Pursuant to Articles III 1 b) and i), and IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina at the session of the House of Peoples held on [●], and at the session of the House of Representatives held on [●] adopted

**LAW**

**ON TRANSMISSION OF NATURAL GAS, REGULATOR AND INTERNAL MARKET IN BOSNIA AND HERZEGOVINA**

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1**

*Regulatory scope*

(1) This Law establishes the general legal framework for the governing, organisation, regulation, monitoring and supervision of the natural gas activities within the jurisdictional competence at the level of Bosnia and Herzegovina.

(2) This Law lays down the rules related to the opening, organisation, functioning and operation of the internal market in natural gas, as well as to the trade in natural gas within the entire territory of Bosnia and Herzegovina. It also regulates the performance of undertakings engaged in the natural gas activities under the terms and conditions stipulated herein, and of the State Regulatory Commission (hereinafter – “the State Regulator”), as well as mutual relations between natural gas undertakings, their relations with the State Regulator, and cooperation of regulatory authorities and other competent institutions operating in the natural gas sector of Bosnia and Herzegovina.

**Article 2**

*Definitions*

For the purposes of this Law, the following definitions shall apply:

1. “ancillary services” shall mean all services necessary for access to and the operation of transmission networks, including load balancing, blending and injection of inert gases;

2. “available capacity” shall mean the part of the technical capacity that is not allocated and is still available to the system at that moment;

3. “balancing period” shall mean the period within which the off-take of an amount of natural gas, expressed in units of energy, must be offset by every network user by means of the injection of the same amount of natural gas into the transmission network in accordance with the transport contract or the network code;

4. “capacity” shall mean the maximum flow, expressed in normal cubic meters per time unit or in energy unit per time unit, to which the network user is entitled in accordance with the provisions of the transport contract;

5. “certification” shall mean a procedure which establishes conformity of the transmission system operator with the conditions in relation to its independence and unbundling, as well as other relevant requirements imposed on the transmission system operator by this Law, and leads towards the appointment and designation of the transmission system operator;

6. “congestion management” shall mean management of the capacity portfolio of the transmission system operator with a view to optimal and maximum use of the technical capacity and the timely detection of future congestion and saturation points;
7. “contracted capacity” shall mean capacity that the transmission system operator has allocated to a network user by means of a transport contract;

8. “contractual congestion” shall mean a situation where the level of firm capacity demand exceeds the technical capacity;

9. “control” shall mean rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact and law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by ownership or the right to use all or part of the assets of an undertaking, and/or rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking;

10. “customer” shall mean a wholesale or final customer of natural gas or a natural gas undertaking which purchases natural gas;

11. “direct line” shall mean natural gas pipeline complementary to the interconnected system;

12. “distribution” shall mean the transport of natural gas through local or regional pipeline networks with a view to its delivery to customers, but not including supply;

13. “distribution system operator” shall mean a natural or legal person who carries out the function of distribution and is responsible for operating, ensuring the maintenance of, and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of gas;

14. “eligible customer” shall mean a customer who is free to purchase natural gas from the supplier of its choice;

15. “Energy Community Parties” shall mean the Contracting Parties to the Treaty establishing the Energy Community (hereinafter – “the Energy Community Treaty”), as well as Member States of the European Union;

16. “final customer” shall mean a customer purchasing natural gas for its own use;

17. “firm capacity” shall mean gas transmission capacity contractually guaranteed as uninterruptible by the transmission system operator;

18. “firm services” shall mean services offered by the transmission system operator in relation to firm capacity;

19. “gas derivative” shall mean a financial instrument aimed to secure natural gas market participants from possible fluctuations of the price of natural gas in the market, where that instrument relates to natural gas;

20. “gas supply contract” means a contract for the supply of natural gas, but does not include a gas derivative;

21. “horizontally integrated undertaking” shall mean an undertaking performing at least one of the activities of production, transmission, distribution, supply or storage of natural gas, and a non-gas activity;

22. “household customer” shall mean a final customer purchasing natural gas for its own household consumption, excluding commercial and/or professional activities;

23. “integrated natural gas undertaking” shall mean a vertically or horizontally integrated natural gas undertaking;

24. “interconnected system” shall mean a number of systems which are linked with each other;

25. “interconnector” shall mean a transmission line which crosses or spans a border between Bosnia and Herzegovina and another country for the sole purpose of connecting their national transmission systems;
26. “interruptible capacity” shall mean gas transmission capacity that may be interrupted by the transmission system operator in accordance with the conditions stipulated in the transport contract;

27. “interruptible services” shall mean services offered by the transmission system operator in relation to interruptible capacity;

28. “licensee” shall mean a holder of a license (or licenses) for natural gas activities regulated by this Law;

29. “linepack” shall mean the storage of gas by compression in gas transmission and distribution systems, but not including facilities reserved for transmission system operators carrying out their functions;

30. “long-term services” shall mean services offered by the transmission system operator with a duration of one (1) year or more;

31. “long-term gas supply contract” shall mean a gas supply contract with a duration of more than ten (10) years;

32. “long-term transmission planning” shall mean the planning of the need for investment in transmission capacity on a long-term basis, with a view to meeting the demand of the system for natural gas and securing supplies to customers;

33. “natural gas undertaking” shall mean a natural or legal person carrying out at least one of the following activities: production, transmission, distribution, supply, purchase or storage of natural gas, which is responsible for the commercial, technical and/or maintenance tasks related to those functions, but shall not include final customers;

34. “new interconnector” shall mean an interconnector not completed by 1 July 2007;

35. “non-household customer” shall mean any legal or natural person purchasing natural gas which is not for its own household use, and includes producers and wholesale customers;

36. “physical congestion” shall mean a situation where the level of demand for actual deliveries exceeds the technical capacity at some point in time;

37. “primary market” shall mean the market of the capacity traded directly by the transmission system operator;

38. “protected customers” shall mean household customers and small enterprises connected to a gas distribution network, and essential social services connected to a gas distribution or transmission network, as well as district heating installations to the extent that they deliver heating to the abovementioned customers, provided that these installations are not able to switch to other fuels and are connected to a gas distribution or transmission network;

39. “related undertaking” shall mean an affiliated and/or associated undertaking, within the meaning prescribed by the Entity laws governing the activities of business companies, and/or an undertaking which belongs to the same shareholders;

40. “secondary market” shall mean the market of the capacity traded otherwise than on the primary market;

41. “security” shall mean both security of supply of natural gas, and technical safety;

42. “security of supply” shall mean the ability of the natural gas system of Bosnia and Herzegovina to supply final customers with natural gas, as provided for under this Law, other applicable laws and their implementing regulations;

43. “short-term services” shall mean services offered by the transmission system operator with a duration of less than one (1) year;

44. “storage” shall mean injection into and stocking of natural gas in storage facilities, and withdrawal of natural gas from storage facilities;
45. “storage facility” shall mean a facility used for the stocking of natural gas and owned and/or operated by a natural gas undertaking, excluding facilities reserved exclusively for the transmission system operator in carrying out its functions;

46. “supplier” shall mean any natural or legal person who carries out the function of supply;

47. “supply” shall mean the sale, including resale, of natural gas to customers;

48. “system” shall mean any transmission networks, distribution networks and/or storage facilities owned and/or operated by a natural gas undertaking, including linepack and its facilities supplying ancillary services and those of related undertakings necessary for providing access to transmission and distribution;

49. “system integrity” shall mean any situation in respect of a transmission network including necessary transmission facilities in which the pressure and the quality of the natural gas remain within the minimum and maximum limits laid down by the transmission system operator, so that the transmission of natural gas is guaranteed from a technical standpoint;

50. “system user” shall mean a natural or legal person supplying to, or being supplied by, the system;

51. “technical capacity” means the maximum firm capacity that the transmission system operator can offer to the network users, taking account of system integrity and the operational requirements of the transmission network;

52. “third country” shall mean any country which is not the Energy Community Party, or a member of the European Economic Area;

53. “trade” shall mean purchase and/or sale, including resale, of natural gas to wholesale customers, excluding sale of natural gas to final customers;

54. “trader” shall mean a natural gas undertaking performing the trade in natural and authorised for such activity under the terms and conditions provided in this Law, other applicable laws and/or their implementing regulations;

55. “transmission” shall mean the transport of natural gas through a network of high-pressure pipelines, other than an upstream pipeline network and other than the part of high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply;

56. “transmission system operator” shall mean a natural or legal person who carries out the function of transmission and is responsible for operating, ensuring the maintenance of, and, if necessary, developing the transmission system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the transport of gas;

57. “transmission system owner” shall mean a natural gas undertaking which owns the natural gas transmission system, or any particular part thereof, in a given area;

58. “transport contract” shall mean a contract which the transmission system operator has concluded with a system user with a view to carrying out transmission;

59. “unused capacity” shall mean firm capacity which a network user has acquired under a transport contract but which that user has not nominated by the deadline specified in the contract;

60. “upstream pipeline network” shall mean any pipeline or network of pipelines operated and/or constructed as part of an oil or gas production project, or used to convey natural gas from one or more such projects to a processing plant or terminal or final coastal landing terminal;

61. “vertically integrated undertaking” shall mean a natural gas undertaking or a group of natural gas undertakings where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group of undertakings perform at least one of
the functions of transmission, distribution or storage, and at least one of the activities of production or supply of natural gas;

62. “wholesale customer” shall mean a natural or legal person other than a transmission system operator or distribution system operator who purchases natural gas for the purpose of resale inside or outside the system where he is established.

**Article 3**

**General objectives**

General objectives of this Law shall be the following:

1. to lay the legal background for unrestricted trade in and uninterrupted supply of natural gas at defined quality standards for the benefit of the customers in Bosnia and Herzegovina;

2. to ensure secure, reliable and efficient operation of the natural gas transmission system and the provision of natural gas transmission services to all system users;

3. to set the rights and obligations of natural gas undertakings engaged in the natural gas activities under the terms and conditions stipulated in this Law and to set the rights and obligations of the State Regulator, as well as the legal background for mutual relations between natural gas undertakings and their relations with the State Regulator;

4. to create conditions for the opening of the natural gas market in Bosnia and Herzegovina based on the principles of competitiveness, transparency and non-discrimination;

5. to establish the rules on organisation and functioning of the natural gas market in Bosnia and Herzegovina, including its further development and the pan-European market integration;

6. to ensure effective unbundling of the transmission system operator (or operators) and its independence from other natural gas activities and from other commercial interests;

7. to create conditions for adequate investments to the natural gas transmission system; and

8. to establish the legal background for regional and international cooperation of the transmission system operator (or operators) and of the State Regulator, as well as for mutual cooperation among competent authorities, institutions and other public bodies in Bosnia and Herzegovina.

**CHAPTER II**

**GOVERNING OF THE NATURAL GAS ACTIVITIES**

**Article 4**

**General principles governing the natural gas activities**

(1) Organisation, regulation, monitoring and supervision of the natural gas activities shall be implemented in compliance with the following general principles:

1. security and reliability of operation of the transmission system and provision of the transmission services;

2. security of supply in order to fulfil the demand for natural gas by customers in Bosnia and Herzegovina;

3. competitiveness, transparency, non-discrimination and legal certainty for the natural gas activities, whether related to public services or market based;

4. increase of the energy efficiency and sustainable development of the natural gas activities following environmental, economic and social security policies of Bosnia and Herzegovina;
5. promotion of the use of smart and environmentally-friendly technologies while transporting natural gas and operating the transmission system; and

6. availability, accessibility and affordability of natural gas for the benefit of the customers in Bosnia and Herzegovina.

(2) Other legal acts regulating natural gas activities at the level of Bosnia and Herzegovina and in the Entities of the Federation of Bosnia and Herzegovina and Republika Srpska (hereinafter – “the Entities”) shall be construed and implemented in line with the general principles laid down in paragraph 1 of this Article.

