

International Comparative Legal Guides



Oil & Gas Regulation 2020

A practical cross-border insight into oil and gas regulation work

15th Edition

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Levent Çelepçi

1 Overview of Natural Gas Sector

1.1 A brief outline of your jurisdiction's natural gas sector, including a general description of: natural gas reserves; natural gas production including the extent to which production is associated or non-associated natural gas; import and export of natural gas, including liquefied natural gas (LNG) liquefaction and export facilities, and/or receiving and re-gasification facilities ("LNG facilities"); natural gas pipeline transportation and distribution/transmission network; natural gas storage; and commodity sales and trading.

Usage of natural gas started in the 1970s, and its utilisation rate and area have increased in parallel with the rise of energy demand and the advantages of natural gas. Imports became compulsory because of limited reserves and domestic production amounts in comparison with existing and potential demand. Currently, domestic consumption of natural gas exceeds 50 billion cubic metres ("bcm"), which positions Turkey amongst the top five gas markets within Europe.

Increasing natural gas demand in Turkey and limited reserve and production to meet this demand necessitated the import of natural gas in 2018 as in previous years. Domestic gas production met 0.65% of 2018's total domestic consumption. The quantity of imported gas, in 2018, has decreased by 8.85% compared to the previous year.

Turkey is dependent on imports, mainly from Russia, which accounted for 52.28% of total gas imports in 2018.

The main market player in the gas market is the state-owned BOTAŞ, who accounted for 84.65% of total imports (pipeline gas and LNG in total) in 2018.

1.2 To what extent are your jurisdiction's energy requirements met using natural gas (including LNG)?

Although declining, natural gas still plays an important role in terms of Turkey's energy requirements. 30.93% of total electricity production was based on natural gas in 2018. 33% of domestic energy production originated from hydroelectric power plants, while wind generation power plants accounted for approximately 9% and coal fired power plants represented 23%.

1.3 To what extent are your jurisdiction's natural gas requirements met through domestic natural gas production?

Domestic gas production in Turkey is quite limited, covering less than 1% of total consumption. However, an increasing trend has

been observed in respect to domestic production, which marked an increase of 20% in 2018 compared to the previous year.

1.4 To what extent is your jurisdiction's natural gas production exported (pipeline or LNG)?

As a natural consequence of the fact that Turkish natural gas production is very limited and the internal consumption requirement can only be met through imported natural gas, Turkey exports a relatively small quantity to Greece.

In 2017, only BOTAŞ was active among the eight licensed export companies and 673.3 million Sm³ of natural gas was exported by BOTAŞ to Greece. The amount of exported natural gas increased by 7% from 2017.

2 Overview of Oil Sector

2.1 Please provide a brief outline of your jurisdiction's oil sector.

Domestic oil consumption in 2017 was 27,807,223 tonnes, which marked a slight decrease from the previous year.

Currently, the Turkish Petroleum Company ("TPAO") is a major player in the oil exploration process. The liberalisation of the petroleum sector was evidenced by the Petroleum Law dated 11 June 2013 ("Petroleum Law"), which introduced several incentives for oil exploration.

2.2 To what extent are your jurisdiction's energy requirements met using oil?

The percentage of domestic energy needs met by oil is relatively small, representing less than 1%.

2.3 To what extent are your jurisdiction's oil requirements met through domestic oil production?

Domestic production covers 7% of internal demand.

Although Turkey's production of liquid fuels has increased since 2004, it is much less than what the country consumes each year. TPAO is the dominant exploration and production entity in Turkey.

2.4 To what extent is your jurisdiction's oil production exported?

In 2018, exported oil products amounted to 8,875,106 tonnes,

out of which the largest portion was refinery output, which stood at approximately 46%.

The amount of petroleum products exported in 2018 marked a decrease of 12.04% from 2017.

Exports in 2018 were as follows: (i) exports of gasoline types represented 32% of aggregate exported quantities; (ii) aviation products represented 44%; and (iii) marine products were 20%.

