

ELECTRICITY REGULATION

Bulgaria



Electricity Regulation

Consulting editors

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Quick reference guide enabling side-by-side comparison of insights into the local legal framework; regulation of power generation, grid connection, and alternative energy sources; climate change policy; energy storage; nuclear power; transmission and distribution; sale of power, including retail and wholesale pricing and public service obligations; regulatory authorities; competition regulation including merger control; cross-border considerations including mergers and acquisitions and interconnection regulations; transactions between affiliates; and recent trends.

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Table of contents

LEGAL FRAMEWORK

Policy and law

Organisation of the market

REGULATION OF ELECTRICITY UTILITIES – POWER GENERATION

Authorisation to construct and operate generation facilities

Grid connection policies

Alternative energy sources

Climate change

Storage

Government policy

REGULATION OF ELECTRICITY UTILITIES – TRANSMISSION

Authorisations to construct and operate transmission networks

Eligibility to obtain transmission services

Government transmission policy

Rates and terms for transmission services

Entities responsible for grid reliability

REGULATION OF ELECTRICITY UTILITIES – DISTRIBUTION

Authorisation to construct and operate distribution networks

Access to the distribution grid

Government distribution network policy

Rates and terms for distribution services

REGULATION OF ELECTRICITY UTILITIES – SALES OF POWER

Approval to sell power

Power sales tariffs

Rates for wholesale of power

Public service obligations

REGULATORY AUTHORITIES

Policy setting

Scope of authority

Establishment of regulators

Challenge and appeal of decisions

ACQUISITION AND MERGER CONTROL – COMPETITION

Responsible bodies

Review of transfers of control

Prevention and prosecution of anticompetitive practices

Determination of anticompetitive conduct

Preclusion and remedy of anticompetitive practices

INTERNATIONAL

Acquisitions by foreign companies

Authorisation to construct and operate interconnectors

Interconnector access and cross-border electricity supply

TRANSACTIONS BETWEEN AFFILIATES

Restrictions

Enforcement and sanctions

UPDATE AND TRENDS

Key developments of the past year

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LEGAL FRAMEWORK

Policy and law

What is the government policy and legislative framework for the electricity sector?

The national policy in the electricity sector of Bulgaria is predominantly predetermined by the current legislative framework at European Union level. The trend is towards stimulating the production of electricity from low-carbon resources (ie, renewable energy sources).

Another current aspect of Bulgaria's national electricity policy is whether the country should continue developing nuclear energy, or whether the development of this sector will be a thing of the past with the completion of the life cycle of the operational Kozloduy nuclear power plant. Despite the turbulent political times in which our country finds itself, there seems to be a consensus among the leading political forces that Bulgaria should remain on the nuclear map of the world. However, it should be mentioned that precisely because of the political upheavals in the country and the established impossibility of forming a sustainable government with a regular mandate, there is currently no approved strategy for sustainable energy development in Bulgaria. The strategy in question should cover planning in the electricity sector in the period 2020–2030, with a horizon up to 2050.

According to the normative basis in Bulgaria, there are several laws that set the framework for the electricity sector. Such legislation is the Energy Law, Law on Energy from Renewable Sources, Law on the Safe Use of Nuclear Energy, Law on Energy Efficiency and the Rules for Trading of Electric Energy, as well as the acts in force at European Union level (the relevant sector regulations and directives).

Law stated - 28 October 2022

Organisation of the market

What is the organisational structure for the generation, transmission, distribution and sale of power? How is this reflected in the regulatory structure?

The overall organisational structure includes the following participants:

- electricity producers – thermal power plants, Kozloduy nuclear power plant; producers of energy from renewable sources such as hydroelectric power plants; photovoltaic power plants; wind power plants, etc);
- the National Electric Company (NEC) EAD, which is a public supplier and operates on the wholesale electricity market with a licence for public supply of electricity and is also a supplier of last resort. In its capacity as a public supplier, NEC EAD buys electricity from producers and sells electricity to final suppliers for sale on the regulated market, to other suppliers of last resort, on the platforms of the Bulgarian Independent Energy Exchange, on the balancing energy market. In its capacity as a supplier of last resort, NEC has the obligation to supply electricity to end customers who are connected to the electricity transmission network, where these customers have not chosen another electricity trader, or when the trader they have chosen does not deliver electricity for reasons beyond the control of the customer;
- transmission network operator – the electricity system operator carries out the unified operational coordination and management of the electricity system of Bulgaria. It ensures the operation, maintenance, repair and reliable functioning of the power transmission network;
- distribution network operator – these are electricity distribution companies that are responsible for the distribution of electric energy on an electricity distribution network and are responsible for the operation of an electricity distribution network, for its maintenance, its development in a certain territory and for its interconnections with other networks;