(3) In case the gasification of the Brčko District of Bosnia and Herzegovina (hereinafter – “the District”) will be implemented to ensure the supply of natural gas to customers operating or residing in the District, references to the Entities in this Law shall be mutatis mutandis applied to the District.

(4) Paragraph 3 of this Article shall not be applied with regard to any references to the regulatory authorities designated at the level of Entities (hereinafter – “the Entity Regulators”), considering that the State Regulator shall act as an energy regulatory authority in the District.

Article 5
Competent institutions

(1) The Council of Ministers of Bosnia and Herzegovina (hereinafter – “the Council of Ministers”) and the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina (hereinafter – “the Ministry”) shall be responsible for taking relevant decisions with regard to the governing of the natural gas sector at the level of Bosnia and Herzegovina within the scope of their specific competences, as assigned in accordance with this Law and other applicable laws and regulations.

(2) The State Regulator shall be designated as a single regulatory authority at the level of Bosnia and Herzegovina. The State Regulator shall possess its competences and implement its regulatory powers with regard to the natural gas activities performed in Bosnia and Herzegovina in accordance with this Law and other applicable laws and regulations.

(3) Competence of institutions assigned with the organisation, regulation, monitoring and/or supervision of the natural gas activities in the Entities shall be defined by their respective laws.

(4) Competent institutions of Bosnia and Herzegovina shall ensure close mutual cooperation at the governmental and/or ministerial levels for the purposes of harmonised practices in the field of natural gas. Cooperation between the State Regulator, the Entity Regulators and/or other competent authorities of the Entities shall be performed under the terms and conditions stipulated in this Law.

CHAPTER III
ORGANISATION OF THE NATURAL GAS ACTIVITIES

Article 6
Natural gas activities

(1) The following natural gas activities shall be covered by this Law:
1. operation of the natural gas transmission system, which shall also include the transmission of natural gas and other activities performed by the transmission system operator;
2. organisation and operation of the natural gas market; and
3. wholesale trade in natural gas.
(2) Other natural gas activities referred to in this Law, shall be regulated under the terms and conditions of this Law to the extent the organisation and operation of a single natural gas market in Bosnia and Herzegovina is concerned, including the monitoring and supervision of the natural gas market and effective competition therein. Other legal relations with regard to these activities and any other natural gas activities not regulated by this Law shall be regulated by respective laws of the Entities.

Article 7
Public services

(1) The following activities falling within the regulatory scope of this Law shall be performed as public services:
   1. operation of the natural gas transmission system; and
   2. organisation and operation of the natural gas market.

(2) Natural undertakings performing activities referred to in paragraph 1 of this Article shall ensure, within the specific scope of and in conformity with the requirements set out in the license for performance of respective activity, the following:
   1. security of supply;
   2. application of prices defined according to the regulated conditions;
   3. non-discriminatory access;
   4. environmental protection;
   5. energy efficiency and sustainability;
   6. protection of health, life and property of citizens; and
   7. measures for protecting final customers.

(3) Public services shall be provided in a transparent and non-discriminatory manner, and they shall guarantee equality of access for natural gas undertakings of the Energy Community to customers in Bosnia and Herzegovina.

(4) Other public service obligations, which may relate to security, including security of supply, regularity, quality and price of supplies, and environmental protection, including energy efficiency, energy from renewable sources and climate change, may be imposed at the level of Bosnia and Herzegovina or in the Entities by other applicable laws with a view to achieving a competitive, secure and environmentally sustainable market in natural gas without discrimination between natural gas undertakings as regards their rights and/or obligations. Such obligations shall be clearly defined and verifiable, and shall comply with the principles stipulated in paragraph 3 of this Article.

(5) The Energy Community Secretariat shall be informed of any measure adopted under this Law at the level of Bosnia and Herzegovina and/or, based on respective applicable laws, in the Entities to fulfil public service obligations, and of their possible effect on national and international competition upon the entry into force of this Law. The Energy Community Secretariat shall be subsequently informed every two (2) years of any changes to such measures.

(6) The Ministry shall be in charge to prepare, in cooperation with the State Regulator and competent institutions of the Entities, as well as with the transmission system operator (or operators) and the natural gas market operator, and to submit reports containing information referred to in paragraph 5 of this Article to the Energy Community Secretariat.
Natural gas activities, which are not defined as public services under this Law or respective laws of the Entities, shall be performed as market activities where amounts and prices of natural gas and/or other commercial terms and conditions are freely negotiated by the conclusion of short-term and long-term contracts and/or directly on the organised natural gas market.

Article 9

Licensing for the performance of natural gas activities

(1) Performance of natural gas activities falling within the regulatory scope of this Law shall be authorised by the State Regulator following the licensing procedures under the terms and conditions of this Law, other applicable laws and implementing regulations.

(2) A license under this Law shall be required for the following natural gas activities:
   1. operation of the natural gas transmission system;
   2. operation of the natural gas market; and
   3. wholesale trade in natural gas.

(3) Any natural gas activities specified in paragraph 2 of this Article may be performed by legal or natural person only subject to prior issuance of the license, except if otherwise expressly provided by this Law.

(4) Under conditions stipulated in this Law, license for activities of the transmission system operator, i.e. license for the operation of the natural gas transmission system, may be issued only after its prior approval and designation following the certification decision granted by the State Regulator.

(5) Procedures for issuance of the license shall be clearly defined and publicly announced, in compliance with the general criteria specified in Article 10 [General criteria for issuance of licenses] of this Law, and shall be conducted in a transparent, objective, legally justified and non-discriminatory manner.

(6) The State Regulator shall adopt the licensing rules setting forth the specific requirements for issuance of licenses, including the application forms, procedures and fees for submitting a request, and the time period for rendering respective decisions, as well as the content and manner of keeping the register of issued and revoked licenses, including any change or modification thereto.

(7) Performance of the production, distribution and supply of natural gas, as well as of any other natural gas activities not regulated by this Law, shall be subject to the licensing and/or other authorisation procedures regulated by the applicable laws of the Entities.

Article 10

General criteria for issuance of licenses

(1) Based on the requirements for regulated natural gas activities established by this Law and following the licensing rules adopted by the State Regulator, a license for natural gas activities may be issued to an applicant:
   1. which is duly incorporated and registered for carrying out natural gas activities, as it may be required for legal persons, under the terms and conditions stipulated in the applicable laws of Bosnia and Herzegovina;
   2. which is technically qualified to carry out the activity;
   3. which has employed the qualified staff required to carry out the activity;
4. which has the financial resources necessary to carry out the activity, or prove that it can obtain such resources;

5. which has no revoked licenses for carrying out any natural gas activity, for which the license is required under this Law or other applicable laws, in the last five (5) years preceding the year of application;

6. whose board members and/or other responsible persons were not convicted of a criminal act and/or were not imposed any security measure or protective measure banning the performance of the activity or the duty that is relevant for the issuance of the license; and

7. which complies with other criteria required for the respective natural gas activity under by this Law, other laws or licensing rules adopted by the State Regulator.

(2) The criteria for acquisition of a license shall, among others, include those relating to:

1. criteria particular to the applicant, such as technical, economic, financial and human resources and capabilities;

2. measures required to ensure the quality of provided services; and

3. ability to meet any applicable public service obligations, as referred to in Article 7 [Public services] of this Law.

(3) The criteria for acquisition of licenses for activities of the transmission system operator shall, in addition, include those relating to:

1. safety and security of the transmission network and associated equipment;

2. protection of public health and safety;

3. protection of the environment;

4. land use and siting;

5. use of public property;

6. energy efficiency.

(4) License issued for activities of the transmission system operator shall grant the respective licensee with an exclusive right to perform such activities in a given area, i.e. only one (1) license may be issued for the operation of the natural gas transmission system or any particular part thereof in a defined territory. This provision shall not preclude from the designation of more than one transmission system operator for natural gas in Bosnia and Herzegovina.

(5) License issued for the operation of the natural gas market shall grant the respective licensee with an exclusive right to perform such activities, i.e. only one (1) natural gas operator may be designated for the operation of the natural gas market in Bosnia and Herzegovina.

(6) Number of licenses issued for the wholesale trade in natural gas shall not be limited.

(7) Applications for issuance of a license may be refused only on grounds specified in this Law and in the licensing rules adopted by the State Regulator. Decision on such refusal shall be taken on a legally justified basis in an objective, transparent and non-discriminatory manner, and shall be well substantiated and explained to the respective applicant. Decisions on refusal to issue a license shall be, without any undue delay, communicated by the State Regulator to the Energy Community Secretariat for information purposes.

Article 11

Duration, suspension, revocation, modification and transfer of licenses

(1) Licenses for performance of activities referred to in paragraph 2 of Article 9 [Licensing for the performance of natural gas activities] of this Law shall be issued for the following periods of
time, taking into account that upon the expiration of their validity, at the request of the licensee, the State Regulator may approve the extension of licenses:

1. license for operation of the natural gas transmission system – for a period of up to twenty (20) years;
2. license for operation of the natural gas market – for a period of up to five (5) years; and
3. license for wholesale trade in natural gas – for a period of up to ten (10) years.

(2) The State Regulator may suspend or revoke a license, prior to the expiry of its validity:

1. temporarily suspend, if the licensee:
   a. ceases to meet any of the conditions referred to in subparagraphs 1, 2, 3, 4 and 7 of paragraph 1 of Article 10 [General criteria for issuance of licenses] of this Law;
   b. fails to perform services for which it obtained a license in the manner prescribed by this Law and implementing regulations; and/or
   c. for a period of three (3) consecutive months does not meet in a timely manner its obligations to other natural gas undertakings, which carry out their activities as a public service.
2. permanently revoke, if the licensee does not eliminate the deficiency established by the specific decision of the State Regulator on the temporary suspension, or does not eliminate the deficiencies in its operations based on the specific decision issued by a competent inspector.

(3) In addition to the conditions referred to in paragraph 2 of this Article, the State Regulator may temporarily suspend or permanently revoke the license before the expiry of its validity if the competent inspection establishes safety flaws of facilities, devices, network and system, and/or other factors threatening life or health of people, environment, or security of the system, including the security of supply, and informs the State Regulator on these flaws and/or other factors.

(4) Before taking a decision on the temporary suspension of the license, in case any of the conditions referred to in paragraph 2 and/or 3 of this Article are indicated, the State Regulator shall issue to the licensee a formal notice to comply with a determined deadline within which the licensee is obliged to eliminate infringements or deviations mentioned in this Article.

(5) The decision on the temporary suspension of the license shall determine the period within which the licensee is obliged to eliminate the circumstance (or circumstances) that caused such temporary suspension of the license.

(6) Licenses may be modified upon the initiative of the State Regulator in case requirements for respective licensed activity have been changed, as regulated by the applicable laws and their implementing regulations. Changes of the address, the contact details and/or of any other information of minor importance not affecting the licensed activity may be notified by the licensee in written with acknowledgment of receipt no later than in ten (10) business days after such circumstance occurred.

(7) Licenses may be transferred to the other natural gas undertaking, whether in case of transfer of facilities or equipment necessary for performance of a particular natural gas activity or in case of change of control, merger, or split of the licensee. Conditions which must be met and the procedures which must be applied for the survival or renewal of the license in such case shall be determined in the licensing rules adopted by the State Regulator, taking into account general criteria stipulated in Article 10 [General criteria for issuance of licenses] of this Law.

(8) Information on duration, suspension, revocation, modification and transfer of licenses shall be made public under the terms and conditions established in the licensing rules adopted by the State Regulator.
Decisions on revocation of a license shall be, without any undue delay, communicated by the State Regulator to the Energy Community Secretariat for information purposes. If so requested, the State Regulator shall provide the Energy Community Secretariat with the information on measures undertaken to ensure the security of supply and interoperability of the system in case of the revocation of a license.