3 Development of Oil and Natural Gas

3.1 Outline broadly the legal/statutory and organisational framework for the exploration and production (“development”) of oil and natural gas reserves including: principal legislation; in whom the State’s mineral rights to oil and natural gas are vested; Government authority or authorities responsible for the regulation of oil and natural gas development; and current major initiatives or policies of the Government (if any) in relation to oil and natural gas development.

Oil and gas exploration and exploitation activities, which constitute upstream activities, are generally regulated under the Petroleum Law. It should always be noted that Turkey is a contracting party to many conventions and international agreements with regards to the international oil and gas market. In this respect, certain international agreements to which Turkey is a party, such as the International Convention on Readiness, Response and Cooperation With Regards To Oil Pollution and Its Annexes, dated 27 November 1992 (London), and the International Agreement on Establishment of an International Fund Regarding the Indemnification of the Damages Caused by Oil Pollution, dated 27 November 1992 (London).

The General Directorate of Petroleum Affairs (“GDPA”) is the relevant authority in respect to upstream activities, including exploration and exploitation-permitting processes.

3.2 How are the State’s mineral rights to develop oil and natural gas reserves transferred to investors or companies (“participants”) (e.g. licence, concession, service contract, contractual rights under Production Sharing Agreement?) and what is the legal status of those rights or interests under domestic law?

All oil and natural gas resources in Turkey are owned by the State. Through a licensing system managed by GDPA, specific licences are granted to applicant companies. Please refer to the responses under question 3.3 below for further explanations on different types of licences. Such licences are subject to administrative laws and regulations. The Council of State has jurisdiction, as a court of first instance, in respect to challenges brought against decisions of the Ministry of Energy and Natural Resources (“MENR”), which reviews objections and disputes with respect to the issuance of such licences or their implementations.

3.3 If different authorisations are issued in respect of different stages of development (e.g., exploration appraisal or production arrangements), please specify those authorisations and briefly summarise the most important (standard) terms (such as term/duration, scope of rights, expenditure obligations).

The Petroleum Law sets forth that a research permit shall be issued by GDPA, which would entitle its holder to carry out certain research activities. The exploration and/or operation

licences issued for a part of the area for which a research permit is requested do not constitute an obstacle for research permit issuance. Apart from the research permit, there are two main types of licences required for exploration and operation activities.

Exploration Licences

For exploration licences, the first application made for an area shall be announced in the Official Gazette. Following this announcement, additional applications can be made before GDPA. The business and investment plans of the applicants (including the first applicant) must be submitted to GDPA within 90 days following the announcement. The applications shall be assessed by GDPA in accordance with the criteria provided under the implementation regulation. The exploration licence shall be announced in the Official Gazette, and within 30 days following this announcement, the exploration licence holder shall deposit another guarantee, namely an investment guarantee.

Exploration licences shall be initially issued for a period of five years for onshore exploration activities and eight years for offshore, with a possibility of extension up to nine years for onshore and 14 years for offshore.

Operation Licences

In order to obtain an operation licence, an application must be made to GDPA. If the application is accepted, the applicant shall further deposit a guarantee in the amount of 0.5% of the operation licence charge per hectare to GDPA within 15 business days following notification of the decision. If the said amount is not deposited in due time, the applicant will be deemed to have withdrawn its application.

Exploration and operation licences can also be issued by an auction by GDPA. The relinquished areas can also be licensed with the auction method upon the consent of MENR.

3.4 To what extent, if any, does the State have an ownership interest, or seek to participate, in the development of oil and natural gas reserves (whether as a matter of law or policy)?

According to the Turkish Constitution, natural resources belong to the State, along with the right to explore and exploit these resources (*Article 168, Turkish Constitution*). The State can delegate these rights to persons or corporate bodies for a certain period of time.

3.5 How does the State derive value from oil and natural gas development (e.g. royalty, share of production, taxes)?

Exploration and/or exploitation licence holders must pay as a royalty to the Turkish State 12.5% of the value of the petroleum they have produced. The royalty amount shall be calculated once the expenses (i.e. income tax, corporate tax, other applicable taxes and charges, etc.) have been deducted from the market price of the produced petroleum. Furthermore, the total taxation of a company engaged in exploitation, together with taxes withheld on behalf of its shareholders, cannot exceed 55%.

