The Legal 500 Country Comparative Guides

Bulgaria: Energy - Oil & Gas

This country-specific Q&A provides an overview of energy - oil & gas laws and regulations applicable in Bulgaria.

For a full list of jurisdictional Q&As visit here
1. **Does your jurisdiction have an established upstream oil and gas industry? What are the current production levels and what are the oil and gas reserve levels?**

   There are currently 9 prospecting and exploration and 18 production licences for oil and gas valid in Bulgaria. Out of these, two are large deep offshore exploration blocks operated by the oil and gas majors Total and Shell.

   Latest available date shows annual natural gas production of 0.22 bcm and consumption of 3,073 bcm in 2018. The production of oil is insignificant. There is no official publication on established reserves.

2. **How are rights to explore and exploit oil and gas resources granted? Please provide a brief overview of the structure of the regulatory regime for upstream oil and gas. Is the regime the same for both onshore and offshore?**

   Onshore and offshore licences are granted under almost identical terms and procedures. Little differences may exist in timing and scrutiny.

   An oil and gas prospecting and/or exploration licence (called permit) is granted following a public competitive procedure. An interested party may initiate the procedure. The term of the licence is for up to five years initially, with an option to extend up to five more. The licensee may register a geological or commercial discovery within the licence term. Registration of a commercial discovery gives rights to a direct award of a production licence without further competition or tender.

   A production licence is granted under a concession agreement. The licence may be for a period of up to 35 years, with the right to extend for up 15 more years. If there is no party having a right of direct award pursuant to a commercial discovery, production concession for established reserves shall be awarded following a public competitive procedure.

3. **What are the key features of the licence/production sharing contract/concession/other pursuant to which oil and gas companies undertake oil and gas exploration and exploitation?**

   Despite the technical and legal continuity of an upstream project from exploration through exploitation, the two phases are regulated by two separate and currently independent contracts.

   Exploration is carried out under a contract for prospecting and exploration. It encompasses the exploration permit’s conditions, including the exploration area and term of licence. Further, the exploration contract defines: mandatory minimum working programme, signing bonus, guarantees and other financial parameters, rights in data and materials, obligations regarding HSE, archaeology and use of land / water, termination, suspension, penalties,
dispute resolution / arbitration, reporting obligations, the right for a direct concession award in the event of commercial discovery registration, legal stability clauses, and others. A minimal exploration fee is due annually.

A concession agreement would include similar legal parameters as the exploration one. It will define the exploitation area. Royalty payments are stipulated in compliance with a special secondary legislative act. The development and exploitation programmes are an integral part of the contract. In addition, annual work plans and reports are mandatory. Ownership over installations and equipment during and after licence end is also agreed upon.

4. **Are there any unconventional hydrocarbon resources (such as shale gas) being exploited and is there a separate regulatory regime for unconventionals?**

   Pursuant to some international reports and studies, Bulgaria has potential to develop shale gas. However, after intense public protests, in 2012 the Parliament issued a moratorium on exploration and exploitation of unconventional oil and gas resources using hydraulic fracturing. Since then, the actual geological and commercial potential has not been further assessed and confirmed. Many of the onshore licensed blocks have actually been opened with a view to explore for unconventional reserves.

5. **Who are the key regulators for the upstream oil and gas industry?**

   Currently the Minister of Energy, and its administration, is the central authority regulating upstream oil and gas. Licences are granted by the Council of Ministers pursuant to a recommendation and a procedure organised and led by the Minister of Energy. The contracts are signed by the Minister of Energy as representative of the State, and are controlled by Ministry’s administration. Other competences of the Minister of Energy include: contractual and administrative control on the performance of the licences; collection of exploration fees and royalties; operation of contract guarantees; approval of work programmes and plans, acceptance of performance reports; approval and registration of discoveries; maintenance of the geological fund etc.

   Environmental matters are within the authority of the Ministry of Environment and Water, including environmental impact assessment (EIA) procedures.

6. **Is the government directly involved in the upstream oil and gas industry? Is there a government-owned oil and gas company?**

   Currently, the Bulgarian Government is not directly involved in upstream oil and gas activities. It does not control any oil and gas company. Production sharing contracts are also not used in practice.