CHAPTER IV
REGULATION OF NATURAL GAS ACTIVITIES

Article 12
Designation of the State Regulator

(1) For the purposes of this Law and in line with the objectives established in Article 3 [General objectives] hereto, natural gas activities shall be regulated, monitored and supervised by the State Regulator, which shall act as a designated single regulatory authority operating at the level of Bosnia and Herzegovina.

(2) The State Regulator shall be assigned with its regulatory powers over the operation of the natural gas transmission system, as well as over the operation of the natural gas market, as of a single unified economic space within the territory of Bosnia and Herzegovina, and trading in natural gas under the terms and conditions established by this Law.

(3) The State Regulator shall possess its exclusive competence in a unanimous representation of Bosnia and Herzegovina for the international cooperation and contact purposes at the level of the European Union and the Energy Community, including within the Energy Community Regulatory Board. The State Regulator shall cooperate with the Entity Regulators, as prescribed in Article 18 [Public consultations and cooperation] of this Law, when it is necessary to carry out its duties with regard to regional and/or international cooperation.

(4) Requirements for the legal status of the State Regulator, its independence, appointment of its Commissioners, work organisation, decision making, funding, as well as for accounting and reporting shall be applied under the terms and conditions stipulated in the Law on Transmission of Electric Power, Regulator and Electricity Market in Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No 1). All references to the electricity sector or electricity activities, as made in the abovementioned terms and conditions, shall be mutatis mutandis applied to the natural gas sector or natural gas activities respectively.

Article 13
Designation of regulatory authorities in the Entities

(1) Paragraph 1 of Article 12 [Designation of the State Regulator] of this Law shall be without prejudice to the designation of separate Entity Regulators following their respective laws regulating natural gas activities.

(2) Jurisdiction and regulatory powers of the Entity Regulators shall not interfere or otherwise compete with those assigned to the State Regulator.

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1 All references to the Law on Transmission of Electric Power, Regulator and Electricity Market in Bosnia and Herzegovina are provided in line with the draft law, as prepared within the framework of the EU IPA Project “Development of the EU acquis-compliant electricity legislative framework in Bosnia and Herzegovina” and submitted by the Consultant on 20 December 2013.
Article 14
General objectives of the State Regulator

(1) In carrying out the regulatory tasks specified in this Law and other relevant laws and regulations, the State Regulator shall take all reasonable measures in pursuit of the following objectives within the framework of its duties and regulatory powers laid down in Articles 15 [Duties of the State Regulator] and 16 [Regulatory powers of the State Regulator] of this Law:

1. promoting, in close cooperation with the Energy Community Regulatory Board, competent regulatory authorities of other Energy Community Parties and the Energy Community Secretariat, a competitive, secure and environmentally sustainable internal market in natural gas within the Energy Community, and effective market opening for all customers and suppliers in the Energy Community, and ensuring appropriate conditions for the effective and reliable operation of gas networks, taking into account long-term objectives;

2. developing competitive and properly functioning regional markets within the Energy Community in view of achievement of the objectives referred to in subparagraph 1 of this paragraph 1;

3. eliminating restrictions on trade in natural gas on the internal natural gas market of Bosnia and Herzegovina, as well as between the Energy Community Parties, including developing appropriate cross-border transmission capacities to meet demand and enhancing the integration of national markets which may facilitate natural gas flow across the Energy Community;

4. helping to achieve, in the most effective way, the development of secure, reliable and efficient non-discriminatory systems that are customer oriented, and promoting system adequacy and energy efficiency;

5. ensuring that system operators and system users are granted appropriate incentives, in both the short term and long term, to increase efficiencies in system performance and foster market integration;

6. ensuring that customers benefit through the efficient functioning of the natural gas market, promoting effective competition and helping to ensure customer protection.

(2) The objectives established in paragraph 1 of this Article shall be pursued in close cooperation with other competent authorities, including the Competition Council of Bosnia and Herzegovina (hereinafter – “the Competition Council”) and the Entity Regulators, as appropriate, and without prejudice to their respective competences.

Article 15
Duties of the State Regulator

(1) The State Regulator shall have the following duties with regard to the authorisation for the performance of natural gas activities and their monitoring:

1. issuance, modification, suspension and revocation of licenses under the terms and conditions stipulated in this Law and its implementing regulation;

2. certification of the transmission system operator (or operators) and monitoring its (their) continual compliance with the requirements for independence and unbundling, as well as other requirements imposed on the transmission system operator by this Law;

3. monitoring the performance of natural gas undertakings and ensuring their compliance with their respective obligations under this Law, other related laws governing natural gas activities at the level of Bosnia and Herzegovina and/or in the Entities and their implementing regulations;
4. approving special regulatory requirements for accounting in natural gas undertakings, monitoring and enforcing their proper implementation, where relevant, in cooperation with the Entity Regulators;

5. establishing the terms and conditions regulating the provision of information possessed by natural gas undertakings to system users and/or customers;

6. establishing the terms and conditions of reporting, including but without limitations requirements for the form, contents and periodicity of the submission of reports, to be mandatory applied by natural gas undertakings licensed for the performance of natural gas activities at the level of Bosnia and Herzegovina and/or in the Entities.

(2) The State Regulator shall have the following duties with regard to the adoption of methodologies for the calculation of tariffs and/or fees applied in the natural gas sector, and setting respective tariffs and/or fees:

1. adopting methodologies used to calculate or establish the terms and conditions for:
   a. setting fees for connection and tariffs for access to the transmission network, allowing the necessary investments in the network to be carried out in a manner allowing these investments to ensure the viability of the network;
   b. the provision of balancing services which shall be performed in the most economic manner and provide appropriate incentives for network users to balance their input and off-takes, taking into account that the balancing services shall be provided in a fair and non-discriminatory manner and be based on objective and transparent criteria;
   c. setting tariffs for access to cross-border infrastructures, including the procedures for the allocation of capacity and congestion management;

2. ensuring that methodologies referred to in subparagraph 1 of this paragraph 2 are publicly announced sufficiently in advance within the reasonable time period prior to their entry into force, and incorporate the principles stipulated in Article 17 [Tariff setting principles] of this Law;

3. setting tariffs and fees following the adopted methodologies and in accordance with transparent criteria set by the State Regulator under its rules and regulations;

4. monitoring the application of tariffs and fees, and of respective methodologies, as well as enforcing their proper implementation.

(3) The State Regulator shall have the following duties with regard to the regulation, monitoring of the transmission of natural gas and, where relevant, other natural gas activities:

1. establishing, monitoring and enforcing the rules and regulations related to fair and non-discriminatory third-party access to the transmission network;

2. establishing, monitoring and enforcing quality standards for operation of the transmission system, including ancillary services;

3. approving and monitoring investment plans of the transmission system operator (or operators) and providing in its annual report an assessment of those plans, including, where relevant, recommendations for their amendment;

4. monitoring activities of the transmission system operator (or operators), including the efficiency of mechanisms and methods to secure a system balance between demand and supply of natural gas;

5. adopting a unanimous transmission network code based on submissions made by the transmission system operator (or operators), as well as the terms and conditions for connection and access to the transmission network;

6. approving the rules for the procurement of ancillary services by the transmission system operator (or operators);
7. monitoring of implementation of safeguard measures in natural gas activities;
8. monitoring capacity-allocation in and congestion-management of natural gas transmission networks, including interconnectors, and implementation of the principles of capacity-allocation measures and congestion-management procedures in accordance with Article 43 [Principles of capacity-allocation mechanisms and congestion-management procedures] of this Law;
9. monitoring the time taken by the transmission system operator (or operators) to make connections and repairs;
10. monitoring and reviewing the access conditions to linepack and other ancillary services, as provided for in Article 22 [Access to linepack] of this Law;
11. issuance of other rules and regulations, as well as relevant methodologies, guidelines and/or explanatory notes, within its competence and in consistency with this Law, other relevant laws and regulations.

(4) The State Regulator shall have the following duties with regard to the regulation and monitoring of the internal market in natural gas:
1. regulation, monitoring, where relevant, in cooperation with the Entity Regulators, of the production, distribution and supply of and trade in natural gas
2. monitoring the level and effectiveness of the opening of the natural gas market and competition on the market, as well as any distortion or restriction of competition, including providing any relevant information to the Competition Council;
3. monitoring the level of transparency on the natural gas market, including of wholesale prices, and ensuring compliance of natural gas undertakings with transparency obligations, where relevant, in cooperation with the Entity Regulators;
4. revision and approval of the rules on organisation of the natural gas market (hereinafter – “the market rules”) prepared by the natural gas market operator, setting the fees applied by the natural gas market operator and monitoring its activities;
5. ensuring, in cooperation with the Entity Regulators, that there are no cross-subsidies between the transmission, distribution, storage and supply activities;
6. monitoring compliance with and reviewing the past performance of network security and reliability rules, and approving standards and requirements for quality of service and supply in cooperation with the Entity Regulators;
7. monitoring the occurrence of restrictive contractual practices in the natural gas sector and, where appropriate, informing the Competition Council of such practices;
8. respecting contractual freedom with regard to interruptible supply contracts, as well as with regard to long-term contracts provided that they are compatible with the Energy Community law;
9. contributing to the compatibility of data exchange processes for the most important natural gas market processes at the regional level.

(5) The State Regulator shall have the following duties with regard to the customer protection and dispute settlement:
1. ensuring, together with other competent authorities operating at the level of Bosnia and Herzegovina and the Entity Regulators, that the customer protection measures are effective and enforced, so as to ensure:
   a. fair and non-discriminatory treatment;
   b. receipt of high-quality services;
   c. competition and prevention of anti-competitive actions;
2. resolution of disputes, as referred to in Article 70 [Dispute settlement] of this Law and set forth in more detail in respective rules and regulations adopted by the State Regulator.

(6) In addition to the duties conferred upon it under paragraphs 1-5 of this Article, when an independent system operator has been designated under Article 32 [ISO] of this Law, the State Regulator shall:

1. monitor the compliance of the independent system operator and the transmission system owner with their obligations under this Law and/or other applicable legal acts, and issue penalties for non-compliance in accordance with Article 72 [Penalty provisions] of this Law, and shall closely cooperate with the Competition Council for the purposes hereto;

2. monitor the relations and communication between the independent system operator and the transmission system owner, so as to ensure compliance of the independent system operator with its obligations, and in particular approve contracts between the independent system operator and the transmission system owner, and act as a dispute settlement authority for any disputes between them;

3. approve, the ten-year network development plan, including the investments planning and the multi-annual network development plan presented annually by the independent system operator;

4. ensure that tariffs for access to the transmission network collected by the independent system operator include an adequate remuneration for the transmission system owner with regard to its costs related to the network assets and any new investments made therein, provided that such costs are economically and efficiently incurred and justified.

(7) In addition to the duties conferred upon it under paragraphs 1-5 of this Article, when an independent transmission operator has been designated under Article 34 [ITO] of this Law, the State Regulator shall:

1. monitor communications between the transmission system operator and the vertically integrated undertaking so as to ensure compliance of the transmission system operator with its obligations;

2. monitor commercial and financial relations including loans between the vertically integrated undertaking and the transmission system operator.

(8) The State Regulator shall carry out other duties, if so assigned under this Law or other applicable legal acts.

