As the Republic of Serbia did not rectify the breach, the Secretariat submitted the case to the Ministerial Council by way of a Reasoned Request dated 12 July 2019.
- (12) On 30 April 2021, the Ministerial Council adopted Decision 2021/1/MC-EnC on the failure by the Republic of Serbia to comply with the Energy Community Treaty.⁶ Serbia was obligated to rectify the breaches established in Article 1 of Decision 2021/1/MC-EnC by 1 July 2021. In its Decision, the Ministerial Council also invited the Secretariat to initiate a procedure under Article 92 of the Treaty, if the identified breach was not rectified by Republic of Serbia by 1 July 2021.
- (13) According to the Decision, the breach by Republic of Serbia subject to Case ECS-13/17 consist in "*unjustified exclusion by Srbijagas of the Horgoš entry point from unrestricted and non-discriminatory third party access and from open capacity allocation procedures,*" by which Republic of Serbia "*violates Article 32 of Directive 2009/73/EC and Article 16 of Regulation (EC) 715/2009, as incorporated in the Energy Community, and therefore fails to fulfil its obligations under Articles 6, 10 and 11 of the Treaty.*"
- (14) In the aftermath, the Ministry of Mining and Energy of Serbia was reminded by the Secretariat of Decision 2021/1/MC-EnC, and the need to take measures to implement the Decision on 10 June 2021.⁷ In order to assist Serbia to rectify the breach established by the Ministerial Council, the Secretariat proposed a provisional procedural act opening capacities at the Horgoš entry point for short-term capacity allocations capacity auctions at. It also offered to discuss the details of the proposal with the Serbian authorities. The Republic of Serbia did not reply to the Secretariat's email dated 10 June 2021.
- (15) The draft provisional procedural act was meant to be applied as a temporary measure until *Transportgas Srbija*, the state-owned gas transmission system operator, would be fully certified as an independent TSO. Unbundling and certification under an ITO model is envisaged by an action plan for the implementation of activities for the purpose of Reorganization PE *Srbijagas*, adopted by the Government of Serbia on This plan also postpones the adoption by *Transportgas Srbija* of a network code enabling full and non-discriminatory third party access to 1 March 2022.
- (16) On 7 June 2021, i.e. after the Ministerial Council Decision establishing the breach of the *acquis*, *Transportgas Srbija* published another invitation for booking of annual firm capacity at entry and exit points of the natural gas transmission system.⁸ The invitation covered three periods (gas years) from 1 October 2021 to 1 October 2024.⁹ Precisely as in the past periods which were subject to the Ministerial Council's Decision 2021/1/MC-EnC, cross-border transmission capacities on the Horgoš entry point were excluded from the capacity allocation procedure, with the exception of transit (to Bosnia and Herzegovina).
- (17) Thus, cross-border capacity at the Horgoš entry point continues to be used only by the Serbian gas TSO *Srbijagas* and *Gazprom Export* for imports to the Republic of Serbia, and by *BH-Gas d.o.o* for transit to Bosnia and Herzegovina. All open invitations for booking of annual firm capacity at entry and exit points of the natural gas transmission system announced by *Srbijagas* on 1 April 2017, 31 March 2018, 31 March 2019 and by

⁶ Annex IV

⁷ Annex V

⁸ Annex VI

⁹ Gas year (G+1) 2021/2022 in the period 01.10.2021 – 01.10.2022, gas year (G+2) 2022/2023 in the period 01.10.2022 – 01.10.2023, and gas year (G+3) 2023/2024 in the period 01.10.2023 – 01.10.2024.

Transportgas Srbija on 7 June 2021, explicitly exclude cross-border transmission capacities at the Horgoš entry point from this capacity allocation procedure.

- (18) The violation by the Republic of Serbia of its obligations under the Treaty established by Article 1 of Decision 2021/1/MC-EnC thus continues. As will be reasoned below, this failure is to be qualified as a serious and persistent breach. Therefore, the Secretariat follows up on the Ministerial Council's invitation to initiate a procedure under Article 92 of the Treaty.

II. Relevant Energy Community Law

- (19) Energy Community Law is defined in Article 1 of the Dispute Settlement Procedures as "a Treaty obligation or to implement a Decision or Procedural Act addressed to it within the required period". A violation of Energy Community Law occurs if "a Party fails to comply with its obligation under the Treaty if any of its measures (actions or omissions) are incompatible with a provision or a principle of Energy Community".

- (20) 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".

- (21) Article 76 of the Treaty reads:

"... A Decision is legally binding in its entirety upon those to whom it is addressed. ..."

- (22) Article 89 of the Treaty reads:

"The Parties shall implement Decisions addressed to them in their domestic legal system within the period specified in the Decision."

- (23) Article 92(1) of the Treaty reads:

"At the request of a Party, the Secretariat or the Regulatory Board, the Ministerial Council, acting by unanimity, may determine the existence of a serious and persistent breach by a Party of its obligations under this Treaty and may suspend certain of the rights deriving from application of this Treaty to the Party concerned, including the suspension of voting rights and exclusion from meetings or mechanisms provided for in this Treaty."

- (24) Article 37 of the Dispute Settlement Procedures ("Binding nature of the decision") reads:

"The decision by the Ministerial Council shall be binding on the Parties concerned from the date of its adoption."

- (25) Article 38 of the Dispute Settlement Procedures ("Consequences of a decision establishing failure to comply") reads:

"(1) Where the Ministerial Council establishes the existence of a breach of a Party's obligation pursuant to Article 91 of the Treaty, the Party concerned shall take all appropriate measures to rectify the breach and ensure compliance with Energy Community law.