- traders – companies trading in electricity;
- end customers;
- stock energy market – the Bulgarian Independent Energy Exchange; and
- balancing energy market.

Law stated - 28 October 2022

REGULATION OF ELECTRICITY UTILITIES – POWER GENERATION

Authorisation to construct and operate generation facilities

What authorisations are required to construct and operate generation facilities?

Depending on the type of the generation facilities, there are also differences in the types and number of permits that investors should obtain, which are necessary for their construction.

For example, for the construction of hydroelectric power plants, a special permit for water abstraction and water usage is required. This permit is most often issued by the relevant basin directorate at the location of the generation facilities.

Another example of a specific permit is for determining the location for building a nuclear power generation facility.

In addition to the above-mentioned, insofar as generation facilities are ‘constructions’ according to the law, it is mandatory to issue a general construction permit by the chief architect of the respective municipality.

As for permits related to the operation of generation facilities, the production of electrical energy falls under the licensing regime. Such licences are issued by the Energy and Water Regulatory Commission. A licence is not required when it concerns the production of electrical energy from a plant with total installed electrical capacity of up to 5MW.

Electricity producers must conclude a connection agreement and an access agreement to the electricity distribution or electricity network with the relevant network operator.

Law stated - 28 October 2022

Grid connection policies

What are the policies with respect to connection of generation to the transmission grid?

In general, for a generation facility to be connected to the electricity transmission or distribution network, they are required to have: (1) received opinion on the conditions and method of connection; to have signed a preliminary connection agreement and, based on it, a final connection agreement; and (3) a contract for access to the relevant network.

When it comes to transmission electricity network, producers with a total installed capacity of more than 5MW are predominantly connected.

Bulgaria has introduced numerous mechanisms with the aim of promoting investment in the electricity generation sector from renewable sources. As a part of this system of approach is the guaranteed access of the producers of electricity from renewable sources to the electricity transmission and distribution networks.

Law stated - 28 October 2022

Alternative energy sources

Does government policy or legislation encourage power generation based on alternative energy sources such as renewable energies or combined heat and power?

Taking into account European trends, as well as the positive effect of the diversification of the electricity market, the Bulgarian legislator has introduced numerous mechanisms that aim to stimulate the direction of investments in the field of energy production from renewable sources.

Such a measure aimed at providing entrepreneurs with certainty regarding the realisation of their investment is the introduction of a mechanism for guaranteed access to the transmission or distribution network of electric energy produced from renewable sources.

Another measure is the state's obligation to ensure the construction of the necessary infrastructure and power capacities for regulating the power system.

An important step in the promotion of investments in the sector of electricity production from renewable sources is the introduction of preferential prices for purchasing the power produced by the plants.

The state also guarantees the transmission and distribution of electricity produced from renewable sources.

Another incentive measure is the provision of priority in the dispatching of electricity produced from renewable sources.

Last but not least, the state guarantees the purchase of electricity from renewable sources produced by plants with a total installed capacity of less than 500kW for a certain period.

Identical measures apply to the combined production of heat and electricity from renewable sources.

Law stated - 28 October 2022

Climate change

What impact will government policy on climate change have on the types of resources that are used to meet electricity demand and on the cost and amount of power that is consumed?

In implementing the European decarbonisation policy, the Bulgarian government has taken steps to gradually reduce the use of coal in electricity production. In this regard, it should be said that the deadline that Bulgaria has set for closing coal-fired power plants is 2038, though there are expectations that this could happen even earlier. Bulgaria's strategy is to replace energy produced by high-carbon coal plants with energy produced from renewable sources. In fulfillment of this idea, the government has foreseen the construction of 1.4GW of low-carbon capacities under the Plan for Recovery and Sustainability of the Republic of Bulgaria.