Article 16
Regulatory powers of the State Regulator

(1) The State Regulator shall have necessary regulatory powers enabling it to carry out the duties and fulfil the tasks referred to in Article 15 [Duties and tasks of the State Regulator] of this Law. In particular, the State Regulator shall be entitled to:

1. require for any information, which is relevant for full and proper implementation of its competences, to be provided under the terms and conditions stipulated in this Law or its implementing regulations by:
   a. natural gas undertakings authorised by the State Regulator;
   b. other natural gas undertakings authorised for activities in the natural gas sector by the Entity Regulators; and/or
   c. the Entity Regulators or other competent institutions operating at the level of Bosnia and Herzegovina or in the Entities, which due to their direct responsibilities are in a possession of information with a justified relevance to the State Regulator;
2. initiate procedures for public consultations and cooperation, as regulated under Articles 18 [Public consultations and cooperation] and 19 [Cooperation with other authorities] of this Law, whenever it is required for collection of necessary information, harmonisation of regulatory practices, justification of intended decisions, or evaluation of proposed legal and/or regulatory solutions;

3. initiate and carry out investigations with regard to the functioning of the natural gas market in Bosnia and Herzegovina, and to decide upon and impose any necessary and proportionate measures to promote effective competition and ensure the proper functioning of the natural gas market. For the purposes of this subparagraph 3, where relevant, the State Regulator may consult with the Competition Council, regulators of the financial market in Bosnia and Herzegovina, the Entity Regulators and the Energy Community Secretariat;

4. issue binding decisions, as it may be required for due implementation of this Law or its implementing regulations with regard to proper organisation and/or functioning of the natural gas market in Bosnia and Herzegovina, to be directly implemented by:
   a. natural gas undertakings authorised by the State Regulator;
   b. the Entity Regulators within their specific jurisdictional powers in the Entities, including those with regard to activities of natural gas undertakings engaged in the production, distribution, storage and/or supply of natural gas;
   c. natural gas undertakings authorised by the Entity Regulators, including those engaged in the production, distribution, storage and/or supply of natural gas, in cases where binding decisions referred to in item (b) of this subparagraph 4 are not properly implemented by the Entity Regulators within three (3) months after their issuance and in case the State Regulator fails to reach a common agreement with the Entity Regulators on the proper implementation of such decisions within thirty (30) days following respective notice issued by the State Regulator;
   d. natural gas undertakings authorised by the Entity Regulators following the immediate notice of the State Regulator irrespective of the time periods required under item (c) of this subparagraph 4, in cases where the State Regulator indicates that certain activities or omission by any natural gas undertaking engaged in the production, distribution, storage and/or supply of natural gas are threatening or may be threatening proper organisation and/or functioning of the natural gas market in Bosnia and Herzegovina, and sufficient justification may be provided to prove such indication made by the State Regulator;

5. require the transmission system operator, if necessary, to modify the terms and conditions, including tariffs and/or fees applied, to ensure that they are proportionate and applied in a non-discriminatory manner. In the event of delay in the fixing of such tariffs and/or fees, the State Regulator shall have a power to approve provisional tariffs and/or fees and to decide on the appropriate compensatory measures if the final tariffs and/or fees deviate from those provisional tariffs and/or fees;

6. impose effective, proportionate and dissuasive penalties on natural gas undertakings not complying with their obligations under this Law, other relevant laws and their implementing regulations, or any legally binding decisions of the State Regulator, including binding decisions issued in accordance with subparagraph 4 of this paragraph 1, or of competent institutions of the Energy Community in accordance with Article 72 [Penalty provisions] of this Law;

7. carry out inspections, including unannounced inspections, on the premises of the transmission system operator and, where relevant, of the vertically integrated undertaking;

8. possess appropriate rights of investigations and relevant powers of instructions for dispute settlement, as referred to in Article 70 [Dispute settlement] of this Law.
(2) In addition to the regulatory powers conferred on it under paragraph 1 of this Article, when an independent transmission operator has been designated under Article 34 [ITO] of this Law, the State Regulator shall be entitled to:

1. issue penalties in accordance with subparagraph 5 of paragraph 1 of this Article for discriminatory behaviour in favour of the vertically integrated undertaking;
2. act as dispute settlement authority between the vertically integrated undertaking and the transmission system operator in respect of any complaint received;
3. approve all commercial and financial agreements between the vertically integrated undertaking and the transmission system operator, on the condition that they comply with market conditions;
4. request justification from the vertically integrated undertaking when notified by the compliance officer in accordance with Article 47 [Compliance programme and compliance officer] of this Law. Such justification shall in particular include evidence to the end that no discriminatory behaviour to the advantage of the vertically integrated undertaking has occurred;
5. assign all or specific tasks of the transmission system operator to an independent system operator appointed in accordance with Article 32 [ISO] in case of a persistent breach by the transmission system operator of its obligations under this Law, in particular in case of repeated discriminatory behaviour to the benefit of the vertically integrated undertaking.

(3) Any approvals given by the State Regulator or competent institutions of the Energy Community, as referred to in this Law, shall be without prejudice to any duly justified future use of its powers by the State Regulator under this Article, or to any penalties imposed by the State Regulator or by any other competent authority, including the Competition Council.

(4) Decisions taken by the State Regulator shall be fully reasoned and justified to allow for judicial review. The decisions shall be available to the public while preserving the confidentiality of commercially sensitive information.

(5) Any person affected by a decision of the State Regulator has a right of filing the complaint to the Court of BiH under respective laws of Bosnia and Herzegovina.

Article 17
Tariff setting principles

(1) Methodologies adopted and tariffs and/or fees set by the State Regulator in accordance to paragraph 2 of Article 15 [Duties of the State Regulator] of this Law shall be transparent, take into account the need for system integrity and its improvement and reflect the actual costs incurred, insofar as such costs correspond to those of an efficient and structurally comparable network operator and are transparent, whilst including an appropriate return on investments, and, where appropriate, taking account of the benchmarking of tariffs by the State Regulator. Methodologies and tariffs and/or fees shall be applied in a non-discriminatory manner.

(2) Tariffs and/or fees shall facilitate efficient gas trade and competition, while at the same time avoiding cross-subsidies between network users and providing incentives for investment and maintaining or creating interoperability for transmission networks.

(3) The transmission system operator (or operators) shall be granted appropriate incentive, over both the short and long term, to increase efficiencies, foster market integration and security of supply, and support the related research activities.

(4) Tariffs and/or fees for network users shall be non-discriminatory and set separately for every entry point into or exit point out of the transmission system. Cost-allocation mechanisms and rate setting methodology regarding entry points and exit points shall be approved by the State Regulator. Any tariff and/or fees shall not be calculated on the basis of contract paths.
(5) Where differences in tariff structures or balancing mechanisms would hamper trade across transmission systems, the transmission system operator (or operators) shall be obliged, in close cooperation with the competent authorities, to actively pursue convergence of tariff structures and charging principles, including in relation to balancing.

(6) Where appropriate, the State Regulator may introduce regulatory measures establishing the terms and conditions for tariffs and/or fees to be determined through market-based arrangements, such as auctions, provided that those arrangements and the revenues arising therefrom are approved by the State Regulator. Such regulatory measures may be introduced in a gradual manner, considering the natural gas market model implemented in Bosnia and Herzegovina, as well as an actual status of the level of competition in and liquidity of the natural gas market.

Article 18

Public consultations and cooperation

(1) The State Regulator shall publicly announce the general draft legal acts initiated for adoption and other relevant decisions within the scope of its competence and jurisdictional powers, except for individual acts or decisions and dispute settlement decisions, and shall ensure a reasonable time period for any natural gas market participant or another interested party to submit its comments, remarks and proposals thereto.

(2) The State Regulator shall adopt the rules and regulations for public consultations, which inter alia shall regulate the scope and conditions for public consultations, its procedures, formal requirements and public announcement of information. General information regarding on-going public consultations shall be publicly available on the website of the State Regulator. The State Regulator shall announce results of public consultations, except for any confidential or otherwise sensitive information.

(3) While preserving its independence, without prejudice to its own specific competences and consistent with the principles of better regulation, the State Regulator may, as appropriate, consult with the transmission system operator (or operators) and the natural gas market operator, and shall closely cooperate with competent authorities operating at the level of Bosnia and Herzegovina and in the Entities when carrying out its duties and performing tasks.

(4) The Entity Regulators shall closely cooperate with the State Regulator to ensure the necessary support in carrying out duties and performing tasks of the State Regulator related to the monitoring of the natural gas market and natural gas activities, or any other duties if so expressly provided in this Law. In case relevant monitoring functions are carried out by the Entity Regulators under the terms and conditions stipulated in respective laws of the Entities, the information resulting from such monitoring shall be made available to the State Regulator without any undue delay.

(5) The State Regulator and the Entity Regulators shall establish a framework for mutual cooperation under the terms and conditions stipulated in the Law on Transmission of Electric Power, Regulator and Electricity Market in Bosnia and Herzegovina.

(6) Without prejudice to other provisions of this Article, the State Regulator shall not possess any decision powers within the exclusive competence of the Entity Regulators and vice versa, and only consultative role may be assigned to each of the regulatory authorities in this regard, except for in those cases expressly defined by this Law when the State Regulator shall possess a power to issue mandatory notices to be implemented by the Entity Regulators for the purposes of organisation and functioning of a single natural gas market in Bosnia and Herzegovina, as well as regulation, monitoring and supervision thereto.
Article 19
Cooperation with other authorities

(1) The State Regulator shall cooperate with the Competition Council, including but without limitations informing the Competition Council of any relevant case of breach of competition law and effectiveness of the natural gas market opening and competition at the market.

(2) The State Regulator shall cooperate with regulators of the financial market in Bosnia and Herzegovina, including but without limitations informing regulators of the financial market of any breach of financial law identified while monitoring the level and effectiveness of the natural gas market opening and competition at the market.

(3) The State Regulator shall closely consult and cooperate with competent regulatory authorities of the Energy Community Parties, and shall provide them and the Energy Community Regulatory Board with any information necessary for the fulfilment of their tasks, and shall request for such information respectively. In respect of the information exchanged, the State Regulator shall ensure the same level of confidentiality as that required of the originating authority.

(4) The State Regulator shall cooperate at the international level, as referred to in paragraph 3 of this Article, in order to:

1. foster the creation of operational arrangements in order to enable an optimal management of the network, promote joint gas exchanges and the allocation of cross-border capacity, and to enable an adequate level of interconnection capacity, including through new interconnections, within the region and between regions to allow for development of effective competition and improvement of security of supply, without discriminating between supply undertakings in different Energy Community Parties;

2. coordinate the development of all network codes for the transmission system operator (or operators) and other natural gas market participants;

3. coordinate the development of the congestion management rules.

(5) The State Regulator shall have a right to enter into cooperative arrangements with any other competent regulatory authority to foster regulatory cooperation. To the extent legally binding, such arrangements shall be binding on the Entities as well.

(6) Actions referred to in paragraph 4 of this Article shall be carried out, as appropriate, in close consultations with other competent authorities of Bosnia and Herzegovina, including the Entity Regulators, without prejudice to their specific competences and jurisdictional powers.

(7) The State Regulator shall comply with, and implement, any relevant legally binding decisions of the competent institutions of the Energy Community.

CHAPTER V
TRANSMISSION OF NATURAL GAS

Article 20
General principles for the transmission of natural gas

(1) The transmission system operator shall be responsible for the stability and reliability of the natural gas transmission system in Bosnia and Herzegovina, or any particular part thereof, and for the operation, maintenance and development of the transmission system, including cross-border interconnections, as well as for the effective congestion management and capacity allocation taking into account the needs of system users.

(2) The transmission system operator shall ensure that conditions for access and connection to the transmission system are compliant with requirements laid down in this Law and other applicable legal acts, and are applied in a non-discriminatory manner.
(3) The transmission system operator shall provide information to other system operators in Bosnia and Herzegovina and to transmission system operators of other countries, as necessary to ensure secure and reliable functioning of the systems, their coordinated development, as well as compatibility and interoperability of interconnected systems.

(4) The transmission system operator shall provide system users with all information necessary to ensure secure and efficient access to the transmission system. The State Regulator shall establish the terms and conditions for provision of such information, as referred to in subparagraph 5 of paragraph 1 of Article 15 [Duties and tasks of the State Regulator] of this Law.

**Article 21**

**Third party access to the transmission system**

(1) The transmission system operator shall provide an unrestricted access to the transmission system in line with the terms and conditions laid down in the transmission network code. In this regard, the transmission system operator shall:

1. ensure that it offers its services on a non-discriminatory bases to all network users;
2. provide both firm and interruptible third-party access services. The price of interruptible capacity shall reflect the probability of interruption;
3. offer to network users both long and short-term services.