(2) The Secretariat, in accordance with Article 67(b) of the Treaty, shall review the proper implementation by the Party concerned of the decision by the Ministerial Council, and may again bring the matter directly before the Ministerial Council on the grounds of a failure to take the necessary measures to comply with the decision."

(26) Article 39 of the Dispute Settlement Procedures (“Serious and persistent breach”) reads:

“The Ministerial Council shall establish the existence of a serious and persistent breach by a Party of its obligations under the Treaty taking into account the particularities of each individual case.”

(27) Article 40 of the Dispute Settlement Procedures (“Request”) reads:

“(1) A Party, the Secretariat or the Regulatory Board may request the Ministerial Council to determine the existence of a serious and persistent breach without a preliminary procedure.

(2) The request may follow up on a prior decision taken by the Ministerial Council under Article 91 of the Treaty or raise a new issue.

(3) The request shall set out the allegations against the Party concerned in factual and legal terms. It shall also contain a proposal as to concrete sanctions to be taken in accordance with Article 92(1) of the Treaty.

(4) The request shall be submitted to the Presidency and the Vice-Presidency at least 60 days before the respective meeting. A copy shall be submitted to the Secretariat for registration. The request shall not be made public.

(28) Article 41 of the Dispute Settlement Procedures (“Decision-making procedure”) reads:

(1) The Presidency shall, within seven days after receiving it, forward the request to the Party concerned and ask it for a reply to the allegations made in the request.

(2) The Presidency and the Vice-Presidency may ask the Advisory Committee for its written opinion.

(3) The decision by the Ministerial Council on the existence of a serious and persistent breach shall be taken in accordance with Articles 92(1) and 93 of the Treaty.

(4) The decision taken by the Ministerial Council shall be made publicly available on the Secretariat's website.

(29) Article 42 of the Dispute Settlement Procedures (“Measures under Article 92”) reads:

“(1) In the decision establishing the existence of a serious and persistent breach, the Ministerial Council shall determine measures in accordance with Article 92(1) of the Treaty and specify a time-limit.

(2) The obligations of the Party concerned under the Treaty shall in any case continue to be binding on that Party.

(3) The Ministerial Council shall at each subsequent meeting verify that the grounds continue to apply on which the decision establishing the existence of a serious and persistent breach was made and sanctions were imposed.”

III. Reasons

1. Introduction

aa. The binding nature of Ministerial Council Decisions

(30) A Decision taken by the Ministerial Council has binding effect vis-à-vis the Party concerned. This follows from Article 76 of the Treaty and Article 37 of the Dispute Settlement Procedures. As a consequence, Parties are under an obligation to implement Decisions in their domestic legal systems (Articles 6 and 89 of the Treaty).

(31) In the case of a Decision taken under Article 91 of the Treaty, such as Ministerial Council Decisions 2019/02/MC-EnC and 2021/1/MC-EnC, the obligation to implement the Decision amounts to an obligation to fully rectify the breach identified and to ensure compliance with

Energy Community law. This is expressly stipulated in Article 38(1) of the Dispute Settlement Procedures. Moreover, in Article 2 of Decisions 2019/02/MC-EnC and 2021/1/MC-EnC, the Ministerial Council called upon the Republic of Serbia to ensure compliance with the Energy Community law immediately, as well as to report regularly to the Secretariat and the Permanent High Level Group about the measures taken.

- (32) It follows from the above that the non-implementation of a Ministerial Council Decision under Article 91 in itself constitutes a breach of Energy Community law. Once a Decision establishing a breach is taken, it is not possible any longer for that Party to contest the validity or the lawfulness of that Decision. The Treaty does not foresee an appeal against Decisions of the Ministerial Council, the supreme decision-maker under the Treaty. If a Party wants to challenge the position taken by the Secretariat on the existence of breaches of Energy Community law, it needs to do so during the procedure leading up to the Decision by the Ministerial Council under Article 91 of the Treaty. Once that Decision is taken, the Party is precluded from raising any arguments challenging the findings contained in the Decision. Otherwise, legal certainty and the binding effect of decisions would be frustrated. The only pathway the Treaty envisages for setting aside a Decision by the Ministerial Council under Article 91 or 92 of the Treaty is a request for revocation under Article 91(2) or Article 92(2) of the Treaty respectively.
- (33) It follows from the binding effect of decisions under Energy Community law that the Republic of Serbia was and remains obliged to implement Ministerial Council Decisions 2019/02/MC-EnC and 2021/1/MC-EnC, and to effectively rectify the breach identified in Article 1 of those decisions. At the date of the present Request, and as has been demonstrated above, this is not the case either for Case ECS-10/17 or for Case ECS-13/17.

bb. Measures under Article 92 of the Treaty

- (34) Besides triggering a self-standing obligation of the Party concerned to rectify any breaches identified in a previous Decision under Article 91(1) of the Treaty, Article 92(1) of the Treaty envisages further follow-up measures to be taken by the Ministerial Council to incentivize compliance by the Party violating Energy Community law, namely (1) the determination of a serious and persistent breach of the obligations under the Treaty, and (2) the suspension of certain rights deriving from the application of the Treaty.
- (35) In the past, the Ministerial Council has often established a serious and persistent breach in a first decision under Article 92 of the Treaty,¹⁰ and subsequently imposed measures related to suspension of certain rights deriving from the application of the Treaty if the serious and persistent breach has not been rectified.¹¹ Following this sequence, the Secretariat in the present Request asks for a decision by the Ministerial Council on establishing a serious and persistent breach. The Secretariat reserves the right to request measures related to the suspension of certain rights deriving from the application of the Treaty under Article 92(1) of the Treaty at a later stage.
- (36) Decisions under Article 92 of the Treaty do not require a preliminary procedure. The fact that the present Request is a follow-up to the Ministerial Council's Decisions concluding Cases ECS-10/17 and 13/17 means that the Republic of Serbia was given opportunity to be heard in the course of the procedure under Article 91 of the Treaty. The Republic of Serbia submitted replies to the Opening Letters, replies to the Reasoned Opinions and replies to the Reasoned Requests. The procedure under Article 91 of the Treaty in both cases also introduced the Ministerial Council to the subject-matter of the present Request.