3.6 Are there any restrictions on the export of production?

Petroleum right holders are entitled to export a certain amount of the petroleum and natural gas (35% for onshore and 45% for

offshore) that they produce in fields discovered after 1 January 1980. The remaining part, and the whole petroleum and natural gas produced in the fields discovered before 1 January 1980, shall be reserved for domestic use.

3.7 Are there any currency exchange restrictions, or restrictions on the transfer of funds derived from production out of the jurisdiction?

GDPA approval is required for right holders to transfer funds derived from their production. Prior to the transfer, right holders shall deduct taxes, fees and royalties that are yet to be accrued.

3.8 What restrictions (if any) apply to the transfer or disposal of oil and natural gas development rights or interests?

To transfer an upstream oil or gas licence, the licence holder (transferor) and transferee must jointly apply to GDPA. The rights covered by upstream licences are recorded in the oil registry, which is maintained by GDPA. Both of the parties must provide detailed documents, maps and information about the proposed transfer to GDPA for its consideration.

3.9 Are participants obliged to provide any security or guarantees in relation to oil and natural gas development?

There are two types of collaterals that are required under the Petroleum Law:

- Collateral for Investment: the Law requires an applicant for an exploration licence to provide a bond equal to 2% of the financial commitment in the business plan as submitted in the licence application. For offshore exploration, where the financial investment would be higher, the rate is reduced to 1% of the total investment amount.
- Collateral for Loss and Damages: the payment of an additional collateral before obtaining a petroleum right in order to cover any potential loss and damages that may occur during the petroleum activities is compulsory. The rate for search permits is 0.0005% of the search charge, 0.0001% of the exploration licence charge for exploration licences, and 0.005% of the operation licence charge for operation licences.

3.10 Can rights to develop oil and natural gas reserves granted to a participant be pledged for security, or booked for accounting purposes under domestic law?

Yes, rights to develop oil and natural gas reserves granted to a participant can be pledged for security subject to prior approval by GDPA. The pledges would need to be registered in the Petroleum Register kept by GDPA.

3.11 In addition to those rights/authorisations required to explore for and produce oil and natural gas, what other principal Government authorisations are required to develop oil and natural gas reserves (e.g. environmental, occupational health and safety) and from whom are these authorisations to be obtained?

Entities active in the energy sector must obtain an environment licence and environment permit from the Ministry of Environment and Urban Planning (*Article 7, Environmental Permit and Licence Regulation published in the Official Gazette dated*

10 September 2014, No. 29115). Requirements for environment licences are determined by considering the activity of a given business. Collectively, these permits and licences contemplate:

- Emissions.
- Discharges.
- Dangerous material discharges.
- Waste collection.
- Recycling matters.

These environment permits and licences must be obtained before operations begin. They are different to the EIA reports and related positive or negative decisions from the Ministry of Environment and Urban Planning.

3.12 Is there any legislation or framework relating to the abandonment or decommissioning of physical structures used in oil and natural gas development? If so, what are the principal features/requirements of the legislation?

There are no specific provisions in Turkish legislation addressing decommissioning requirements, although upstream licence holders are required to return the land to its former condition (*Article 22(3), Petroleum Law*). While legislation is silent on the decommissioning requirements, the obligation to comply with environmental rules remains, along with the obligation to avoid endangering society and the environment. When an entity operating in the upstream market wishes to decommission its facilities, the entity must arrange for its rights to be deregistered from GDPA's petroleum registry (*Article 21, Petroleum Law*).

If a licensee ceases its activities, it must notify the relevant authority three months before its suspension (*Article 18, Environmental Permit and Licence Regulation*).

Since decommissioning generally involves closing a place of business, the employer must also notify the relevant tax office of the decommissioning, as well as other institutions, such as the social security and district labour offices.

3.13 Is there any legislation or framework relating to gas storage? If so, what are the principal features/requirements of the legislation?

Natural Gas Law No. 4646 (“**Natural Gas Law**”) regulates the natural gas market in terms of import, transmission, distribution, storage, marketing, trade and the export of natural gas, as well as the rights and obligations of all real and legal persons relating to these activities. It is the principal legislation in Turkey.