(2) In regard to subparagraph 1 of paragraph 1 of this Article, where the transmission system operator offers the same service to different customers, it shall do so under equivalent contractual terms and conditions, either using harmonised transport contracts and/or pursuant to the transmission network code approved by the State Regulator.

(3) The transmission system operator shall publish the terms and conditions approved by the State Regulator, including rules and tariffs, for the provision of third party access to the transmission system. These terms and conditions shall be objectively applied to all eligible customers and without discrimination between system users.

(4) Where appropriate, third-party access services may be granted subject to appropriate guarantees from network users with respect to the creditworthiness of such users. Such guarantees shall not constitute undue market-entry barriers and shall be non-discriminatory, transparent and proportionate.

(5) Transport contracts signed with non-standard start dates or with a shorter duration than a standard annual transport contract shall not result in arbitrarily higher or lower tariffs that do not reflect the market value of the service, in accordance with the principles laid down in paragraph 1 of Article 17 [Tariff setting principles] of this Law.

(6) Provisions of this Law shall not prevent the conclusion of long-term contracts in so far as they comply with the competition rules stipulated in the applicable laws, as required by the Energy Community law.

(7) The transmission system operator shall, if necessary for the purpose of carrying out its functions including in relation to cross-border transmission, have access to the network of other transmission system operators of neighbouring countries following their mutual agreements and/or other terms of cooperation.

**Article 22**

**Access to linepack**

(1) For the organisation of access to linepack, when technically and/or economically necessary for providing efficient access to the system for the supply of customers, as well as for the
organisation of access to ancillary services, the procedure of negotiated and/or regulated access shall be applied.

(2) The State Regulator shall define and publish criteria according to which the access procedure applicable to linepack may be determined. Those procedures shall be applied in accordance with objective, transparent and non-discriminatory criteria.

(3) The transmission system operator shall publicly announce which linepack is offered under the different access procedures.

(4) In the case of negotiated access, the State Regulator shall take the necessary measures for natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system to be able to negotiate access to linepack, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. The parties shall be obliged to negotiate access to linepack and other ancillary services in good faith.

(5) Contracts for access to linepack and other ancillary services shall be negotiated with the transmission system operator. The transmission system operator shall publish and continuously update, when necessary, but at least on annual basis, its main commercial conditions for the use of linepack and other ancillary services. When developing its commercial conditions referred to hereinabove, the transmission system operator shall consult system users.

(6) In the case of regulated access, the State Regulator shall take the necessary measures to give natural gas undertakings and eligible customers either inside or outside the territory covered by the interconnected system a right to access to linepack and other ancillary services, on the basis of published tariffs and/or other terms and obligations for use of that linepack, when technically and/or economically necessary for providing efficient access to the system, as well as for the organisation of access to other ancillary services. The State Regulator shall consult system users when developing those tariffs or the methodologies for those tariffs. The right of access for eligible customers may be given by enabling them to enter into supply contracts with competing natural gas undertakings other than the owner and/or operator of the system or a related undertaking.

Article 23
Refusal of access

(1) The transmission system operator may refuse access to the transmission system on the basis of lack of capacity or where the access to the system would prevent it from carrying out the public service obligations, as regulated by this Law, or on the basis of serious economic and financial difficulties with take-or-pay contracts that have been effective before the request for access to the transmission system.

(2) Duly substantiated reasons shall be given by the transmission system operator for any refusal referred to in paragraph 1 of this Article. Each network user whose application for access to the transmission system was refused shall be provided with such reasons in a written form, as to be prepared and submitted by the transmission system operator without any undue delay after receiving the application for access.

(3) The transmission system operator, if refusing access to the transmission system on the basis of lack of capacity or a lack of connection, shall make the necessary enhancements as far as it is economic to do so or when a potential customer is willing to pay for such enhancements.

(4) A system user whose access to the transmission system has been refused or is unsatisfied with conditions of its access to the system may file a complaint with the State Regulator, following the terms and conditions laid down in Article 71 [Dispute settlement] of this Law.
Article 24

Connection to the transmission system

(1) The transmission system operator shall establish and publish transparent and efficient procedures and tariffs for non-discriminatory connection of transmission facilities operated by other transmission system operators, where relevant, as well as distribution and storage facilities, and industrial customers to the transmission system. Those procedures shall be subject to approval by the State Regulator.

(2) The transmission system operator shall not be entitled to refuse the connection of a new facility referred to in paragraph 1 of this Article or industrial customer on the grounds of possible future limitations to available network capacities or additional costs linked with necessary capacity increase. The transmission system operator shall ensure sufficient entry and exit capacity for the new connection.

Article 25

Direct lines

(1) In cases where a natural gas undertaking and a customer plan to conclude a natural gas supply contract, but cannot gain access to the transmission or distribution system, they may construct a direct line, subject to a prior authorisation by the State Regulator.

(2) The State Regulator shall establish objective and non-discriminatory criteria for issuance of the authorisation for construction and operation of direct lines. Natural gas undertakings referred to in paragraph 1 of this Article would by using a direct line be able to supply with natural gas the eligible customers.

(3) The possibility of supplying natural gas through a direct line as referred to in paragraph 1 of this Article shall not affect the possibility of contracting natural gas on the basis of bilateral contracts or on the organised natural gas market of Bosnia and Herzegovina under the terms and conditions stipulated in this Law.

(4) The State Regulator may issue a prior authorisation to construct a direct line subject either to the prior refusal of transmission or distribution system access on the basis, as appropriate, of Article 23 [Refusal of access] or to the opening of a dispute settlement procedure under Article 70 [Dispute settlement] of this Law.

(5) The State Regulator shall be authorised to refuse to issue a prior authorisation to construct a direct line if the granting of such an authorisation would obstruct implementation of the provisions on the public service obligations, including the protection of final customers. Duly substantiated reasons shall be given in writing by the State Regulator for such refusal.

Article 26

Exemptions for new interconnectors

(1) Major new natural gas interconnectors may, upon request of undertakings concerned, be exempted for a defined period of time, from the provisions of subparagraphs 1 and 2 of paragraph 2 of Article 15 [Duties of the State Regulator], subparagraph 5 of paragraph 1 of Article 16 [Regulatory powers of the State Regulator], paragraph 3 of Article 17 [Tariff setting principles], and Articles 21 [Third party access to the transmission system], 22 [Access to linepack] and Article 31 [Ownership unbundling of the TSO] of this Law under the following conditions:

1. the investment must enhance competition in gas supply and enhance security of supply;
2. the level of risk attached to the investment is such that the investment would not take place unless an exemption is granted;
3. the interconnector must be owned by a natural or legal person which is separate at least in terms of its legal form from the transmission system operator and from the system operator of the system with which the interconnector will be built;

4. charges are levied on users of that interconnector; and

5. the exemption must not be to the detrimental to competition or the effective functioning of the natural gas market in Bosnia and Herzegovina and/or in one or more regions, or the efficient functioning of the regulated system to which the interconnector is connected.

(2) Paragraph 1 of this Article shall apply also to significant increases of capacity in existing interconnector and to modifications of such interconnector which enable the development of new sources of gas supply.

(3) The State Regulator may, on a case by case basis, decide on the exemption referred to in paragraphs 1 and 2 of this Article subject to the criteria established in this Article.

(4) Where the interconnector in question is located in the territory of more than one Energy Community Party, i.e. is crossing the border between Bosnia and Herzegovina and another Energy Community Party, the Energy Community Regulatory Board may submit an advisory opinion to the State Regulator and the regulatory authority of another Energy Community Party concerned, which may be used as a basis for their decision on exemption, within 2 (two) months from the date on which the request for exemption was received by the last of those regulatory authorities.

(5) Where all the regulatory authorities concerned agree on the request for exemption within 6 (six) months of the date on which it was received by the last of the regulatory authorities, they shall inform the Energy Community Regulatory Board of their decision.

(6) The Energy Community Regulatory Board shall exercise the tasks conferred on the regulatory authorities of the Energy Community Parties concerned by the present article:

1. where all regulatory authorities concerned have not been able to reach an agreement within a period of 6 (six) months from the date on which the request for exemption was received by the last of those regulatory authorities; or

2. upon a joint request from the regulatory authorities concerned.

(7) All regulatory authorities concerned may, jointly, request that the period referred to in subparagraph 1 of paragraph 6 of this Article is extended by up to 3 (three) months.

(8) Before taking a decision, the State Regulator shall consult the relevant regulatory authorities and the applicants.

(9) The exemption may cover all or parts of, respectively, the new interconnector or of the existing interconnector with significantly increased capacity.

(10) In deciding to grant an exemption, consideration shall be given, on a case-by-case basis, to the need to impose conditions regarding the duration of the exemption and non-discriminatory access to the interconnector. When deciding on the conditions in this paragraph, account shall, in particular, be taken of the duration of contracts, additional capacity to be built or the modification of existing capacity, the time horizon of the project and national circumstances.

(11) When granting an exemption, the State Regulator shall decide upon the rules and mechanisms for management and allocation of capacity. The rules shall require that all potential system users are invited to indicate their interest in contracting capacity before capacity-allocation in the new interconnector, including for own use, takes place.

(12) The State Regulator shall require congestion-management rules to include the obligation to offer unused capacity on the market, and shall require users of the interconnector to be entitled to trade their contracted capacities on the secondary market. In its assessment of the criteria referred to in subparagraphs 1, 2 and 5 of paragraph 1 of this Article, the State Regulator shall take into account the results of that capacity-allocation procedure.
(13) The exemption decision, including any conditions referred to in paragraphs 11 and 12 of this Article, shall be duly reasoned and published in the Official Gazette of Bosnia and Herzegovina. Without revealing commercially sensitive information, the decision shall contain:

1. the detailed reasons on the basis of which the State Regulator granted or refused the exemption together with a reference to paragraph 1 of this Article including the relevant provisions on which such decision is based, including the financial information justifying the need for the exemption;

2. the analysis undertaken of the effect on competition and the effective functioning of the internal gas market resulting from the grant of the exemption;

3. the reasons for the time period and the share of the total capacity of the interconnector in question for which the exemption is granted;

4. the result of the consultation with other Energy Community Parties or third countries and/or their regulatory authorities concerned; and

5. the contribution of the interconnector to the diversification of gas supply.

(14) Notwithstanding paragraph 3 of this Article, the State Regulator may apply to the Energy Community Regulatory Board to submit, for the purposes of the formal decision, its opinion on the request for an exemption. That opinion shall be published together with the decision.

(15) The State Regulator shall transmit to the Energy Community Secretariat, without delay, a copy of every request for exemption as of its receipt. The decision shall be notified, without delay, by the State Regulator to the Energy Community Secretariat, together with all the relevant information with respect to the decision. That information shall be submitted to the Energy Community Secretariat in aggregate form, enabling the Energy Community Secretariat to reach a well-founded decision.

(16) Within a period of 2 (two) months from the day following the receipt of a notification, the Energy Community Secretariat may take an opinion inviting the State Regulator to amend or withdraw the decision to grant an exemption. That two-month period may be extended by an additional period of 2 (two) months where further information is sought by the Energy Community Secretariat. That additional period shall begin on the day following the receipt of the complete information. The initial two-month period may also be extended with the consent of both the Energy Community Secretariat and the State Regulator.

(17) Where the requested information is not provided within the period set out in the request, the notification shall be deemed to be withdrawn unless, before the expiry of that period, either the period has been extended with the consent of both the Energy Community Secretariat and the State Regulator, or the State Regulator, in a duly reasoned statement, has informed the Energy Community Secretariat that it considers the notification to be complete.

(18) The State Regulator shall take the utmost account of an opinion of the Energy Community Secretariat that recommends amending or withdrawing the exemption decision. Where the final decision diverges from the Energy Community Secretariat’s opinion, the State Regulator shall provide and publish, together with that decision, the reasoning underlying such decision.