¹⁰ See: Ministerial Council Decision 2014/04/MC-EnC of 23.09.2014 in Case ECS-8/11 S; Ministerial Council Decision 2016/17/MC-EnC of 14.10.2016 in Case ECS-9/13 S; Ministerial Council Decision 2018/13/MC-EnC of 29.11.2018 in Case ECS-2/13 S, Ministerial Council Decision 2018/16/MC-EnC of 29.11.2018 in Case ECS-6/16 S and Ministerial Council Decision 2018/12/MC-EnC of 29.11.2018 in Case ECS-3/08 S..

¹¹ Ministerial Council Decision D/2015/10MC-EnC: on imposing measures on Bosnia and Herzegovina pursuant to Article 92(1) of the Treaty, in Case ECS-8/11, dated 16 October 2015.

- (37) Moreover, unlike Article 91 of the Treaty, Article 92 of the Treaty does not require a reasoning of the Request made to the Ministerial Council. Nevertheless, the Secretariat in accordance with Article 40(3) of the Dispute Settlement Procedures sets out the factual background and the main legal reasons for submitting the present Request.
- (38) In the following, the Secretariat respectfully submits that the failure of the Republic of Serbia to comply with Energy Community law, at the date of this Request amounts to a serious and persistent breach.

2. *Continued existence of a breach*

- (39) As has been explained above, the Republic of Serbia continues to breach Ministerial Council Decisions 2019/02/MC-EnC and 2021/1/MC-EnC and provisions of the *acquis communautaire* referred to therein.
- (40) In Case ECS-10/17, the transmission system operator *Yugorosgaz-Transport* continues to operate a gas transmission network in Serbia and holds a valid license for this activity. Its sole shareholder, *Yugorosgaz*, also trades and supplies gas in Serbia without being unbundled nor certified as required under the Gas Directive and Gas Regulation.
- (41) In Case ECS-13/17, the interconnection point between Serbia and Hungary at Horgoš is explicitly excluded from capacity allocation by *Transportgas Srbija*. As a result cross-border capacity at this interconnection point is allocated only to *Srbijagas* and *Gazprom Export* in contravention of the requirement for non-discriminatory third party access.
- (42) Therefore, the Secretariat respectfully submits that the Republic of Serbia, in the aftermath of Decisions 2019/02/MC-EnC and 2021/1/MC-EnC, has not rectified the breaches identified by Article 1 of those Decisions.

aa. Serious breach

- (43) In a Communication of 2005 concerning the EU pre-Lisbon infringement action procedure, the Commission stated that “[a]n infringement concerning non-compliance with a judgment is always serious”.¹² The Commission also assesses whether measures have been taken to comply with the judgment or not, and in the latter case, “there can be no doubt that the Member State is in breach [...]” of its obligations.¹³ In its Communication of 2017, the Commission has reiterated that “[A]s a matter of priority, the Commission will investigate cases where Member States have failed to communicate transposition measures or where those measures have incorrectly transposed directives; where Member States have failed to comply with a judgment of the Court of Justice [...]”.¹⁴ This could concern cases of failure to ensure that national legislation complies with European law since late or incorrect national legislation systematically undermines citizens' ability to assert their rights and benefit from the law. It can be argued that this statement is applied by analogy to the situation at hand. Given that Article 92 of the Treaty was modeled on Article 7 TEU, the Commission's Communication of 2003 offers a relevant view on what qualifies a breach as serious. Within this procedure, the breach in question must go beyond specific situations and concern a more systematic problem. In order to determine the seriousness of the breach, a variety of criteria will have to be taken into account, including the purpose and the result of the breach.
- (44) In relation to Case ECS-10/17, the Secretariat submits that unbundling of transmission system operators constitutes one of the key concepts enshrined in the Third Energy Package. Without effective separation of networks from activities of production and supply, there is a risk of discrimination not only in the operation of the network but also in the incentives for

¹² Communication from the Commission, SEC(2005) 1658, section 16. See also: See ECJ C-169/13, *Commission v Italy*, ECLI:EU:C:2014:2407, para. 100; ECJ C-378/13, *Commission v Greece*, ECLI:EU:C:2014:2405, paras. 37, 72.

¹³ Communication from the Commission, SEC(2005) 1658, section 16.3.

¹⁴ Communication from the Commission, EU Law: Better results through better application, 2017/C 18/02, section 3.

vertically integrated undertakings to invest adequately in their networks. Therefore, the rules on unbundling aim at preventing companies which are involved both in transmission of energy and in production and/or supply of energy from using their privileged position as operators of a transmission network to prevent or obstruct access of their competitors to this network or other conduct affecting fair and undistorted competition, market integration or infrastructure investment.¹⁵ Ualso serves the purpose of ensuring.