7. **Are there any special requirements for or restrictions on participation in the**
upstream oil and gas industry by foreign oil and gas companies?

Every Bulgarian or foreign entity may apply for an upstream licence provided it meets the applicable technical, financial, and managerial criteria. A general law of Bulgaria prohibits upstream oil and gas licences to be awarded to companies that are registered in or controlled from certain offshore ("tax haven") jurisdictions.

8. What are the key features of the environmental and health and safety regime that applies to upstream oil and gas activities?

The Offshore Safety Directive was implemented in Bulgaria in 2016. The new regulations have already been applied in practice successfully more than once for offshore drilling. The Minister of Energy is again the central competent authority.

Other than that, there is no codified HSE regime for oil and gas operations in the country. Applicable requirements and regulations derive from various legal sources.

The exploration and production plans, as well as exploration and production drillings are subject to EIA clearance in advance. In some cases full environmental impact assessment procedure is required. Good and diligent practice in planning and communication with authorities often result in early clearance and permission without conducting the entire EIA process. In Natura 2000 zones a compatibility assessment procedure must be followed too.

Environmental regulations in Bulgaria are based on the principle of “the pollutant pays the damages”. No significant damaging events have occurred in Bulgaria.

Various authorities may be responsible to act in case of emergencies and HSE risks and events.

9. How does the government derive value from oil and gas resources (royalties/production sharing/taxes)? Are there any special tax deductions or incentives offered?

Royalties due for oil and gas production in Bulgaria are defined under a sliding scale. They may be a percentage from the gross production or from the total revenues. Royalties may be in-kind or monetary. Bulgarian practice so far sticks to the monetary payments.

Exploration expenses are carried over and are discounted from the production revenue for tax purposes. Currently there are no preferential or special taxes for upstream oil and gas activities.

10. Are there any restrictions on export, local content obligations or domestic supply
11. **Does the regulatory regime include any specific decommissioning obligations?**

Upon expiration or termination of the exploration or production licence, the operator must decommission the installations and recover any affected territories. Usually the contract would require provision of a guarantee securing the abandonment and decommissioning costs in case the operator fails to perform. The particular decommissioning activities are stipulated and approved in the work programmes and plans together with all other environmental protection measures throughout the licence term. It could be highlighted that the law is not fully detailed and clear on defining decommissioning activities and obligations. Therefore, the contracts must be drafted and negotiated thoroughly to avoid loopholes and ambiguities.

12. **What is the regulatory regime that applies to the construction and operation of offshore and onshore oil and gas pipelines?**

Offshore construction is subject to two different regimes depending on the marine sector. Construction beyond the territorial sea is regulated by the general principles of the international law of the seas. Construction of exploration and production facilities would not require a construction permit, but will require relevant rights in an exploration or production licence. Laying down of oil or gas pipelines would also not require special construction permissions, but the State’s sovereign rights in the exclusive economic zone and the continental shelf shall be respected. Further, environmental regulations may need to be complied with, including EIA procedures will be required in most cases.

The zone within the territorial sea and internal waters is governed by a general spatial plan. Water use permit, detailed spatial plan, and construction permit must be obtained, and environmental procedures shall be followed for each particular construction. The special regulatory regime of the coastal area must also be observed upon a pipeline reaching the land.

Onshore, construction of any oil and gas installations follows the general spatial development and construction regulations, along with technical and environmental requirements.

13. **What is the regulatory regime that applies to LNG liquefaction and LNG receiving terminals? Are there any such terminals in your jurisdiction?**

LNG liquefaction and LNG operation of LNG receiving terminals would be subject to a special licence under the Energy Act of the Republic of Bulgaria. The activity is regulated by the
State Energy and Water Commission. No LNG are currently operating in the country. Closest delivery point for LNG is the Greek Revithoussa LNG Terminal. Bulgaria closed a first LNG purchase at Revithoussa in May 2019.

14. **What is the regulatory regime that applies to gas storage (not LNG)? Are there any gas storage facilities in your jurisdiction?**

Gas storage operations are also subject to a special licence under the Energy Act, granted and regulated by the State Energy and Water Commission. The regulatory regime is not comprehensively developed due to lack of new facilities constructed with private investments in the last decades. Independent legal analyses have so far inferred that underground storage should need concession rights to use and operate the reservoir.