(19) The Energy Community Secretariat’s approval of an exemption decision shall lose its effect 2 (two) years from its adoption in the event that construction of the infrastructure has not yet started, and 5 (five) years from its adoption in the event that the infrastructure has not become operational unless the Energy Community Secretariat decides that any delay is due to major obstacles beyond control of the person to whom the exemption has been granted.

Article 27
Compatibility and interoperability of the system

(1) In order to ensure compatibility and interoperability of the system, rules and regulations establishing technical requirements for natural gas facilities and equipment shall, in accordance
with the criteria of objectivity and non-discrimination, lay down harmonised terms and conditions for construction, operation and safety of respective facilities and equipment used for the production, transmission, storage and distribution of natural gas, including required technical standards thereto.

(2) Natural gas facilities and equipment referred to in paragraph 1 of this Article, as well as interconnectors and direct lines shall comply with respective technical requirements for their construction, operation and safety, so as to ensure the interoperability of the transmission and distribution systems, including those particular parts thereof operated by different transmission or distribution system operators respectively.

(3) For the purpose of this Article, respective requirements for natural gas facilities and equipment used for the transmission of natural gas shall be established by the Ministry, and requirements for natural gas facilities and equipment used for the production, storage and distribution of natural gas shall be established by competent authorities assigned under the applicable laws of the Entities.

**Article 28**

*Authorisations for construction and operation of the transmission infrastructure*

(1) In circumstances where an authorisation (for example, licence, permission, concession, consent or approval) is required by the applicable laws for the construction or operation of natural gas transmission facilities, the competent authority in charge shall grant authorisations to build and/or operate such facilities and associated equipment under the terms and conditions stipulated in the applicable laws and/or their implementing regulations, and in accordance with the requirements of this Article. Such authorisations shall be granted based on transparent, non-discriminatory and publicly announced criteria and procedures.

(2) Authorisation procedures referred to paragraph 1 of this Article shall take into account the importance of the project for the internal market in natural gas where appropriate.

**Article 29**

*Land use for the transmission infrastructure*

(1) For the protection of the transmission network and associated equipment, as well as to ensure public safety, a safety zone shall be established under the terms and conditions of the applicable laws and/or their implementing regulations.

(2) The transmission system operator and/or other natural or legal person authorised by the transmission system operator shall be allowed to freely and unrestrictedly perform any activities within the safety zone, as necessary to ensure due exploitation, upkeep, maintenance and development of the transmission network and associated equipment.

(3) Within the safety zone, it shall be prohibited to place buildings or installations, to plant vegetation (trees) or to carry out activities endangering the safety and uninterrupted operation of the natural gas facility, life, or safety of property.

(4) Granting of servitudes for the use of the land for construction, maintenance and operation of the transmission infrastructure, as well as any rights and obligations thereto, including compensations to the land owners, and any other legal relations with regard to possession, use and/or expropriation of the land shall be regulated by the applicable laws of the Entities.
CHAPTER VI
TRANSMISSION SYSTEM OPERATOR

Article 30
Legal status of the transmission system operator

(1) The transmission system operator shall be a specialised and independent natural gas undertaking with the status of a legal person incorporated under the laws of Bosnia and Herzegovina. The transmission system operator shall act in accordance with this Law and other legal acts regulating natural gas activities in Bosnia and Herzegovina.

(2) The transmission system operator, while carrying out its duties and fulfilling its tasks established by this Law, shall be independent from any other natural gas activity, namely production, distribution, supply of and trade in natural gas, and related commercial interests.

(3) Independence of the transmission system operator shall be implemented and further on ensured through the unbundling of the transmission system operator under the terms and conditions stipulated in this Law.

(4) In cases where, on 6 October 2011, the transmission system operator belonged to a vertically integrated undertaking, the unbundling of the transmission system operator shall be implemented by applying one of the following models:
   1. ownership unbundling (Article 31 [Ownership unbundling of the TSO] of this Law);
   2. independent system operator (Articles 32 [ISO] and 33 [Unbundling of the transmission system owner] of this Law); or
   3. independent transmission operator (Articles 34 [ITO], 35 [Independence of the transmission operator], 36 [Independence of the staff and the management of the transmission operator] and 37 [Supervisory Body] of this Law).

(5) In all other cases where paragraph 4 of this Article may not be applied, the ownership unbundling of the transmission system operator shall be mandatory implemented.

(6) Without prejudice to paragraph 4 of this Article, nothing shall prevent a natural gas undertaking concerned from implementing the ownership unbundling of the transmission system operator under Article 31 [Ownership unbundling of the TSO] of this Law at any time, irrespective of which model for the unbundling has been previously applied.

(7) The transmission system operator shall be entitled to undertake its activities subject to the license for operation of the natural gas transmission system, as to be issued by the State Regulator under the terms and conditions laid down in this Law and its implementing regulations. License for operation of the natural gas transmission system may be issued only to a duly certified transmission system operator, as required under Article 38 [Designation and certification of the TSO] of this Law.

(8) Licenses issued before this Law came into force and allowing natural undertakings to carry out their duties and fulfil their tasks related to operation of the natural gas transmission system and transmission of natural gas shall be deemed as temporary licenses authorising respective activities before the transmission system operator will be designated following the certification procedure stipulated in this Law and new licenses referred to in paragraph 7 of this Article is issued, but in any case no longer than until 1 June 2016.

(9) Requirements established in this Article, or those deriving therefrom, shall be applied without prejudice to paragraph 4 of Article 10 [General criteria for issuance of licenses].

(10) Requirements established in this Article, or those deriving therefrom, shall not prevent the operation of a combined transmission, storage and distribution system operator provided that such operator complies with the unbundling requirements specified in paragraphs 4 and 5 of this Law respectively.
Article 31
Ownership unbundling of the transmission system operator

(1) Each undertaking which own a natural gas transmission system of Bosnia and Herzegovina, or any particular part thereof, shall act as a transmission system operator pursuant to the licensing requirements established in paragraph 7 of Article 30 [Legal status of the TSO] of this Law.

(2) To ensure an independence of the transmission system operator the same person or persons shall not be entitled in the same time:
   1. directly or indirectly to exercise control over an undertaking performing any of the activities of production or supply, and directly or indirectly exercise control or exercise any right over a transmission system operator or over a transmission system;
   2. directly or indirectly to exercise control over a transmission system operator or over a transmission system, and directly or indirectly exercise control or exercise any right over an undertaking performing any of the activities of production or supply;
   3. to appoint members of the supervisory board, the management board or bodies legally representing the undertaking, of a transmission system operator or a transmission system, and directly or indirectly exercise control or exercise any right over an undertaking performing any of the activities of production or supply; and
   4. to be a member of the supervisory board, the management board or bodies representing the undertaking, of both an undertaking performing any of the activities of production or supply and a transmission system operator or a transmission system.

(3) The rights referred to in paragraph 2 of this Article shall include in particular:
   1. the power to exercise voting rights;
   2. the power to appoint members of the supervisory board, the management board or bodies representing the undertaking; or
   3. the holding of a majority share.

(4) The obligation set out in paragraph 2 of this Article shall be deemed to be fulfilled in a situation where two or more undertakings which own transmission systems have created a joint venture which acts as a transmission system operator in two or more countries. No other undertaking may be part of the joint venture, unless it has been approved as an independent system operator or as an independent transmission operator under the terms and conditions stipulated in the applicable legal acts.

(5) Where the person or persons referred to in paragraph 2 of this Article is government or another public body, two separate public bodies that exercise control over a transmission system operator or over a transmission system on the one hand, and over the natural gas undertaking that performs any of the activities of production or supply on the other, shall be deemed not to be the same person or persons.

(6) Commercially sensitive information held by the transmission system operator which was part of a vertically integrated undertaking, or by the staff of such a transmission system operator shall not be transferred to natural gas undertakings performing any of the activities of production or supply.

(7) For the purpose of this Article, the notion “undertaking performing any of the activities of production or supply” shall include “undertaking performing any of the activities of generation and supply” within the meaning defined under the Law on Transmission of Electric Power, Regulator and Electricity Market in Bosnia and Herzegovina, and the terms “transmission system operator” and “transmission system” shall include “transmission system operator” and “transmission system/network” within the meaning defined under the abovementioned law.
Article 32

Independent system operator

(1) In cases where, on 6 October 2011, the transmission system operator belonged to a vertically integrated undertaking, upon a proposal from the transmission system owner Article 31 [Ownership unbundling of the TSO] of this Law may not be applied and independent system operator may be designated.

(2) The independent system operator may be approved and designated only if the following requirements have been met:

1. the candidate operator has demonstrated that it complies with the requirements of paragraph 2 of Article 31 [Ownership unbundling of the TSO] of this Law;

2. the candidate operator has demonstrated that it has at its disposal the required financial, technical, physical and human resources to carry out its tasks under Article 41 [Tasks of the TSO] of this Law;

3. the candidate operator has undertaken to comply with the ten-year transmission network development plan monitored by the State Regulator;

4. the candidate operator has demonstrated its ability to comply with its obligations in ensuring the conditions for access to the transmission system, as stipulated in this Law, and its ability to cooperate with other transmission system operators at regional and European level; and

5. the transmission system owner has demonstrated its ability to meet the obligations set out in paragraph 5 of this Article. To that end, it shall provide to the State Regulator all the draft contractual arrangements with the candidate operator and any other relevant entity.

(3) An undertaking which has been certified by the State Regulator as having complied with the requirements of paragraph 2 of this Article, following the certification procedures stipulated in Articles 38 [Designation and certification of the TSO] and 39 [Certification in relation to third countries] of this Law may be approved and designated as an independent system operator.

(4) Where an independent system operator has been designated, the transmission system owner shall:

1. provide all the relevant cooperation and support to the independent system operator for the fulfilment of its tasks, including in particular all relevant information;

2. finance the investments decided by the independent system operator and approved by the State Regulator, or give its agreement to financing by any interested party including the independent system operator. The relevant financing arrangements shall be subject to approval by the State Regulator. Prior to such approval, the State Regulator shall consult the transmission system owner together with other interested parties;

3. provide for the coverage of liability relating to the network assets, excluding the liability relating to the tasks of the independent system operator; and

4. provide guarantees to facilitate financing any network expansions with the exception of those investments where, pursuant to subparagraph 2 of this paragraph 5, it has given its agreement to financing by any interested party including the independent system operator.

(5) In close cooperation with the State Regulator, the Competition Council shall be granted all relevant powers to effectively monitor compliance of the transmission system owner with its obligations under paragraph 4 of this Article.
Article 33
Unbundling of the transmission system owner

(1) A transmission system owner, where an independent system operator is provided for approval and designation, shall be and continuously remain independent at least in terms of its legal form, organisation and decision making from other activities not relating to the transmission, distribution and storage.

(2) In order to ensure the independence of the transmission system owner referred to in paragraph 1 of this Article, the following minimum criteria shall apply:

1. persons responsible for the management of the transmission system owner shall not participate in company structures of the integrated undertaking responsible, directly or indirectly, for the day-to-day operation of the production and supply of natural gas;
2. appropriate measures shall be taken to ensure that the professional interests of persons responsible for the management of the transmission system owner are taken into account in a manner that ensures that they are capable of acting independently;
3. the transmission system owner shall establish a compliance programme, which sets out measures taken to ensure that discriminatory conduct is excluded, and ensure that observance of it is adequately monitored. The compliance programme shall set out the specific obligations of employees to meet those objectives; and
4. the person or body responsible for monitoring the compliance programme of the transmission system owner shall prepare an annual report, setting out the measures taken to ensure that discriminatory conduct is excluded, which shall be therefore submitted to the State Regulator and published. Such annual report shall be prepared and submitted not later than by the 31st of March each year following the relevant reporting year.