Law stated - 28 October 2022

Storage

Does the regulatory framework support electricity storage including research and development of storage solutions?

After the successful defence of the Plan for Recovery and Sustainability before the European Commission, Bulgaria can boast that it is among the countries that actively promote the construction of electricity storage facilities. The government has foreseen a scheme to support the construction of a minimum of 1.7GW of RES and batteries in Bulgaria, from which investors interested in the construction of such facilities can benefit.

Government policy

Does government policy encourage or discourage development of new nuclear power plants?
How?

Nuclear energy plays an important part in guaranteeing the national security of Bulgaria's energy. A specialist state body in the field of nuclear energy operates in the country – the Nuclear Regulatory Agency (NRA).

A key moment for nuclear energy development in Bulgaria was the successfully implemented project to extend the operational resource of units 5 and 6 of the 'Kozloduy' power plant for another 30 years. In this regard, in 2019, the NRA extended the licences for the operation of units 5 and 6 for a new 10-year period. Another important element is the increase in the installed electric power of each of the units of Kozloduy to 104 per cent Nnom (ie from 1,000MW to 1,040MW).

Law stated - 28 October 2022

REGULATION OF ELECTRICITY UTILITIES – TRANSMISSION**Authorisations to construct and operate transmission networks**

What authorisations are required to construct and operate transmission networks?

In Bulgaria, electricity transmission is placed under a licensing regime. The licence is issued by the Energy and Water Regulatory Commission (EWRC). It is issued to registered traders and is issued by a decision of the EWRC and constitutes an integral part of the decision. The licence is issued for a period of up to 35 years.

Currently, in Bulgaria, the licence for the transmission of electrical energy is exclusive for the territory of the entire country and was issued in favour of the electricity system operator JSC (ESO EAD).

In addition to the licence, to be able to carry out activities as a transmission network operator in Bulgaria, the licensed party must also receive an additional certificate for the fulfillment of the independence requirements provided for in the Energy Law for transmission network operators. The certificate is also issued by the EWRC.

Law stated - 28 October 2022

Eligibility to obtain transmission services

Who is eligible to obtain transmission services and what requirements must be met to obtain access?

Both consumers and producers of electricity can be connected to the electricity transmission network in Bulgaria.

To be connected, a consumer must have received a connection statement and must have signed a contract for connection. The documents are submitted to the ESO – the independent operator of the transmission network in Bulgaria only in cases in which the voltage level is specified in the application. The operator of the transmission network connects the producer or consumer if the conditions of the connection contract are met, there are electrical installations built within the boundaries of the connected property and the connection fee determined by the network operator has been paid.

For a producer to connect, they must have received an opinion on the study of the conditions and method of connecting, have a preliminary contract for connecting and, based on it, a final contract for connecting. The connection

documents are submitted to the independent operator of the transmission network in Bulgaria (ESO) when the installed power of the connected object is over 5MW. The operator of the transmission network connects the producer if the conditions of the connection contract are met, there are electrical installations built within the boundaries of the connected property, a contract for access to the power transmission network is concluded and the specified connection fee is paid.

In addition to connected consumers and producers of electricity, distribution network operators and electricity traders also have the right to access the transmission network in Bulgaria when they enter into import and export transactions and do not deliver electricity to end customers under these transactions.

Law stated - 28 October 2022

Government transmission policy

Are there any government measures to encourage or otherwise require the expansion of the transmission grid?

First of all, the Bulgarian electricity transmission network is part of the unified transmission network of the countries of continental Europe, and the state's policy regarding its development is closely related to the development of the networks of neighbouring countries.

The legislative measures in an internal political aspect provide for the existence of a state regulator, EWRC, which is the regulator that issues licences for electricity transmission and which certified in 2015 the state company ESO EAD as the sole and independent transmission operator of the electricity transmission system of Bulgaria.

Regarding the measures to promote the transmission policy, on a pan-European scale, the Integrated Plan in the field of Energy and Climate of the Republic of Bulgaria for 2021–2030 foresees a number of measures, including supporting key projects in the field of transmission infrastructure by using funds from European financial sources; promoting local energy communities to encourage energy users to participate more effectively; for the integration of the electricity market to the common European energy market and others.