3.14 Are there any laws or regulations that deal specifically with the exploration and production of unconventional oil and gas resources? If so, what are their key features?

Unconventional oil and gas resources are generally gas/oil which is found in reservoirs/source rock, shales, etc. Currently, there are no laws or regulations on this subject.

4 Import / Export of Natural Gas (including LNG)

4.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of natural gas (including LNG).

Cross-border sales or deliveries of natural gas can be performed either by importing natural gas into Turkey or exporting natural gas from Turkey.

There are certain important limitations in terms of importing pipeline gas into Turkey. As a matter of fact, the Natural Gas Law prohibits companies, other than BOTAS, from importing pipeline gas from those countries with which BOTAS has an existing supply contract. New import contracts from such countries will only become possible when current BOTAS contracts expire.

On September 2019, EMRA introduced an important piece of legislation which allowed spot licence holders to import pipeline gas through short-term contracts (up to one year). Such measure aims to allow market participants to benefit from short-term price fluctuations (mainly downwards). The regulator reserves certain capacities in its pipeline network for the purpose of short-term spot imports. Licence holders are able to reserve capacities by sharing their monthly, quarterly and yearly import forecasts.

The Natural Gas Law foresees a reduction of BOTAS' market share to below 20% of the total internal consumption of natural gas. In view of reaching this goal, BOTAS launches tenders from time to time for assigning part of its existing supply contracts. As a pre-requisite to participate in such tenders, applicants are required to hold an import licence and also to obtain the preliminary consent of the selling entity. Despite the objective determined in the Natural Gas Law in 2014, to a great extent BOTAS is the main importer of natural gas (be it pipeline gas or LNG) into the country.

Legal entities that wish to export the natural gas imported or generated within the country abroad must also obtain an export licence from the Energy Market Regulatory Authority ("EMRA"). The company asking for a licence should prove that it has the required technical and economical capability, and state which country and by which transportation vehicles it shall export the natural gas; this provides a guarantee to the effect that the export process will not intervene in the operation of the system nor satisfaction of the natural gas demand of the country and towards the recovery of any loss or damage which may occur if the system security is violated by the company, and to provide insurance coverage as is compulsory for loss and damage.

5 Import / Export of Oil

5.1 Outline any regulatory requirements, or specific terms, limitations or rules applying in respect of cross-border sales or deliveries of oil and oil products.

The Petroleum Law provides that there are no further additional licence requirements needed in respect of the cross-border sales or deliveries of oil and products for holders of oil refinery licences, oil distribution licences or bunker delivery licences.

6 Transportation

6.1 Outline broadly the ownership, organisational and regulatory framework in relation to transportation pipelines and associated infrastructure (such as natural gas processing and storage facilities).

The Petroleum Law provides that there are no further additional licence requirements needed in respect of the cross-border sales or deliveries of oil and products for holders of oil refinery licences, oil distribution licences or bunker delivery licences.

6.2 What governmental authorisations (including any applicable environmental authorisations) are required to construct and operate oil and natural gas transportation pipelines and associated infrastructure?

Please refer to question 6.1 for the government authorisations required to construct and operate oil and natural gas transportation pipelines and the associated infrastructure.

6.3 In general, how does an entity obtain the necessary land (or other) rights to construct oil and natural gas transportation pipelines or associated infrastructure? Do Government authorities have any powers of compulsory acquisition to facilitate land access?

By private agreement, expropriation or by obtaining leasehold rights from the Government, either through easements or land allocation permits. If the applicant has an exploitation licence, the authority to request the expropriation is GDPA; if the applicant has a transmission licence, the authority is EMRA. At the end of the expropriation process, the expropriated land is registered in the name of the Treasury and an easement agreement is granted to the applicant.

6.4 How is access to oil and natural gas transportation pipelines and associated infrastructure organised?

Please see question 6.6.

6.5 To what degree are oil and natural gas transportation pipelines integrated or interconnected, and how is co-operation between different transportation systems established and regulated?

With respect to natural gas, the network and distribution system is regulated by the Network Code.