(3) Compliance with requirements for unbundling of the transmission system owner, as laid down in paragraph 2 of this Article, shall be verified during the certification procedure of the independent system operator (Article 38 [Designation and certification of the TSO] of this Law) and shall be continuously monitored by the State Regulator (Article 39 [Monitoring of the unbundling of the TSO] of this Law).

Article 34
Independent transmission operator

(1) In cases where, on 6 October 2011, the transmission system operator belonged to a vertically integrated undertaking, upon a proposal from the candidate operator Article 31 [Ownership unbundling of the TSO] of this Law may not be applied and independent transmission operator may be designated under the terms and conditions stipulated in this Article, as well as in Articles 35 [Independence of the transmission operator], 36 [Independence of the staff and the management of the transmission operator] and 37 [Supervisory Body] of this Law.

(2) The transmission system operator shall be equipped with all human, technical, physical and financial resources necessary for fulfilling their obligations under this Law and carrying out the activity of the natural gas transmission, in particular:

1. assets that are necessary for the activity of the natural gas transmission, including the transmission system, shall be owned by the transmission system operator;
2. personnel necessary for the activity of the natural gas transmission, including the performance of all corporate tasks, shall be employed by the transmission system operator;
3. leasing of personnel and rendering of services, to and from any other parts of the vertically integrated undertaking shall be prohibited. A transmission system operator may, however, render services to the vertically integrated undertaking as long as:
a. the provision of those services does not discriminate between system users, is available to all system users on the same terms and conditions and does not restrict, distort or prevent competition in production or supply; and

b. the terms and conditions of the provision of those services are approved by the State Regulator;

4. without prejudice to the decisions of the Supervisory Body under Article 37 [Supervisory Body] of this Law, appropriate financial resources for future investment projects and/or for the replacement of existing assets shall be made available to the transmission system operator in due time by the vertically integrated undertaking following an appropriate request from the transmission system operator.

(3) The transmission system operator shall be organised in a form of a limited liability company under the applicable laws of Bosnia and Herzegovina.

(4) The transmission system operator shall not, in its corporate identity, communication, branding and premises, create confusion in respect of the separate identity of the vertically integrated undertaking or any part thereof.

(5) The transmission system operator shall not share IT systems or equipment, physical premises and security access systems with any part of the vertically integrated undertaking, nor use the same consultants or external contractors for IT systems or equipment, and security access systems.

(6) The accounts of the transmission system operator shall be audited by an auditor other than the one auditing the vertically integrated undertaking or any part thereof.

(7) An undertaking which has been certified by the State Regulator as having complied with the requirements of this Article, as well as of Articles 35 [Independence of the transmission operator], 36 [Independence of the staff and the management of the transmission operator] and 37 [Supervisory Body] of this Law, following the certification procedures stipulated in Articles 38 [Designation and certification of the TSO] and 40 [Certification in relation to third countries] of this Law may be approved and designated as an independent transmission operator.

Article 35

Independence of the transmission operator

(1) Without prejudice to the decisions of the Supervisory Body under Article 37 [Supervisory Body] of this Law, the transmission system operator shall have:

1. effective decision-making rights, independent from the vertically integrated undertaking, with respect to assets necessary to operate, maintain or develop the transmission system; and

2. the power to raise money on the capital market in particular through borrowing and capital increase.

(2) The transmission system operator shall at all times act so as to ensure it has the resources it needs in order to carry out the activity of transmission properly and efficiently and develop and maintain an efficient, secure and economic transmission system.

(3) Subsidiaries of the vertically integrated undertaking performing functions of production or supply shall not have any direct or indirect shareholding in the transmission system operator. The transmission system operator shall neither have any direct or indirect shareholding in any subsidiary of the vertically integrated undertaking performing functions of production or supply, nor receive dividends or any other financial benefit from that subsidiary.

(4) The overall management structure and the corporate statutes of the transmission system operator shall ensure effective independence of the transmission system operator in compliance with this
Article. The vertically integrated undertaking shall not determine, directly or indirectly, the competitive behaviour of the transmission system operator in relation to the day to day activities of the transmission system operator and management of the network, or in relation to activities necessary for the preparation of the ten-year network development plan developed pursuant to Article 46 [Network development and investment decisions] of this Law.

(5) In fulfilling its tasks under this Law, the transmission system operator shall not discriminate against different persons or entities and shall not restrict, distort or prevent competition in production or supply.

(6) Any commercial and financial relations between the vertically integrated undertaking and the transmission system operator, including loans from the transmission system operator to the vertically integrated undertaking, shall comply with market conditions. The transmission system operator shall keep detailed records of such commercial and financial relations and make them available to the State Regulator upon request.

(7) The transmission system operator shall submit for approval by the State Regulator all commercial and financial agreements with the vertically integrated undertaking.

(8) The transmission system operator shall inform the State Regulator of the financial resources, referred to in subparagraph 4 of paragraph 2 of Article 34 [Independent transmission operator] of this Law, available for future investment projects and/or for the replacement of existing assets.

(9) The vertically integrated undertaking shall refrain from any action impeding or prejudicing the transmission system operator from complying with its obligations under this Law and shall not require the transmission system operator to seek permission from the vertically integrated undertaking in fulfilling those obligations.

Article 36

Independence of the staff and the management of the transmission operator

(1) Decisions regarding the appointment and renewal, working conditions including remuneration, and termination of the term of office, of the persons responsible for the management and/or members of the administrative bodies of the transmission system operator shall be taken by the Supervisory Body of the transmission system operator appointed in accordance with Article 37 [Supervisory Body] of this Law.

(2) The identity of, and the conditions governing the term, the duration and the termination of office of, the persons nominated by the Supervisory Body for appointment or renewal as persons responsible for the executive management and/or as members of the administrative bodies of the transmission system operator, and the reasons for any proposed decision terminating such term of office, shall be notified to the State Regulator. Those conditions and the decisions referred to in paragraph 1 shall become binding only if the State Regulator has raised no objections within three weeks of notification.

(3) The State Regulator may object to the decisions referred to in paragraph 2 of this Article where:
   1. doubts arise as to the professional independence of a nominated person responsible for the management and/or member of the administrative bodies; or
   2. in the case of premature termination of a term of office, doubts exist regarding the justification of such premature termination.

(4) No professional position or responsibility, interest or business relationship, directly or indirectly, with the vertically integrated undertaking or any part of it or its controlling shareholders other than the transmission system operator shall be exercised for a period of three (3) years before the appointment of the persons responsible for the management and/or members of the administrative bodies of the transmission system operator who are subject to this paragraph.
(5) The persons responsible for the management and/or members of the administrative bodies, and employees of the transmission system operator shall have no other professional position or responsibility, interest or business relationship, directly or indirectly, with any other part of the vertically integrated undertaking or with its controlling shareholders.

(6) The persons responsible for the management and/or members of the administrative bodies, and employees of the transmission system operator shall hold no interest in or receive any financial benefit, directly or indirectly, from any part of the vertically integrated undertaking other than the transmission system operator. Their remuneration shall not depend on activities or results of the vertically integrated undertaking other than those of the transmission system operator.

(7) Effective rights of appeal to the State Regulator shall be guaranteed for any complaints by the persons responsible for the management and/or members of the administrative bodies of the transmission system operator against premature terminations of their term of office.

(8) After termination of their term of office in the transmission system operator, the persons responsible for its management and/or members of its administrative bodies shall have no professional position or responsibility, interest or business relationship with any part of the vertically integrated undertaking other than the transmission system operator, or with its controlling shareholders for a period of not less than four (4) years.

(9) Paragraph 4 of this Article shall apply to the majority of the persons responsible for the management and/or members of the administrative bodies of the transmission system operator.

(10) The persons responsible for the management and/or members of the administrative bodies of the transmission system operator who are not subject to paragraph 4 of this Article shall have exercised no management or other relevant activity in the vertically integrated undertaking for a period of at least six (6) months before their appointment.

(11) Paragraphs 5, 8 and 9 of this Article shall be applicable to all the persons belonging to the executive management and to those directly reporting to them on matters related to the operation, maintenance or development of the network.

**Article 37**

**Supervisory Body**

(1) The transmission system operator shall have a Supervisory Body which shall be in charge of taking decisions which may have a significant impact on the value of the assets of shareholders within the transmission system operator, in particular decisions regarding the approval of the annual and longer-term financial plans, the level of indebtedness of the transmission system operator and the amount of dividends distributed to shareholders.

(2) The decisions falling under the remit of the Supervisory Body shall exclude those that are related to the day to day activities of the transmission system operator and management of the network, and in relation to activities necessary for the preparation of the ten-year network development plan developed pursuant to Article 46 [Network development and investment decisions] of this Law.

(3) The Supervisory Body shall be composed of members representing the vertically integrated undertaking, members representing third party shareholders, and members representing other interested parties such as employees of the transmission system operator.

(4) Paragraphs 2 and paragraphs 4-8 of Article 36 [Independence of the staff and the management of the transmission operator] shall apply to at least half of the members of the Supervisory Body minus one.

(5) Subparagraph 2 of paragraph 3 of Article 36 [Independence of the staff and the management of the transmission operator] shall apply to all the members of the Supervisory Body.
Article 38

Designation and certification of the transmission system operator

(1) Before an undertaking is approved and designated as a transmission system operator, whether as an ownership unbundled transmission system operator, an independent system operator, or an independent transmission operator, by issuance of an appropriate license under the terms and conditions stipulated in this Law and its implementing regulations, it shall be certified according to the certification procedure laid down in this Article.

(2) An undertaking, after implementation of all requirements for the ownership unbundling of the transmission system operator under Article 31 [Ownership unbundling of the TSO] or, as the case may be, for an independent system operator under Article 32 [ISO] or an independent transmission system operator under Article 34 [ITO] of this Law, shall notify the State Regulator in written and shall submit all respective documents, data and information evidencing and justifying due compliance thereto. Procedure and requirements for such notification and submission of documents, data and information shall be regulated under the rules on certification of the transmission system operator adopted by the State Regulator.

(3) The State Regulator shall adopt a decision on the certification of the transmission system operator within a period of four (4) months from the date of the notification by the transmission system operator and proper submission of all required documents, data and information. After expiry of that period, the certification shall be deemed to be granted based on the tacit decision of the State Regulator. The explicit or tacit decision of the State Regulator shall become effective only after conclusion of the procedure set out in paragraphs from 4-10 of this Article.

(4) The explicit or tacit decision of the certification of the transmission system operator shall be notified without delay to the Energy Community Secretariat by the State Regulator, together with all the relevant information with respect to that decision.

(5) Within four (4) months of the day of receipt of notification referred to in paragraph 4 of this Article, the Energy Community Secretariat shall deliver its opinion to the State Regulator as to its compatibility with respective requirements for designation and certification of the transmission system operator.

(6) In the absence of an opinion by the Energy Community Secretariat within the period referred to in paragraph 5 of this Article, the Energy Community Secretariat shall be deemed not to raise objections to the decision of the State Regulator.

(7) Within two (2) months of receiving an opinion of the Energy Community Secretariat, the State Regulator shall adopt its final decision regarding the certification of the transmission system operator, taking the utmost account of that opinion. Decision of the State Regulator and opinion of the Energy Community Secretariat shall be published together.

(8) Where the final decision of the State Regulator diverged from the opinion of the Energy Community Secretariat, the State Regulator shall provide and publish together with such decision, the reasoning underlying its diverging decision, and shall inform the Energy Community Secretariat accordingly.

(9) At any time during the certification procedure, the State Regulator and the Energy Community Secretariat may request from the transmission system operator and/or natural gas undertakings performing any functions of production or supply any information relevant for fulfilment of their tasks under this Article.

(10) The final decision of the State Regulator on certification of the transmission system operator and its following materials, as referred to in this Article, shall be published in the Official Gazette of Bosnia and Herzegovina and on the website of the State Regulator.