- (45) While the failure to implement any of the elements of the Third Energy Package would suffice to be considered a serious and consistent breach, the unbundling of transmission system operators ranks thus among the most important of those elements. This holds even more true where the transmission system operator – as in the case of *Yugorosgaz-Transport* – is controlled by an entity from a third country, as evidenced by Article 11 of Directive 2009/73/EC. In the present case, the Serbian regulatory authority understood this and withdrew the certification. The fact that even under these circumstances, i.e. non-unbundled and non-certified, *Yugorosgaz-Transport* continues to operate its transmission system and will continue to do so until 2023 at least, amounts to a full and willful ignorance of the Third Energy Package tolerated by the institutions of the Republic of Serbia. It makes this breach particularly serious.
- (46) In relation to Case ECS-13/17, it was explicitly and repeatedly confirmed by the Court of Justice of the European Union that third party access to transmission systems constitutes “*one of the essential measures*”¹⁶ which Member States (and by consequence Contracting Parties) must implement in order to discharge with their commitments under the Energy Community Treaty.
- (47) 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 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.
- (48) Granting priority access to transmission capacity jeopardises, “*contrary to the objective of the Directive, the transition from a monopolistic and compartmentalised market to one that is open and competitive,*”¹⁷ and amounts to a straight-forward and serious breach. Ensuring Continuing to do so, by excluding Horgoš entry point even in the call in June 2021, for three future years (until October 2024) after the Ministerial Council has established such exclusion as a breach by Decision 2021/1/MC-EnC confirms this finding.
- (49) Finally, as in the European Union, the Ministerial Council of the Energy Community disposes of a discretionary power to determine whether there is a serious and persistent breach.¹⁸ In this respect the Secretariat recalls that it was invited by the Ministerial Council in Decisions 2019/02/MC-EnC and 2021/1/MC-EnC to initiate a procedure under Article 92 of the Treaty if the breaches has not been rectified by July 2020 and July 2021 respectively. This presupposes the existence of a serious (and persistent) breach.

bb. Persistence of the breach

¹⁵ Interpretative Note on Directive 2009/72/EC concerning common rules for the internal market in electricity and Directive 2009/73/EC concerning common rules for the internal market in natural gas – The unbundling regime, dated 22 January 2010, page 4.

¹⁶ 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.

¹⁷ Case C-17/03 *VEMW* [2005] ECR I-4983, para. 62.

¹⁸ Commission, Communication on Article 7 of the Treaty on European Union, pp. 3, 7.

- (50) According to the European Commission, for a breach to be persistent, it must last some time, but can be expressed in a variety of manners.¹⁹ Systematic repetition of individual breaches could provide stronger arguments.²⁰ In infringement actions, the European Commission committed to pay particular attention to cases showing a persistent failure by a Member State to apply EU law correctly.²¹
- (51) In Case ECS-10/17, the breaches subject to Decision of the Ministerial Council 2019/02/MC-EnC have been already identified by the Secretariat in its Opinion 2/2017 of 22 April 2017 on AERS' preliminary decision of 12 December 2016. AERS disregarded the Opinion and the non-compliance issues highlighted therein and upheld its Preliminary Decision on 20 June 2017. Following repeated written and oral communication, AERS did not revoke the certification, but on 13 July 2018 prolonged the deadline of 12 months contained therein by another 12 months, thereby again sustaining the breaches identified. Finally, following the adoption of the Decision of the Ministerial Council 2019/02/MC-EnC on 13 December 2019, the Republic of Serbia has failed to adopt any measures to rectify the breach identified in the Decision, neither immediately, nor by the deadline specified in the Decision of July 2020. In this entire period, no action has been taken by the Republic of Serbia to remedy the breach identified several times.
- (52) In Case ECS-13/17, the obligation to ensure third party access, including to cross-border capacity, was already an obligation for Ukraine under the Second Internal Energy Market Package that was to be implemented and applied by the Republic of Serbia by July 2006. 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 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 in October 2017. 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 initiated dispute settlement procedure by sending an Opening Letter. The last open call dated 7 June 2021, fifteen years after the obligation to ensure third party access from the second package was due and six years after the obligation has been confirmed by the third package, Horgoš entry point continues to be excluded, as part of a "systematic repetition of individual breaches".
- (53) It follows that the Republic of Serbia has failed to take any remedial steps, let alone actually remedy, the breaches identified repeatedly over the course of four years in Case ECS-10/17 and more than ten years in Case ECS-13/17, confirming the breach in the latter case even after the Ministerial Council has formally established it. This constitutes a persistent breach of its obligations under the Energy Community Treaty.

ON THESE GROUNDS

The Secretariat of the Energy Community respectfully requests that the Ministerial Council of the Energy Community in accordance with Article 92(1) of the Treaty declares that:

1. The failure by the Republic of Serbia to implement Ministerial Council Decisions 2019/02/MC-EnC and 2021/1/MC-EnC and thus to rectify the breaches identified therein constitutes a serious and persistent breach within the meaning of Article 92(1) of the Treaty.

¹⁹ Commission Communication on Article 7 of the Treaty on European Union, p. 8.

²⁰ Commission Communication on Article 7 of the Treaty on European Union, p. 8.

²¹ Communication from the Commission, EU Law: Better results through better application, 2017/C 18/02, section 3.

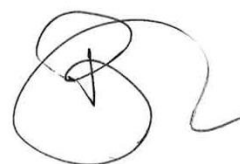
2. The Republic of Serbia shall take all appropriate measures to rectify the breaches identified in Ministerial Council Decisions 2019/02/MC-EnC and 2021/1/MC-EnC in cooperation with the Secretariat and shall report to the Ministerial Council about the implementation measures taken in 2022.
3. The Secretariat is invited to monitor compliance of the measures taken by the Republic of Serbia with the *acquis communautaire*. If the breaches have not been rectified by 1 July 2022, the Secretariat is invited to initiate a procedure for imposing measures under Article 92 of the Treaty.