Law stated - 28 October 2022

Rates and terms for transmission services

Who determines the rates and terms for the provision of transmission services and what legal standard does that entity apply?

Tariffs and conditions for transmission services are determined by the state energy regulator EWRC, as normatively, these powers of EWRC are implemented in Laws and in an Ordinance (Ordinance No. 1 of 14 March 2017 on the regulation of electricity prices). The prices of access and transmission services through the electricity transmission network are paid by all customers, both in the regulated and on the free market. By a Decision of 1 July 2022, EWRC approved a price for access to the electricity transmission network of the electricity system operator ESO EAD, which should be paid by the electricity producers whose objects for production of electricity are connected to the electricity distribution networks.

The EWRC, with an Ordinance on licensing of activities in the energy sector, determines the conditions and procedure for issuing, amending, supplementing, extending the term, terminating, suspending and revoking licences for activities in the energy sector, including, but not limited to transmission services. The legal standard that the Commission applies in carrying out its activity in compliance with the normative acts and working in conditions of transparency and publicity.

Entities responsible for grid reliability

Which entities are responsible for the reliability of the transmission grid and what are their powers and responsibilities?

The electricity system operator ESO EAD is responsible for the maintenance, usage and reliable functioning of the electricity transmission network.

Other powers granted to ESO EAD include:

- implementation of operational planning, coordination and management of the electricity system of Bulgaria;
- responsibility for the joint operation of the electricity system with the electricity systems of other countries; and
- responsibility for the maintenance of auxiliary networks, as well as repair works and services in the field of energy.

The company carries out electricity transit on the national grid and organises an electricity market.

In principle, the overall development, management and planning of the electricity system in the country is most complete in the joint actions of both the transmission company ESO, as well as the producers of electricity, the electricity distribution companies, the consumers, the public supplier and traders in electric energy.

REGULATION OF ELECTRICITY UTILITIES – DISTRIBUTION

Authorisation to construct and operate distribution networks

What authorisations are required to construct and operate distribution networks?

In Bulgaria, the distribution of electrical energy is placed under a licensing regime. The licence is issued by the EWRC. It is issued to registered traders. The licence is issued via a decision of the EWRC and constitutes an integral part of the decision. The licence is issued for a period of up to 35 years.

The licence for the distribution of electric energy is issued for a specific territory of the country. This territory must include no less than 150,000 customers connected to the adjacent electricity distribution network, and its borders include no less than one area according to the administrative-territorial structure of the country.

Currently, Bulgaria is divided into four separate territories, which are licensed for the distribution of electrical energy. The licences for the distribution of electric energy were issued in favour of four commercial companies: Electrohold AD (previous name CHEZ Distribution Bulgaria AD), Electrorazpradelenie Yug AD, Energo-pro Networks EAD and ERP Golden Sands AD.

Access to the distribution grid

Who is eligible to obtain access to the distribution network and what requirements must be met to obtain access?

Both consumers and producers of electricity have the right to access the electricity distribution network in Bulgaria. To gain access, they must first be connected to the relevant distribution network at the site location.

To be connected, a user must have received a statement on connecting and must have signed a contract for connecting. The connection documents must be submitted to the relevant distribution network operator when the voltage level is not specified in the application. The operator of the relevant electricity distribution network connects the user if the conditions of the connection contract are met, there are electrical installations built within the boundaries of the connected property and the connection fee determined by the network operator has been paid.

For a producer to connect, they must have received an opinion on the study of the conditions and method of connecting, have a preliminary contract for connecting and, based on it, a final contract for connecting. The connection documents are submitted to the operator of the relevant distribution network when the installed power of the connected object is up to 5MW. The operator of the relevant electricity distribution network connects the producer, if the conditions of the connection contract are met, there are electrical installations built within the boundaries of the connected property, a contract for access to the electricity distribution network is concluded and the specified connection fee is paid.

Law stated - 28 October 2022

Government distribution network policy

Are there any governmental measures to encourage or otherwise require the expansion of the distribution network?