6.6 Outline any third-party access regime/rights in respect of oil and natural gas transportation and associated infrastructure. For example, can the regulator or a new customer wishing to transport oil or natural gas compel or require the operator/owner of an oil or natural gas transportation pipeline or associated infrastructure to grant capacity or expand its facilities in order to accommodate the new customer? If so, how are the costs (including costs of interconnection, capacity reservation or facility expansions) allocated?

BOTAS has long held a monopoly in Turkey, and it was not until 2007 that a party besides BOTAS could access the BOTAS transmission network.

The Natural Gas Market Law provides that connection and transmission tariffs are set by EMRA, rather than by third parties negotiating with the company owning the transmission network (*Article 11(1) and 11(2), Natural Gas Market Law*). Third parties can apply to EMRA if a dispute arises with BOTAS regarding access to the transmission network (*Article 16, Transmission Network Operation Principles, published in the Official Gazette No. 25561, dated 22 August 2004*).

Parties wishing to use the BOTAS transmission network must first apply for a capacity allocation at an entry and exit point. Entities wishing to transport gas through a transmission or distribution pipeline owned by another licensee must enter a standard transportation contract with the licensee (*Transmission Network Operation Regulation, published in the Official Gazette No.*

24918, 26 October 2002; BOTAS Transmission Network Operation Principles, published in the Official Gazette, 1 September 2004).

6.7 Are parties free to agree the terms upon which oil or natural gas is to be transported or are the terms (including costs/tariffs which may be charged) regulated?

A standard transportation contract needs to be entered into with BOTAŞ.

7 Gas Transmission / Distribution

7.1 Outline broadly the ownership, organisational and regulatory framework in relation to the natural gas transmission/distribution network.

With respect to transmission, the transmission network is owned and operated by BOTAŞ.

With respect to distribution, tenders are launched either by the relevant municipalities or by the Privatization Administration in respect of each province. Currently, 78 provinces in the country out of a total of 81 have access to natural gas. Currently, all distribution activities are carried out by privately held companies.

7.2 What governmental authorisations (including any applicable environmental authorisations) are required to operate a distribution network?

Please see the response to question 7.1.

7.3 How is access to the natural gas distribution network organised?

Access to the natural gas distribution network is organised by the Natural Gas Distribution and Customer Relations Regulations.

7.4 Can the regulator require a distributor to grant capacity or expand its system in order to accommodate new customers?

Urban development must be considered when expanding the system to accommodate new customers. EMRA may intervene to enforce expansion requirements.

7.5 What fees are charged for accessing the distribution network, and are these fees regulated?

Connection fees must not exceed 514 Turkish Liras (“TRL”) (approximately EUR 82). A security deposit is charged, equal to TRL 406 (approximately EUR 64). Such fees are regulated in the sense that the regulator announces applicable maximum fees on a yearly basis. Fees mentioned herein are the fees applicable for 2018.

7.6 Are there any restrictions or limitations in relation to acquiring an interest in a gas utility, or the transfer of assets forming part of the distribution network (whether directly or indirectly)?

Yes, the transfer of shares of a distribution company which exceeds 10% of the share capital of such distribution company needs to be approved by EMRA.

8 Natural Gas Trading

8.1 Outline broadly the ownership, organisational and regulatory framework in relation to natural gas trading. Please include details of current major initiatives or policies of the Government or regulator (if any) relating to natural gas trading.

Natural gas trading is regulated under the Natural Gas Market Licensing Regulation. In order to trade natural gas in gaseous and liquid form, a wholesale licence is required from EMRA; a compressed natural gas licence is needed from EMRA for trading compressed natural gas.

8.2 What range of natural gas commodities can be traded? For example, can only “bundled” products (i.e., the natural gas commodity and the distribution thereof) be traded?

Natural gas can be traded in gaseous, liquid and compressed form.

9 Liquefied Natural Gas

9.1 Outline broadly the ownership, organisational and regulatory framework in relation to LNG facilities.

LNG import has been regulated as a market activity by the Natural Gas Market License Regulation and Natural Gas Market Law. Accordingly, the import, storage and trade of LNG are subject to specific licences and permits. Pursuant to the Natural Gas Market Law, these market activities may be done by private sector companies within the scope of opening the natural gas market to competition. Licence application processes have been set forth by the Natural Gas Market Licence Regulation.