On behalf of the Secretariat of the Energy Community

Vienna, 24 September 2021

A handwritten signature in blue ink, appearing to read "Janez Kopač".

Janez Kopač
Director

A handwritten signature in blue ink, appearing to read "Dirk Buschle".

Dirk Buschle
Deputy Director / Legal Counsel

List of Annexes

- ANNEX I Decision 2019/02/MC-EnC in Case ECS-10/17
- ANNEX II ECS Letter to Ministry of Mining and Energy of the Republic of Serbia, ECS-10/17/O/02-02-202, 02.02.2021
- ANNEX III Plan for Implementation of Activities for the Purpose of Certification of Yugorosgaz-Transport
- ANNEX IV Decision 2021/1/MC-EnC in Case ECS-13/17
- ANNEX V ECS email of 10 June, including draft provisional rules
- ANNEX VI Published call for booking firm annual capacity by Transportgas Srbija dated 7 June 2021

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

D/2019/02/MC-EnC: on the failure Republic of Serbia to comply with the Energy Community Treaty in Case ECS-10/17

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community ("the Treaty"), and in particular Article 91(1)(a) thereof;

Upon the Reasoned Request by the Secretariat in Case ECS-10/17 dated 26 April 2019;

Having regard to the Reply by Republic of Serbia dated 26 June 2019;

Having regard to the public hearing of 20 September 2019,

Having regard to the Opinion by the Advisory Committee established under Article 32 of Procedural Act No 2008/01/MC-EnC of the Ministerial Council of the Energy Community of 27 June 2008 on the Rules of Procedure for Dispute Settlement under the Treaty as amended by Procedural Act No 2015/04/MC-EnC, dated [xxxxxxx];

HAS ADOPTED THIS DECISION:

Article 1

Failure by Republic of Serbia to comply with the Treaty

1. By not complying with requirements ensuring effective unbundling of the gas transmission system operator *Yugorosgaz-Transport*, Republic of Serbia has failed to comply with its obligations under Articles 14(2)(a), 14(2)(b), 14(2)(d), 15 and 11 of Directive 2009/73/EC as well as Article 24 of Regulation 715/2009, as incorporated in the Energy Community,
2. For the reasons sustaining these findings, reference is made to the Reasoned Request.

Article 2

Follow-up

1. Republic of Serbia shall take all appropriate measures to rectify the breach identified in Article 1 and ensure compliance with Energy Community law immediately. Republic of Serbia shall report regularly to the Secretariat and the Permanent High Level Group about the measures taken in 2020.

2. If the breach has not been rectified by 1 July 2020, the Secretariat is invited to initiate a procedure under Article 92 of the Treaty.

Article 3
Addressees and entry into force

This Decision is addressed to the Parties and the institutions under the Treaty. It enters into force upon its adoption.

Done in Chisinau on 13 December 2019

For the Ministerial Council

A large, stylized handwritten signature in blue ink, written over a dotted line.

.....
Presidency

Energy Community Secretariat

Am Hof 4, Level 5, 1010 Vienna, Austria

Phone	+43 (0)1 535 2222
Email	contact@energy-community.org
Web	www.energy-community.org

Vienna, 2 February 2021
ECS-10/17/O/02-02-2021

EXCELLENCY,

With this letter, we would like to recall the Decision of the Ministerial Council of the Energy Community 2019/02/MC-EnC on the failure of the Republic of Serbia to comply with the Energy Community Treaty in Case ECS-10/17, dated 13 December 2019. In its decision, the Ministerial Council found that by not complying with the requirements for effective unbundling of the gas transmission system operator *Yugorosgaz-Transport*, the Republic of Serbia has failed to comply with its obligations under Article 14(2)(a), 14(2)(b), 14(2)(d), 15 and 11 of Directive 2009/73/EC as well as Article 24 of Regulation 715/2009, as incorporated in the Energy Community.

The Ministerial Council required the Republic of Serbia to take all appropriate measures to rectify the breach and ensure compliance with Energy Community law immediately. We may recall that this obligation remains in force regardless of the fact that the Ministerial Council recently did not qualify the breach by the Republic of Serbia as a serious and persistent one.

Unfortunately, to date, compliance of *Yugorosgaz-Transport* with the unbundling regime of the Third Energy Package has not been achieved and, therefore, the breach of Energy Community law by the Republic of Serbia still persists. In order to avoid further legal steps within the framework of the applicable dispute resolution procedures, we would kindly request a roadmap for next steps ensuring the compliant unbundling of *Yugorosgaz-Transport* at your earliest convenience, **but not later than 1 April 2021**.

Please accept, Excellency, the expressions of our highest considerations.



Janez Kopač
Director



Dirk Buschle
Deputy Director/ Legal Counsel

**H.E. MS. ZORANA MIHAJLOVIĆ
MINISTER OF MINING AND ENERGY
REPUBLIC OF SERBIA**

From: [Natalija Lukovic](#)
To: [Dirk Buschle](#)
Cc: [Janez Kopac](#); "[Vesna Lakovic](#)"; "[Snežana ristic](#)"; "[Olga Antic Miocinovic](#)"; sasa.stojanovic@mre.gov.rs; petstano45@gmail.com; "[Kabinet MRE](#)"
Subject: Plan for Implementation of Activities for the Purpose of Certification of Yugorosgaz- Transport DOO
Date: Friday, 2 April 2021 15:46:29
Attachments: [PLAN ZA SPROVODJENJE AKTIVNOSTI U CILJU SERTIFIKACIJE konacno_eng.docx](#)

Dear Dirk,

In the attachment of this mail is the Plan for Implementation of Activities for the Purpose of Certification of Yugorosgaz- Transport DOO according to the model of independent transmission operator(ITO).