Bulgarian legislation has stipulated an obligation for the operators of the electricity distribution networks to prepare at least once every two years plans for rehabilitation and taking new measures to improve the efficiency of existing networks. The development of the distribution network includes the construction of new elements (for the expansion of the network) and reconstruction of its existing elements, compensating devices and auxiliary networks and control systems.

Law stated - 28 October 2022

Rates and terms for distribution services

Who determines the rates or terms for the provision of distribution services and what legal standard does that entity apply?

Tariffs and conditions for access to electricity distribution services are determined by the EWRC, which is Bulgarian's main national regulatory body in the field of energy. The powers of the EWRC in this area derive from Energy Law, as well as from approved acts on its implementation (regulations). It is in implementation of these acts that the EWRC has drawn up rules for connection to the electricity distribution network for both consumers and producers.

The prices of electricity distribution services are approved by decisions of the specified regulatory body. They are subject to annual update or once a year. Charges for the operation of the distribution network are paid by all customers, both on the regulated as well as on the free market.

Law stated - 28 October 2022

REGULATION OF ELECTRICITY UTILITIES – SALES OF POWER

Approval to sell power

What authorisations are required for the sale of power to customers and which authorities grant such approvals?

In Bulgaria, electricity trading is subject to a licensing regime. The licence is issued by the EWRC. The licence is issued by decision of the Energy and Water Regulatory Commission (EWRC) and constitutes an integral part of the decision. The licence is issued for a period of up to 35 years. Licences for electricity trade in Bulgaria are non-exclusive. Currently, over 200 licences have been issued in the country for trading in electrical energy.

According to the legislation in Bulgaria, licensed electricity traders can sell to both non-domestic (commercial) and domestic consumers.

Law stated - 28 October 2022

Power sales tariffs

Is there any tariff or other regulation regarding power sales?

Electricity in Bulgaria is sold to domestic customers at regulated prices, which are determined or updated annually by an EWRC decision.

As of 1 October 2020, all non-domestic customers should purchase electricity on the free market from a supplier (trader) of their choice at market prices. As of this date, non-domestic customers can no longer participate and purchase electricity on a regulated market (ie, at prices regulated by the EWRC). When non-domestic customers have not chosen an electricity supplier at freely negotiated prices, they are supplied with electricity from a supplier of last resort – at prices according to EWRC methodology for determining the prices of electricity of the supplier of last resort, which are always higher.

Law stated - 28 October 2022

Rates for wholesale of power

Who determines the rates for sales of wholesale power and what standard does that entity apply?

Tariffs for wholesale electricity are determined by the state regulator EWRC. As we have already mentioned, the electricity market in Bulgaria is divided into two segments – a segment with regulated prices (the 'regulated market') and a segment with free negotiable prices (the 'free market').

On the free market, the EWRC does not determine the price of electricity. The Commission only has the role of a regulator that controls the market participants. It has the power to set the Rules for Trading of Electric Energy, the amount of network charges and the Obligations to Society price.

Some of the main methods of price regulation that the EWRC applies are the following: 'rate of return on capital', 'upper limit of prices' and 'upper limit of income'.

There is an exception to the application of the above-described methods for energy companies publicly supplying electricity and supplying electricity from a final supplier, whose prices are approved according to the formulas specified in an ordinance.

Law stated - 28 October 2022

Public service obligations

To what extent are electricity utilities that sell power subject to public service obligations?

The regulation of services of public interest is carried out by EWRC. In carrying out its functions, once a year the EWRC publishes recommendations regarding the conformity of prices for sale by public suppliers, final suppliers and

suppliers of last resort with the obligations for services of public interest, including for the protection of users of energy services and protection of the environment.

The EWRC monitors the implementation of all measures adopted in connection with the recommendations, including for the protection of users of energy services and for the protection of the environment, and for their possible effect on domestic and international competition, and informs the European Commission of these measures and all their changes.

The EWRC also sets a price for 'obligations to society', which is paid by customers on the free electricity market additionally. On the regulated market, this supplement is included in the electricity price.

The National Electricity Company acts as a supplier of last resort. The company is obliged to supply electricity to final customers whose objects are connected to the electricity transmission network only in the following cases – when these customers have not chosen another electricity trader, or when for reasons beyond the control of the customers the trader they have chosen does not deliver electrical energy.