Turkey imports LNG based on long-term contracts from Nigeria and Algeria, and on a spot basis mainly from Qatar.

Despite the fact that the natural gas market has been opened to competition, LNG import activities have been carried out by BOTAŞ to a large extent.

9.2 What governmental authorisations are required to construct and operate LNG facilities?

A storage licence is required to be obtained from EMRA. In addition, the following authorisations are required:

- An EIA report.
- An environmental permit.
- A workplace and operating licence.

9.3 Is there any regulation of the price or terms of service in the LNG sector?

The prices and terms of service in the LNG sector are regulated by the guidelines of BOTAŞ and Ege Gas LNG Terminals.

9.4 Outline any third-party access regime/rights in respect of LNG facilities.

As per the guidelines, a third party can be granted co-usage rights. A third party wishing to have co-usage rights must enter

into a standard form terminal utilisation service agreement with BOTAS and Ege Gas LNG Terminals, describing the services required.

10 Downstream Oil

10.1 Outline broadly the regulatory framework in relation to the downstream oil sector.

Downstream activities are regulated by the Petroleum Market Law.

10.2 Outline broadly the ownership, organisation and regulatory framework in relation to oil trading.

Distributors/oil companies must obtain distributorship licences, whereas dealers must obtain dealership licences from EMRA, in order to conduct their business.

11 Competition

11.1 Which governmental authority or authorities are responsible for the regulation of competition aspects, or anti-competitive practices, in the oil and natural gas sector?

The Turkish Competition Authority plays an important role in ensuring the oil and natural gas sectors are competitive. EMRA, however, also regulates competition aspects in the oil and natural gas sector.

11.2 To what criteria does the regulator have regard in determining whether conduct is anti-competitive?

Competition law prohibits concerted practices and the abuse of a dominant position.

11.3 What power or authority does the regulator have to preclude or take action in relation to anti-competitive practices?

Competition law prohibits concerted practices and the abuse of a dominant position. Those engaging in anti-competitive practices are subject to monetary fines, determined in reference to the annual turnover of such undertakings.

11.4 Does the regulator (or any other Government authority) have the power to approve/disapprove mergers or other changes in control over businesses in the oil and natural gas sector, or proposed acquisitions of development assets, transportation or associated infrastructure or distribution assets? If so, what criteria and procedures are applied? How long does it typically take to obtain a decision approving or disapproving the transaction?

As per the *communiqué* of the Turkish Competition Authority that was published in the Official Gazette on 29 December 2012 and entered into force on 1 February 2013, governing the review process of the merger and acquisition transactions that are subject to the authorisation of the Turkish Competition Board, the thresholds that set the boundaries of notification requirements are as follows: (a) total turnovers of the transaction

parties in Turkey exceed TRL 100 million (approximately EUR 16 million), and turnovers of at least two of the transaction parties in Turkey each exceed TRL 30 million (approximately EUR 5 million); or (b) in acquisition transactions, for the asset or the operation that is subject to the acquisition and in merger transactions, at least one of the transaction parties has a turnover in Turkey exceeding TRL 30 million, and a global turnover of at least one of the remaining transaction parties exceeds TRL 500 million (approximately EUR 80 million). The Competition Authority reviews the impact on the affected markets of such proposed merger or acquisition. The relevant decision of the Competition Authority is rendered within 30 days following the submission of all requested documents; failing to receive a response within such period shall be deemed an implicit consent.

12 Foreign Investment and International Obligations

12.1 Are there any special requirements or limitations on acquisitions of interests in the natural gas sector (whether development, transportation or associated infrastructure, distribution or other) by foreign companies?

The Petroleum Law, which governs the production of natural gas, expressly permits foreign companies to apply for upstream activities, provided that they secure a local presence in Turkey.

12.2 To what extent is regulatory policy in respect of the oil and natural gas sector influenced or affected by international treaties or other multinational arrangements?

With respect to downstream activities, regardless of the origin of its shareholders, any company established in Turkey is eligible to be engaged in such activities. The oil and natural gas sector is somewhat influenced by international treaties. Turkey is a party to several international treaties.