The only operating gas storage facility in Bulgaria is Chiren, built in 1974. It is operated by the state-owned gas transmission operator, Bulgartransgaz. It is built upon a depleted gas condensate reservoir. The current capacity of the gas storage may ensure 5,813,500 MWh natural gas. There is a project for extension of the capacity, and ongoing detailed feasibility studies.

For many years there have been plans for developing a gas storage in the depleting offshore gas production block Galata. However, the State has never permitted or embarked into serious realization of the project.

15. **Is there a gas transmission and distribution system in your jurisdiction? How is gas distribution and transmission infrastructure owned and regulated? Is there a third party access regime?**

The national gas transmission network is built in a ring-shaped form of high pressure gas pipelines with a total length of 1835 km, three compressor stations – CS Kardam-1, CS Valchi Dol and CS Polski Senovets with total installed capacity of 49 MW. Its technical capacity is for 7.4 bcm annually, and the maximum working pressure is 54 bar. The gas transit network comprises high pressure gas pipelines of total length of 930 km with prevailing diameter of DN 1000, with six compressor stations – CS Kardam-2, CS Provadia, CS Lozenets, CS Strandja, CS Ihtiman and CS Petrich, with total installed capacity of 270 MW. Its total technical capacity for natural gas transit transmission amounts to 17.8 bcm/year and the maximum working pressure is 54 bar.

Gas distribution networks are operated by private companies. Overgaz Mrezhi, Citigas Bulgaria and Aresgas hold the major market share in distribution.

The share of the natural gas in the final energy consumption is about 14%. Households are not extensively gas-supplied. Gasification of households is currently incentivised under the DESIRE programme, which covers some of the connection and gas supply costs for the customers. The programme will end in June 2020, but the Government plans to introduce
similar support schemes for going forward.

16. **Is there a competitive and privatised downstream gas market or is gas supplied to end-customers by one or more incumbent/government-owned suppliers? Can customers choose their supplier?**

Primary supplier of natural gas to the consumers is the state owned Bulgargaz, which is the licensed public supplier. Bulgargaz supplies gas at prices regulated, updated every three months dependent on the prices under the gas supply contract with Gazprom Export. Clients of the transmission network are gas producers, gas distribution companies, and industrial clients.

The distribution and end user supply to consumers is performed by regional and local distribution companies, operating under a licensing regime and regulated prices. They are licensed for “distribution of natural gas” and “supply of natural gas as an end supplier”. They supply natural gas to clients connected to their distribution gas networks. In 2019, 24 licensed gas distribution companies operate in Bulgaria, covering 35 licensed territories, servicing 5 gas distribution regions (Danube, West, Thracia, Misia, Dobrudzha) and 80 municipalities outside these regions. Major market share is held by Overgas Mrezhi, Aresgas, Citygas Bulgaria, and others. According to public data of the distribution companies, the total number of their clients in 2016 is 87,274 (92% households and 8% industrial). The main clients to the distribution companies are households, public-administrative and commercial consumers, small and medium enterprises, and industrial consumers.

The clients may freely choose their gas supplier disregarding in which country it is based. Every gas supplier or client shall be allowed non-discriminatory access to the gas transmission and/or distribution networks in accordance with certain technical requirements.

It shall be noted that Bulgarian wholesale gas market is still entirely dependent on Russian gas supplied through a single route and from a single trader.

For Bulgaria, the development of the gas interconnectors with the neighbouring countries is of utmost importance for ensuring diversification and security of gas supplies. Currently, only the Bulgaria – Romania new interconnector has been finalised, and the one with Greece is under development. In 2019 the Balkan Stream has started construction. Its main purpose is to transit Russian gas from the Bulgarian – Turkish border to Serbia and onwards to Central Europe.

17. **How is the downstream gas market regulated?**

Participants in the downstream gas market operate under the following licences granted by the Energy and Water Regulatory Commission: transmission, distribution, storage, operation of LNG terminals, gas exchange operation, public supply, end supply. Gas traders do need to
be licensed.