Law stated - 28 October 2022

REGULATORY AUTHORITIES

Policy setting

Which authorities determine regulatory policy with respect to the electricity sector?

The main state entities involved in determining the regulatory policy of Bulgaria in the electricity sector are the National Assembly, the Council of Ministers, the Ministry of Energy, the Energy and Water Regulatory Commission and the Sustainable Energy Development Agency.

Law stated - 28 October 2022

Scope of authority

What is the scope of each regulator's authority?

The National Assembly is the main legislative body that adopts the laws in the country, including and the main laws relating to the electricity sector: Energy Law, Law on Energy from Renewable Sources and Law on Energy Efficiency. The National Assembly also adopted the Strategy for Sustainable Energy Development of Bulgaria.

The Council of Ministers adopts national plans and long-term programmes in the energy sector in coordination with the Minister of Energy.

The Ministry of Energy adopts the main by-laws (regulations) in the electricity sector.

The Energy and Water Regulatory Commission (EWRC) is the main regulator in the electricity sector. The EWRC issues all licences for activities in the electricity sector. The Commission also adopts numerous by-laws: ordinances, decisions, methodologies, tariffs, instructions and others. The EWRC exercises control in the electricity sector. Another important role is that the Commission carries out the regulation of prices in the sector in the cases defined by law.

The Sustainable Energy Development Agency (SEDA) carries out functions in connection with the promotion and provision of various incentives for the production of electrical energy from renewable sources and increasing energy efficiency.

Law stated - 28 October 2022

Establishment of regulators

How is each regulator established and to what extent is it considered to be independent of the regulated business and of governmental officials?

The EWRC is a legal entity, a first-level authority with a budget, with headquarters in Sofia. It is a collegial body consisting of nine members, including a chairman. The EWRC is a specialist state body that is completely independent, from both the Ministry of Energy and from other bodies of the executive power, officials and businesses. In its activities, the EWRC is guided by the principles of independence, impartiality, publicity and transparency. The Commission is accountable for its activities directly to the National Assembly.

SEDA is a budget-supported legal entity. SEDA has the status of an executive agency under the Minister of Energy, in view of which it is assumed that it does not have an independent status, but is subordinate to the line Ministry in the energy sector.

Law stated - 28 October 2022

Challenge and appeal of decisions

To what extent can decisions of the regulator be challenged or appealed, and to whom? What are the grounds and procedures for appeal?

Decisions made by the main regulator in the sector, EWRC, are subject to judicial appeal.

Decisions can only be appealed as to their legality (but not as to their expediency).

The appeal shall be made before the Sofia City Administrative Court (SCAC), within 14 days of their notification. The appeal does not stop the implementation of the relevant decision.

Decisions of the SCAC are subject to appeal before the Supreme Administrative Court (SAC). SAC's decisions are final.

Law stated - 28 October 2022

ACQUISITION AND MERGER CONTROL – COMPETITION

Responsible bodies

Which bodies have the authority to approve or block mergers or other changes in control over businesses in the sector or acquisition of utility assets?

In cases of conversion of commercial companies, an entry in Commercial Register should be made, during which a check is undertaken to establish whether all the requirements of the Commerce Act are met. If there is a business concentration within the meaning of the Act on Protection of Competition, then the supervision is carried out by the Commission for the Protection of Competition. In addition, a rule specific to the Electricity Regulation is that the Energy and Water Regulatory Commission (EWRC) must grant permission for the conversion of a licensed electricity utility by merger, consolidation, spin-off or by a change in the legal form of a company, if the legal entity that will carry out the licensed activity after the conversion meets the requirements for the issuance of a licence or amendment of a licence for the activity. The procedure before the EWRC shall be conducted prior to the general one under the Commerce Act.

Law stated - 28 October 2022

Review of transfers of control

What criteria and procedures apply with respect to the review of mergers, acquisitions and other transfers of control? How long does it typically take to obtain a decision approving or blocking the transaction?