I would like to inform you that the answer was prepared within the required deadline, but we had to wait for its translation into English, so that is the reason why we are sending it to you today. I deeply apologize for this.

Could you please confirm that the submitted plan is sufficient in response to the submitted letter from the Secretariat.

Kind regards,

Natalija Lukovic

PLAN FOR IMPLEMENTATION OF ACTIVITIES FOR THE PURPOSE OF CERTIFICATION OF YUGOROSGAS - TRANSPORT DOO ACCORDING TO THE MODEL OF INDEPENDENT TRANSMISSION OPERATOR (ITO)

All deadlines are related to the ratification of the Protocol on Amendments to the Intergovernmental Agreement (IGA) and are presented on a weekly basis since its entry into force.

* the stated deadlines depend on the procedures of companies and state bodies.

** The deadline depends on the Energy Agency of the Republic of Serbia (AERS) and the Secretariat of the Energy Community

No.	ACTIVITY	DEADLINE from the date of entry into force of the Protocol amending the IGA	RESPONSIBLE
1.	Entry into force of the Protocol amending the Intergovernmental Agreement (IGA) between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Russian Federation of April 11, 1996.	ASSUMPTION: May 2021*	Ministry of Mining and Energy of the Republic of Serbia and the Ministry of Energy of the Russian Federation, the Government of the Republic of Serbia and the Government of the Russian Federation, the National Assembly of the Republic of Serbia *
2.	Implementation of the update of the independent assessment of the market value of the Gas Transmission System Complex Jugorosgaz ad (Assets) with the aim of transferring from Jugorosgaz ad to the ownership of Jugorosgaz - Transport doo	5 weeks	Jugorosgaz ad, independent appraiser *
3.	Implementation of corporate procedures for creating conditions for the transfer of assets from Jugorosgaz ad to the ownership of Jugorosgaz - Transport doo	8 weeks	Jugorosgaz ad, Jugorosgaz – Transport doo, Shareholders of Jugorosgaz *
4.	Adopting a decision of the management body on the transfer of assets from Jugorosgaz ad to Jugorosgaz - Transport doo	10 weeks	Jugorosgaz ad, Jugorosgaz – Transport doo, Shareholders of Jugorosgaz ad *
5.	Creating conditions for certification of Jugorosgaz - Transport doo according to the ITO model	11 weeks	Jugorosgaz ad, Jugorosgaz – Transport doo
6.	Preparation of documents for certification according to the ITO model	11 weeks	Jugorosgaz – Transport doo
7.	Establishment of the Program for ensuring non-discriminatory behaviour of Jugorosgaz - Transport doo	11 weeks	Jugorosgaz – Transport doo, AERS *
8.	Appointment of a person to monitor the non-discriminatory behaviour program Jugorosgaz - Transport doo	11 weeks	Jugorosgaz – Transport doo, AERS*

9.	Registration of decisions of the management bodies of Yugorosgaz ad and Yugorosgaz - Transport doo in the Business Registers Agency (BRA)	12 weeks	Yugorosgaz ad, Yugorosgaz – Transport doo, BRA *
10.	Registration of Assets in the Republic Geodetic Authority (RGA) - line cadastre	16 weeks	Yugorosgaz ad, Yugorosgaz – Transport doo, RGA *
11.	Submission of Requests for certification of Yugorosgaz - Transport doo according to ITO model	16 weeks	Yugorosgaz – Transport doo
12.	Adoption of an act on the price of access to the natural gas transmission system	22 weeks	Yugorosgaz – Transport doo
13.	Submission of a request for approval of the tariff for the transmission of natural gas in accordance with the ownership of the assets and the calculation of depreciation	24 weeks	Yugorosgaz – Transport doo, AERS *
14.	Determining the tariff for the transmission of natural gas	26 weeks	AERS *, Yugorosgaz – Transport doo
15.	Certification of Yugorosgaz - Transport doo according to ITO model	48 weeks **	AERS *
16.	Start of operation of the certified transmission system operator Yugorosgaz - Transport doo according to the ITO model in accordance with the provisions of the Energy Law	49 weeks	Yugorosgaz – Transport doo

DECISION OF THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY

2021/01/MC-EnC: on the failure by the Republic of Serbia to comply with the Energy Community Treaty in Case ECS-13/17

THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY,

Having regard to the Treaty establishing the Energy Community ("the Treaty"), and in particular Article 91(1)(a) thereof;

Upon the Reasoned Request by the Secretariat in Case ECS-13/17 dated 23 July 2019;

Having regard to the Reply by Republic of Serbia dated 12 September 2019;

Having regard to the public hearing of 29 June 2020,

Having regard to the Opinion by the Advisory Committee established under Article 32 of Procedural Act No 2008/01/MC-EnC of the Ministerial Council of the Energy Community of 27 June 2008 on the Rules of Procedure for Dispute Settlement under the Treaty as amended by Procedural Act No 2015/04/MC-EnC, dated 25 January 2021;

HAS ADOPTED THIS DECISION:

Article 1 Failure by the Republic of Serbia to comply with the Treaty

1. 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, as incorporated in the Energy Community, and therefore fails to fulfil its obligations under Articles 6, 10 and 11 of the Treaty.

2. For the reasons sustaining these findings, reference is made to the Reasoned Request, with the exception of paragraph 71 thereof.

**Article 2
Follow-up**

1. The Republic of Serbia shall take all appropriate measures to rectify the breach identified in Article 1 and ensure compliance with Energy Community law immediately. Republic of Serbia shall report regularly to the Secretariat and the Permanent High Level Group about the measures taken in 2021.