The public supplier (Bulgargaz) sells natural gas to the end suppliers and clients connected to the transmission and/or distribution network at regulated prices. The prices of natural gas sold for technological needs to distribution system operators and the gas storage operator are also regulated. End suppliers sell natural gas to clients connected to the distribution networks at regulated prices too.

Other transactions at the gas market are entered into at free prices. From the beginning of 2020, these transactions when related to short-term standardised products and products for a supply term no longer than one year are will be entered into at a gas exchange market.

The balancing market is based on an entry-exit tariff model and a virtual trading point.

18. **Have there been any significant recent changes in government policy and regulation in relation to the oil and gas industry?**

The most significant and recent change in the governance policy in relation to the gas market in Bulgaria is the almost completed creation and launch of a gas exchange market. The necessary legal and regulatory provisions have been introduced in the second half of 2019. A newly incorporated company, Gas Hub Balkan EAD, has been established by Bulgartransgaz to operate the future exchange market. Certain initial legal measures for liquidity of the market have been introduced in the Energy Act. Upon launch of the gas exchange platform, it is expected that its market rules, traded products, organisational structure, and liquidity measures will be further developed including using best foreign practices.

In the last years the Ministry of Energy has been developing in a collaboration with the mining industry and academics major improvements in the legal framework governing upstream oil and gas operations and mining activities in general. So far, published draft legislative amendments do not significantly change the regulatory environment for oil and gas exploration and exploitation. The terms and procedures for the licence tenders and competitive procedures are scrutinised and developed in more detail. Some more favourable provisions to investors are also proposed. However, a major change contemplated may affect the royalties regulations.

In this context, in July 2019 the Government approved the launch of a new tender for the deep offshore exploration block Han Tervel (ex Teres Block), located in the furthest South-East section of the Bulgarian exclusive economic zone. The block neighbours the two other major blocks operated by Shell and Total. The official start of the competitive procedure is pending publication of the notice in the Official Journal of the EU.

A new law regulating the trading in fuels (petroleum and petroleum products) has been introduced in 2019. According to it, retail through petrol stations, wholesale, transport and
storage of fuels, as well trade with LPG are activities subject to a special licensing regime. Due to certain imperfections in the law, its final enforcement has been deferred several times. Currently, the obliged active economic operators must apply for their licences by 26 January 2020.

19. **What key challenges have been identified by the government and/or industry in relation to your jurisdiction’s oil and gas industry?**

The main challenges for the country in the oil and gas domain in the recent years have been the high dependency on natural gas imports from a single source and the belayed liberalisation of the gas market. Therefore, the Government has been dedicating significant efforts and resources to accelerate the gas interconnectors with the neighbouring countries and the implementation of the Balkan Gas Hub project. The major exploration programmes offshore have only started in the latest years and are still not delivering significant results. In this context, various experts point out the absolute ban on shale gas exploration, not allowing even geological and geophysical studies to be made without drilling, as a mistake.

The regulatory reforms from 2010 that set the Minister of Energy as a central single authority implementing the state policy and regulating the mining activities in Bulgaria, including the oil and gas exploration and exploitation, overcame many past deficiencies in the system. The Ministry of Energy has streamlined its practices in granting and regulating licences, and has created a good investment environment in the past years. Court challenges on granted licences have been decreased significantly.

Currently, Bulgaria is planning to develop a new mining strategy that will affect the oil and gas sector too.

20. **Are there any policies or regulatory requirements relating to the oil and gas industry which reflect/implement the global trend towards the low-carbon energy transition?**

Bulgaria, like the other EU member states, is preparing its Integrated National Energy and Climate Plan until 2030 and Long-term Strategy on climate change until 2050. The Plan and Strategy will lay down the political agenda for development of the countries’ entire energy system in the next decades in line with the global climate policies. Pending final publication of the two strategic documents, the publicly shared priorities of the Government affirm that diversification of the gas supplies and development of the Balkan Gas Hub are key priorities. It is expected that in future some existing coal or lignite fired thermal and power plants can switch to gas. Small gas power plants are expected to help with future balancing of potentially increased renewables. Bulgaria is expected to introduce new measures in the transport sector, including increased blending share of biofuels.