Concentrations are subject to mandatory prior notification to the Commission for the Protection of Competition (CPC), if the value of the total turnover of all undertakings participating in the concentration on the territory of the Republic of Bulgaria in the previous financial year exceeds 25 million lev, and the total turnover of each one of at least two of the undertakings – participants in the concentration on the territory of the Republic of Bulgaria in the previous financial year, exceeds 3 million lev, or the total turnover of the enterprise – object of acquisition on the territory of the Republic of Bulgaria in the previous financial year – exceeds 3 million lev.

The Commission authorises the concentration if it will not result in a significant impediment to effective competition in the relevant market. The Commission may authorise a concentration that, even if it leads to a significant impediment to the effective competition on the relevant market, aims at modernising the relevant economic activity, improving market structures and better satisfying consumer interests.

The CPC first conducts an accelerated investigation and renders a decision within 25 working days of the referral. An in-depth investigation of the concentration is carried out when, as a result of the accelerated investigation, the Commission considers that there are suspicions that the resulting concentration will impede effective competition in the relevant market. The in-depth investigation is carried out and completed within 90 working days.

Regarding the procedure before the EWRC (for granting permission for the conversion of a licensed electricity utility prior to the general procedure under the Commerce Act), this lasts a month, and the administrative body renders a decision to grant the conversion or reject it. An important criterion is whether the transformed company will meet the regulatory requirements for continuing the activity under the licence. If it does not comply with the requirements in question, the licence is terminated.

Law stated - 28 October 2022

Prevention and prosecution of anticompetitive practices

Which authorities have the power to prevent or prosecute anticompetitive or manipulative practices in the electricity sector?

The main state regulatory agency competent to establish violation of the rules of fair competition is the CPC. The EWRC is also charged with special powers in the field of prevention and prosecution of anticompetitive practices in the electricity sector. It carries out controls to prevent restriction and distortion of competition in the energy markets. The EWRC also monitors the degree and effectiveness of market opening and competition in the wholesale and retail sectors, monitoring the connection with the energy markets of other EU member states. In addition to the above, it should be noted that employers in the electricity sector can create and be members of industry chambers and organisations in the energy market. The industry chambers and organisations of the energy market are developing an Ethics Code regulating the non-admission of unfair competition between energy producers.

Law stated - 28 October 2022

Determination of anticompetitive conduct

What substantive standards are applied to determine whether conduct is anticompetitive or manipulative?

The CPC considers whether there is a prohibited agreement and concerted practices of two or more undertakings, which have the purpose or result of distorting competition in the relevant market; whether there is an abuse of a monopoly or dominant position; whether there is an activity that violates the rules of fair competition – damage to the good name of a competitor, imitation, unfair attraction of customers, disclosure of production and trade secrets.

Law stated - 28 October 2022

Preclusion and remedy of anticompetitive practices

What authority does the regulator (or regulators) have to preclude or remedy anticompetitive or manipulative practices?

If it considers that an infringement of the law is committed, the CPC imposes a property sanction or a fine and orders the termination of the violation. The Commission imposes a property sanction of up to 10 per cent of the total turnover for the previous financial year of the undertaking. When determining the amount of the property sanction, the gravity and duration of the infringement, as well as mitigating and aggravating circumstances are taken into account. The specific amount of the sanction is determined by the Commission in accordance with the Methodology adopted by it. The Commission may impose the participants in a transaction constituting a concentration that has not been notified to the Commission behaviour and structural measures necessary to restore effective competition, including by ordering a spin-off of the combined capital, shares or assets.

Law stated - 28 October 2022

INTERNATIONAL

Acquisitions by foreign companies

Are there any special requirements or limitations on acquisitions of interests in the electricity sector by foreign companies?

There are no such regulatory restrictions. According to the law, foreign legal entities can participate in competitions for issuing licences for activities in the energy sector in the Republic of Bulgaria. In certain cases, the regulatory body the Energy and Water Regulatory Commission (EWRC) may provide a requirement to create a legal entity registered under the Bulgarian Commerce Act, when the competition is won by a foreign entity that is not registered in a member state of the European Union, or in another state, a party under the European Economic Area Agreement.

Law stated - 28 October 2022

Authorisation to construct and operate interconnectors

What authorisations are required to construct and operate interconnectors?