13 Dispute Resolution

13.1 Provide a brief overview of compulsory dispute resolution procedures (statutory or otherwise) applying to the oil and natural gas sector (if any), including procedures applying in the context of disputes between the applicable Government authority/regulator and: participants in relation to oil and natural gas development; transportation pipeline and associated infrastructure owners or users in relation to the transportation, processing or storage of natural gas; downstream oil infrastructure owners or users; and distribution network owners or users in relation to the distribution/transmission of natural gas.

EMRA is the authority responsible for resolving disputes between licence holders. Any administrative act is subject to judicial review in Turkey, including decisions as well as administrative fines. Once they have been notified of the decision, parties with a legitimate interest are allowed 60 days to apply to the authorised administrative court.

Actions against decisions made by MENR which affect the rights arising from research permits, exploration licences, or operation licences must be filed before the Council of State as the first instance court.

For administrative acts of EMRA, parties with a legitimate interest can file a suit before the administrative courts within 60 days following the notification.

13.2 Is your jurisdiction a signatory to, and has it duly ratified into domestic legislation: the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards; and/or the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("ICSID")?

Yes, Turkey is a signatory to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

13.3 Is there any special difficulty (whether as a matter of law or practice) in litigating, or seeking to enforce judgments or awards, against Government authorities or State organs (including any immunity)?

No. The Administrative Procedural Law sets forth the rules as to the lawsuits which may be filed against governmental authorities and/or State organs.

13.4 Have there been instances in the oil and natural gas sector when foreign corporations have successfully obtained judgments or awards against Government authorities or State organs pursuant to litigation before domestic courts?

There are no reported cases in Turkey.

14 Updates

14.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Oil and Gas Regulation Law in your jurisdiction.

The Wholesale Natural Gas Exchange Market became operational in September 2018 and has completed a successful first year of operation. Thirty-three market participants have been active in the Exchange Market with an aggregate trading volume of 1.4 bcm. The Exchange Market is now expected to expand to futures contracts (with a physical delivery not exceeding one week) in the future.

Turkey is approaching the expiration term of certain long-term gas import contracts in 2021. It is expected that this may coincide with further market liberalisation in the sense that private importers may replace BOTAŞ volumes through bilateral arrangements with exporters. According to the regulator's forecast, this may bring BOTAŞ' share in imported gas down from the current level of 80% to 50%.

On September 2019, EMRA introduced an important piece of legislation which allowed spot licence holders to import pipeline gas through short-term contracts (up to one year). Such measure aims to allow market participants to benefit from short-term price fluctuations (mainly downwards). The regulator reserves certain capacities in its pipeline network for the purpose of short-term spot imports. Licence holders are able to reserve capacities by sharing their monthly, quarterly and yearly import forecasts.

Turkey's target of expanding its natural gas storage capacity continues its steady pace. July 2019 witnessed the launching of the Salt Lake storage expansion project (in the centre of Turkey), which will be one of the largest in the world.

Turkey aims to continue its exploration activities within the vicinity of the island of Cyprus. Such exploration activities are declared to have the potential for discovery of major reserves.

14.2 Please provide a brief comment on the impact (if any) of the "energy transition" on the oil and gas industry in your jurisdiction.

One may observe a significant commitment from the legislator, regulator and market participants to the energy transition. The main impacts may be seen in increased incentives granted to local resources, but also increased productivity coupled with technological improvements. The current production mix based on resources also reflects Turkey's commitment to the transition.



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Schoenherr's Istanbul office assists international clients on their investments in Turkey and advises Turkish clients on their business interests in Central and Eastern Europe. The office specialises in corporate and M&A transactions, real estate transactions, financings and commercial litigation and is particularly experienced in advising on large cross-border transactions. First set up in 2009 through a formalised cooperation between Schoenherr and the Istanbul law firm Türkoğlu & Çelepçi, the office was fully integrated into Schoenherr's regional network in 2013. The Turkey office is the firm's stronghold in the single largest national market and Europe's fastest-growing economy. The Istanbul team comprises 17 fee earners, including managing partner Levent Çelepçi. In addition, Vienna-based partner Alexander Popp supports the Istanbul team in Turkish M&A and energy projects.

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