2. If the breach has not been rectified by 1 July 2021, the Secretariat is invited to initiate a procedure under Article 92 of the Treaty.

**Article 3
Addressees and entry into force**

This Decision is addressed to the Parties and the institutions under the Treaty. It enters into force upon its adoption.

Done by written procedure on 30 April 2021

For the Presidency

.....

Agata Muellner

From: Predrag Grujicic
Sent: Thursday, 10 June 2021 21:09
To: Kabinet MRE; stevan.dukic@transportgas-srbija.com
Cc: 'Jovanka.atanackovic'; 'Maja Matija Ristic'; 'Beka Jovic MRE'; Janez Kopac; Dirk Buschle; rasa.kojcic@mre.gov.rs; natalija.lukovic@mre.gov.rs
Subject: Horgos - provisional capacity allocation
Attachments: horgos provisional monthly capacity allocation.docx

Dear colleagues,

On behalf of the Secretariat, I kindly remind you that the Energy Community Ministerial Council declared the existence of a breach by Serbia of the Energy Community Treaty provisions in gas acquis by way of Srbijagas' exclusion of the Horgos entry point from objective and transparent capacity-allocation procedure.

The Council required Serbia take all appropriate measures to rectify the breach identified and ensure compliance with Energy Community law immediately.

Serbia is asked to report regularly to the Secretariat and the Permanent High Level Group about the measures taken in 2021.

The Secretariat has drafted a proposal with a relevant provisional procedure to assist Serbia to rectify the said breach, enclosed to this email. The Secretariat is happy to discuss the proposal in detail at any time convenient for you.

With best wishes,

Predrag Grujicic
 Head of Gas Unit



Energy Community Secretariat
 Am Hof 4, Level 5, 1010 Vienna,
 Austria

[Download VCF](#)

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Email predrag.grujicic@energy-community.org

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The Ministerial Council declared the existence of a breach by Serbia of the Energy Community Treaty provisions in gas by Srbijagas' exclusion of the Horgos entry point from objective and transparent capacity-allocation procedure.

The Council required Serbia take all appropriate measures to rectify the breach identified and ensure compliance with Energy Community law immediately.

Serbia is asked to report regularly to the Secretariat and the Permanent High Level Group about the measures taken in 2021. The ministers invited the Secretariat to initiate the procedure under Article 92 of the Treaty if the breach is not rectified by 1 July 2021.

On these grounds, the Secretariat drafts a provisional procedural act for:

Capacity auctions at Horgos entry point

I. Scope of the procedural act

1. Transportgas Srbija shall implement and apply Rules on transport system operation (herein: "the Rules") developed by public utility "Srbijagas" and approved by the Energy Agency Rules on the natural gas transport system operation ("Official Gazette of RS" No. 74/13 as amended ("Official Gazette of RS" No. 14/14 and and No. 11/15).
2. Transportgas Srbija shall draft new Rules on transport system operation and enable meaningful period for the Energy Agency of Serbia to approve them by 1 March 2022 as stipulated in the Action plan for the Implementation of activities for the purpose of Reorganization PE "Srbijagas", as adopted by the Government of Serbia. The new Rules shall fully transpose network codes on gas as applicable in the Energy Community.
3. In particular, in the period from 1 July 2021, Transportgas Srbija shall enable unrestricted access to all entry and exit points from its transmission system in line with the Rules until the new Rules become operational and first annual capacity allocation takes place in 2022 in line with the ENTSOG Auction calendar on one of the capacity booking platforms.
4. For the purposes of this Procedural act, the definitions from the Rules shall apply.

II. Rolling monthly capacity allocations at the entry point Horgos

5. From 1 July 2021 Transportgas Srbija shall enable unrestricted access at the Horgos entry point on the rolling monthly basis in line with the Rules until the new Rules become operational and first annual capacity allocation takes place in 2022 in line with the ENTSOG Auction calendar on one of the capacity booking platforms.
6. The rolling monthly capacity auction shall be held once a month in line this Procedural act and the Rules.

7. In addition to point 6, the monthly firm capacities shall be allocated in line with points 8.-18.
8. Capacity for each monthly standard capacity product shall be auctioned through the rolling monthly capacity auction using an ascending-clock auction algorithm. Each month, the monthly standard capacity product for the following calendar month shall be auctioned.
9. During the rolling monthly capacity auction network users shall be able to apply for one monthly standard capacity product.
10. Rolling monthly capacity auctions shall start on the third Monday of each month for the following monthly standard capacity product unless otherwise specified in the auction calendar.
11. The first month for capacity allocation from the point 10 shall be July 2021.
12. The capacity from the point 10 shall be offered on the Transportgas Srbija electronic platform <http://www.transportgas-srbija.rs/en/pristup-sistemu/kapaciteti/>.
13. The capacity to be offered in the rolling monthly capacity auction shall be, each month, equal to:
$$A - 0.9A + D$$

Where:

A is the transmission system operator's technical capacity for each of the standard capacity products;

D is additional capacity, for such month, if any.
14. One week before the auction starts, transmission system operator shall notify network users about the amount of capacity to be offered for the upcoming rolling monthly capacity auction.
15. The bidding rounds of each auction shall take place between 8.00 UTC to 17.00 UTC (winter time) or 7.00 UTC to 16.00 UTC (daylight saving) on all relevant gas days. Bidding rounds shall be opened and closed within each gas day.
16. The allocation results of the auction shall be published, as soon as reasonably possible, and no later than the next business day after the closing of the bidding round, simultaneously to individual network users participating in the respective auction.
17. Aggregated information on the auction results shall be published to the market.