EU member states, such as Bulgaria, as well as their regulatory authorities, cooperate to integrate their national markets, they promote and support cooperation between transmission system operators at regional level, including on cross-border issues, stimulate the synchronisation of their legal, regulatory and technical frameworks and assist on the integration of isolated systems. So, the regulatory framework regarding interconnectors connecting the electrical

networks of the individual EU members consists of both EU acts Regulations and Directives, as well as internal regulatory sources. According to Bulgarian legislation, the EWRC must certify each transmission network operator to fulfil the requirements to become an independent transmission operator. The decision for certification is notified to the European Commission and published in the Official Journal of the European Union, and the European Commission considers immediately any notification of a decision to certify a transmission system operator under Directive 2009/72. All transmission system operators cooperate at Community level through the European Network of Transmission System Operators for Electricity to contribute to the completion and functioning of the internal electricity market as well as cross-border trade, and to ensure the optimal management of the European network for electricity transmission. In the EU, projects of common interest that have a significant cross-border impact have been created and implemented.

Law stated - 28 October 2022

Interconnector access and cross-border electricity supply

What rules apply to access to interconnectors and to cross-border electricity supply, especially interconnection issues?

The rules are determined predominantly by European acts.

Charges applied by network operators for access to networks are transparent and formed by taking into account the need for network security and they do not depend on distance.

When determining network access charges, the following are taken into account: payments and revenues from the compensatory mechanism between transmission system operators; actual payments made and amounts received, as well as expected payments for future periods of time calculated on the basis of past periods. The determination of network access charges according to the preceding paragraph shall not affect the charges for declared exports and declared imports as a result of an overload of management. No special network fee applies to individual transactions for the declared transit of electricity.

Law stated - 28 October 2022

TRANSACTIONS BETWEEN AFFILIATES

Restrictions

What restrictions exist on transactions between electricity utilities and their affiliates?

The legislation does not prohibit or restrict transactions between electricity utilities and their affiliates. The Energy Law explicitly states that electricity utilities can supply their branches, enterprises and facilities located on the territory of the country with electricity under the following alternative conditions:

- through the power transmission network or power distribution networks, for which purpose they must enter into a transmission contract with the operator of the respective network; or
- on direct power lines built at their expense.

For producers of electrical energy from renewable sources with an installed capacity of less than 500kW, there is a certain proviso. In relation to such producers, there is an obligation for the public supplier and final suppliers to purchase certain quantities of electricity from them at preferential prices, determined by the Energy and Water Regulatory Commission (EWRC). Accordingly, such producers can supply their branches, enterprises and objects only

with the amounts of energy exceeding those that should be purchased at the preferential price determined by the EWRC.

In addition, it should be pointed out that, in recent years, the principle of liberalisation of the free electricity market has been strengthened in Bulgaria, and seeks to remove restrictions on the electricity trade for non-domestic consumers.

Law stated - 28 October 2022

Enforcement and sanctions

Who enforces the restrictions on utilities dealing with affiliates and what are the sanctions for non-compliance?

The EWRC is the body that generally controls compliance with the rules for trading in electricity. For any violations, the Commission can impose administrative penalties, fines and property sanctions.

Law stated - 28 October 2022

UPDATE AND TRENDS

Key developments of the past year

Are there any emerging trends or hot topics in electricity regulation in your jurisdiction?

One of the most current topics in the field of the electricity sector in Bulgaria is the increased interest of investors in the construction of photovoltaic power plants. According to current electricity system operator data and the electricity distribution companies in the country, declared power in the received applications for the construction of such power plants exceeds 24,000MW. This, in turn, creates a need for the expansion and modernisation of the electricity transmission and distribution networks in Bulgaria, as in their current state they do not have the necessary capacity to absorb such power. In this regard, mutually beneficial solutions are sought by considering options for joint initiatives of the state and business in terms of improving the electricity network.

Law stated - 28 October 2022

Jurisdictions

	Australia	King & Wood Mallesons
	Belgium	Linklaters LLP
	Bulgaria	Kinkin & Partners
	Chile	Pruzzo Ruscica Brotfeld
	Ghana	Kimathi & Partners Corporate Attorneys
	India	Trilegal
	Japan	Nishimura & Asahi
	Panama	Anzola Robles & Asociados
	Turkey	Boden Law
	United Kingdom	Milbank LLP