18. The applicable tariffs for the capacity products shall be applied, as published on the Transportgas Srbija's web page:

<http://www.transportgas-srbija.rs/wp-content/uploads/02cenovnik-pristupa-prevod-1.pdf>.

19. In case if discrepancies with this Procedural act and the Rules regulating monthly capacity auctions, this Act shall prevail.

III. Other capacity allocations at the entry point Horgos

20. The interruptible monthly, daily firm and daily interruptible capacity allocations shall be implemented in line with the Rules.

IV. Final provisions

21. This Procedural act shall be abolished until the first capacity monthly allocation is held in accordance with the new Rules in line with the ENTSOG calendar.

У складу са Правилима о раду транспортног система природног гаса ("Сл. гласник РС", бр 74/13 и 14/14) и Одлуком о изменама и допунама правила о раду транспортног система број: 01-04-19/18-1 од 26.01.2015.године уз сагласност Агенције за енергетику број: 51/2015-Д-І/7 од 30.01.2015.године („Сл. гласник РС“ бр. 11/15), НС САМ -Уредба Комисије (ЕУ) бр. 459/2017, ТРАНСПОРТГАС СРБИЈА доо Нови Сад, као Оператор транспортног система природног гаса објављује :

ПОЗИВ ЗА УГОВАРАЊЕ ГОДИШЊЕГ НЕПРЕКИДНОГ КАПАЦИТЕТА

За вршење услуге транспорта за гасне године :

- Г+1 , 2021/2022 у периоду 01.10.2021 – 01.10.2022.
- Г+2 , 2022/2023 у периоду 01.10.2022 – 01.10.2023.
- Г+3 , 2023/2024 у периоду 01.10.2023 – 01.10.2024.

Врсте капацитета :

- Непрекидни улазни капацитет
- Непрекидни излазни капацитет

Рок за подношење захтева :

- **05.07.2021.**

Рок у којем ОТС обавештава Кориснике о резултатима расподеле капацитета

- **20.07.2021.**

Расположиви капацитети за расподелу по сваком Улазу и Излазу изражени у Sm³ налазе се на Оперативној платформи ТРАНСПОРТГАС СРБИЈА доо Нови Сад у делу ПОЗИВИ (<https://ots.srbijagas.com>)

Напомена :

- Капацитет на улазу U1 – ППС Хоргош ХУН/СРБ неће бити расположив за уговарање до даљњег (осим за Транзит)
- Капацитет на улазу GT – ИП СРБИЈА неће бити расположив за уговарање до даљњег (осим за Транзит)
- У случају да капацитет на улазу U1 – ППС Хоргош ХУН/СРБ GT и капацитет на улазу ИП СРБИЈА постане расположив за уговарање Оператор транспортног система ће о томе обавестити све Кориснике

Право на учешће у расподели капацитета имају Регистровани субјекти за горе наведене гасне године у складу са чланом 9.3. Правила о раду транспортног система природног гаса. Пријаве за регистрацију подносе се ОТС ТРАНСПОРТГАС СРБИЈА доо Нови Сад на е-маил: dc@transportgas-srbija.com

Регистровани корисници могу приступити Оперативној платформи и поднети Захтев за приступ Систему.

07.06.2021. г

ТРАНСПОРТГАС СРБИЈА доо Нови Сад

Оператор транспортног система

In accordance with the Rules on the operation of the natural gas transmission system (Official Gazette of RS, No. 74/13 and 14/14) and the Decision on amendments to the rules on the operation of the transport system number: 01-04-19 / 18-1 of January 26, 2015 with the consent of the Energy Agency number: 51/2015-D-I / 7 of 30.01.2015 ("Official Gazette of RS" No. 11/15), NC CAM - Commission Regulation (EU) no. 459/2017, TRANSPORTGAS SRBIJA doo Novi Sad, as the Operator of the natural gas transmission system, announces:

INVITATION FOR CONTRACTING ANNUAL CONTINUOUS CAPACITY

To perform the transport service for gas years:

- G + 1, 2021/2022 in the period 01.10.2021 - 01.10.2022.
- G + 2, 2022/2023 in the period 01.10.2022 - 01.10.2023.
- G + 3, 2023/2024 in the period 01.10.2023 - 01.10.2024.

Capacity types:

- Continuous input capacity
- Continuous output capacity

Deadline for submission of requests:

- 05.07.2021.

Deadline within which OTS informs the Users about the results of capacity allocation

- 20.07.2021.

The available distribution capacities for each Input and Output expressed in Sm^3 are located on the Operational platform TRANSPORTGAS SRBIJA doo Novi Sad in the part INVITATIONS (<https://ots.srbijagas.com>)

Note :

- Capacity at the entrance U1 - PPS Horgoš HUN / SRB will not be available for contracting until further notice (except for Transit)
- Capacity at the entrance of GT - IP SERBIA will not be available for contracting until further notice (except for Transit)
- In case the capacity at the entrance U1 - PPS Horgoš HUN / SRB GT and the capacity at the entrance IP SERBIA becomes available for contracting The transmission system operator will inform all Users about it

Registered entities have the right to participate in the capacity allocation for the above mentioned gas years in accordance with Article 9.3. Rules on the operation of the natural gas transmission system. Registration applications are submitted to OTS TRANSPORTGAS SRBIJA doo Novi Sad on e-mail: dc@transportgas-srbija.com

Registered users can access the Operating Platform and submit a Request for access to the System.

06/07/2021 g

TRANSPORTGAS SERBIA doo Novi Sad