(11) Upon a separate request of the transmission system operator or by initiative of the State Regulator, the certification procedure may be followed by issuance of a new license to the
transmission system operator (and/or the transmission system owner) or modification of existing licenses, as it may be required.

Article 39
Monitoring of the unbundling of the transmission system operator

(1) The State Regulator shall monitor the continuing compliance of the designated transmission system operator with the requirements for its independence and unbundling stipulated in this Law. The State Regulator shall open a certification procedure to ensure such compliance in the following cases:

1. upon notification by the transmission system operator pursuant to paragraph 2 of this Article;

2. on its own initiative where it has knowledge that a planned change in rights or influence over the transmission system operator (and/or the transmission system owner) may lead to an infringement of respective requirements for independence and unbundling of the transmission system operator, or where it has a reason to believe that such an infringement may have occurred; or

3. upon a reasoned request from the Energy Community Secretariat.

(2) The transmission system operator shall notify to the State Regulator any planned transaction which may require a reassessment of its compliance with the requirements for independence and unbundling of the transmission system operator.

(3) The State Regulator shall adopt its decision on compliance of the transmission system operator with the requirements for its independence and unbundling not later than in four (4) months from the date of respective notification by the transmission system operator or receipt of a request from the Energy Community Secretariat, or the beginning of an inspection on its own initiative, which shall be considered as a date of the notification by the State Regulator to the transmission system operator on such inspection.

(4) In case the State Regulator considers the requirements for independence and/or unbundling of the transmission system operator have been infringed, the transmission system operator shall eliminate such infringements during the reasonable time period determined by the State Regulator and shall therefore submit any documents, data and information evidencing and justifying such elimination.

(5) Until the State Regulator adopts its final decision on elimination of the considered infringements, the transmission system operator shall be authorised, on a temporary basis, to perform its respective activities.

(6) For the purposes of this Article, a certification procedure reopened by the State Regulator shall be followed under Article 38 [Designation and certification of the TSO] of this Law.

(7) Failure by the transmission system operator to eliminate infringements of requirements for its independence and/or unbundling, as considered by the State Regulator, may result in suspension or revocation of its license, and/or financial penalties referred to in paragraph 1 of Article 72 [Penalty provisions] of this Law. In case of suspension or revocation of the license for operation of the transmission system, the State Regulator shall ensure that respective activities shall be performed in a continuous and uninterruptable manner under the terms and conditions of the licensing rules adopted by the State Regulator.

Article 40
Certification in relation to third countries

(1) Where certification is requested by the transmission system operator or the transmission system owner which is controlled by a person or persons from a third country or third countries, the State Regulator shall notify the Energy Community Secretariat. The State Regulator shall also
notify the Energy Community Secretariat without delay of any circumstances that would result in a person or persons from a third country or third countries acquiring control of the transmission system operator or the transmission network.

(2) For the purposes of paragraph 1 of this Article, the transmission system operator shall notify to the State Regulator any circumstances that would result in a person or persons from a third country or third countries acquiring control of the transmission system operator or the transmission network.

(3) The certification procedure in relation to third countries shall be implemented following the requirements of Article 38 [Designation and certification of the TSO] of this Law taking into account specific requirements stipulated in this Article.

(4) The State Regulator shall refuse the certification of the transmission system operator which is controlled by a person or persons from a third country or third countries if it has not been demonstrated that:

1. the transmission system operator complies with the requirements for its independence and unbundling established by this Law; and

2. granting certification will not put at risk the security of supply in Bosnia and Herzegovina and/or in the Energy Community. When considering such question the State Regulator shall take into account:

   a. the rights and obligations of the Energy Community with respect to that third country arising under the international law, including any agreements concluded with one or more third countries to which the Energy Community is a party and which addresses the issues of security of energy supply;

   b. the rights and obligations of Bosnia and Herzegovina with respect to that third country arising under agreements concluded with it, insofar as they are in compliance with the Energy Community Treaty;

   c. the rights and obligations resulting from association or trade agreements between Bosnia and Herzegovina and the European Union; and

   d. other specific facts and circumstances of the case and the third country concerned.

(5) The Ministry and/or other competent authorities of Bosnia and Herzegovina shall provide, upon request of the State Regulator, their opinion on the questions referred to in paragraph 4 of this Article. The State Regulator shall take into account such opinions while adopting the decision on certification of the transmission system operator or refusing to grant the certification.

(6) The relevant decision of the State Regulator on certification of the transmission system operator or the refusal to grant certification shall be notified to the Energy Community Secretariat without delay, together with all the relevant information with respect to such decision.

(7) The final decision on certification of the transmission system operator in relation to third countries shall be adopted and published following the procedure stipulated in Article 38 [Designation and certification of the TSO] of this Law.

(8) While taking utmost account of the opinion of the Energy Community Secretariat the State Regulator shall have the right to refuse certification where granting certification puts at risk security of supply in Bosnia and Herzegovina or in any Energy Community Party, or threatens the public security interests of Bosnia and Herzegovina.

**Article 41**

*Tasks of the transmission system operator*

(1) Each transmission system operator, irrespective of the unbundling model applied, shall:
1. operate, maintain and develop under economic conditions secure, reliable and efficient transmission networks to secure an open market, with due regard to the environment, and to ensure adequate means to meet service obligations;

2. refrain from discriminating between system users or classes of system users, particularly in favour of its related undertakings;

3. provide any other system operator sufficient information to ensure that the transport and storage of natural gas may take place in a manner compatible with the secure and efficient operation of the interconnected system; and

4. provide system users with the information they need for efficient access to the system.

(2) Each transmission system operator shall build sufficient cross-border capacity to integrate European transmission infrastructure accommodating all economically reasonable and technically feasible demands for capacity and taking into account security of gas supply.

(3) Rules adopted by the transmission system operator for balancing the natural gas transmission system shall be objective, transparent and non-discriminatory, including rules for the charging of system users of their networks for energy imbalance. Terms and conditions, including rules and tariffs, for the provision of such services by the transmission system operator shall be established pursuant to a methodology compatible with subparagraphs 1 and 2 of paragraph 2 of Article 15 [Duties of the State Regulator] of this Law in a non-discriminatory and cost-reflective way and shall be published.

(4) Each transmission system operator shall comply with minimum standards for the maintenance and development of the transmission system, including interconnection capacity, under the terms and conditions stipulated in technical rules referred to in Article 68 [Technical and safety rules] of this Law.

(5) Each transmission system operator shall procure the energy it uses for the carrying out of its functions according to transparent, non-discriminatory and market based procedures.

(6) Each independent system operator shall be responsible for granting and managing third-party access, including the collection of access charges and congestion charges, for operating, maintaining and developing the transmission system, as well as for ensuring the long-term ability of the system to meet reasonable demand through investment planning.

(7) When developing the transmission system the independent system operator shall be responsible for planning (including authorisation procedure), construction and commissioning of the new interconnector. For this purpose, the independent system operator shall act as a transmission system operator in accordance with this Article. The transmission system owner shall not be responsible for granting and managing third-party access, nor for investment planning.

(8) Where an independent transmission operator is designated, the activity of gas transmission shall include at least the following tasks in addition to those listed in paragraphs 1-6 of this Article:

1. the representation of the transmission system operator and contacts to third parties and the State Regulator;

2. granting and managing third-party access on a non-discriminatory basis between system users or classes of system users;

3. the collection of all the transmission system related charges including access charges, balancing charges for ancillary services such as gas treatment, purchasing of services (balancing costs, energy for losses);

4. the operation, maintenance and development of a secure, efficient and economic transmission system;

5. investment planning ensuring the long-term ability of the system to meet reasonable demand and guaranteeing security of supply;
6. the setting up of appropriate joint ventures, including with one or more transmission system operators, gas exchanges, and the other relevant actors pursuing the objective to develop the creation of regional markets or to facilitate the liberalisation process; and

7. all corporate services, including legal services, accountancy and IT services.

(9) Where more than one transmission system operator is designated in Bosnia and Herzegovina, it shall carry out its tasks assigned under this Article, as well as those deriving therefrom, with regard to the particular part of the transmission system under its disposition, as defined in the license for the operation of the natural gas transmission system.

Article 42

Transmission network code

(1) The operation and management of the transmission system shall be regulated by the transmission network code.

(2) The transmission network code shall contain, as a minimum, the following provisions:

1. terms and conditions, as well as technical and other relevant requirements and specifications for safe operation of the natural gas transmission system in order to secure reliable supply of final customers with natural gas of prescribed quality;

2. procedures for operating the transmission system under regular conditions, as well as under extraordinary conditions and fault conditions, events of force majeure and other cases of disturbed operation;

3. terms and conditions for the access of users to the transmission system, including but without limitation third-party access services provided by the transmission system operator, technical information necessary for system users to gain effective access to the transmission system, definition of all relevant points for transparency requirements, information to be published at all relevant points, and time schedule according to which that information shall be published;

4. conditions for connection of natural gas storage facilities and of industrial customers to the transmission system, including but without limitation prerequisites for safety of connections and installations of metering devices;

5. requirements for metering devices and methods of metering the volumes of natural gas delivered through the transmission system;

6. method of planning the development of the transmission system;

7. criteria and method of the procurement of ancillary services;

8. technical and other prerequisites for interconnection and operation of natural gas transmission and distribution networks;

9. principles of capacity-allocation mechanisms and congestion-management procedures concerning the transmission system in line with Article 43 [Principles of capacity-allocation mechanisms and congestion-management procedures] of this Law, and the terms and conditions for their application in the event of contractual congestion;

10. protected zone and special conditions within the protected zone of natural gas facilities;

11. tasks and responsibilities of natural gas undertakings and system users related to the transmission system;

12. mutual contractual relations among natural gas undertakings and system users related to the transmission system;

13. conditions for implementation of the restriction procedure or interruptions/suspension of the delivery of natural gas through the transmission system;
14. method of publication of data required for organising the natural gas market and submission of information to the transmission system operator and the distribution system operators.

(3) The transmission network code shall, in line with instructions given by the State Regulator, be adopted by each transmission system operator, subject to prior approval by the State Regulator. In the process of adopting the transmission network code, the transmission system operator shall secure the appropriate participation of all interested parties.

(4) The transmission network code shall be published in the Official Gazette of Bosnia and Herzegovina.

**Article 43**

Principles of capacity-allocation mechanisms and congestion-management procedures

(1) The maximum capacity at all relevant points, including entry and exit points, shall be made available to market participants, taking into account system integrity and efficient network operation.

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

1. provide appropriate economic signals for the efficient and maximum use of technical capacity, facilitate investment in new interconnector and facilitate cross-border exchanges in natural gas;
2. be compatible with the market mechanisms including spot markets and trading hubs, while being flexible and capable of adapting to evolving market circumstances; and
3. be compatible with the network access systems of the Energy Community Parties.

(3) The transmission system operator shall implement and publish non-discriminatory and transparent congestion-management procedures which facilitate cross-border exchanges in natural gas on a non-discriminatory basis and which shall be based on the following principles:

1. in the event of contractual congestion, the transmission system operator shall offer unused capacity on the primary market at least on a day-ahead and interruptible basis; and
2. network users who wish to re-sell or sublet their unused contracted capacity on the secondary market shall be entitled to do so, following notification of the transmission system operator to be provided by such network users under the terms and conditions stipulated in the transmission network code.

(4) In the event that physical congestion exists, non-discriminatory, transparent capacity-allocation mechanisms shall be applied by the transmission system operator or, as appropriate, by the State Regulator.

(5) The transmission system operator shall regularly assess market demand for new investment. When planning new investments, the transmission system operator shall assess market demand and take into account security of supply.

(6) Principles of capacity-allocation mechanisms and congestion-management procedures, as prepared by the transmission system operator, shall be submitted to the State Regulator. The State Regulator may request amendments to those principles and procedures.

**Article 44**

Balancing rules and imbalance charges

(1) Balancing rules shall be designed in a fair, non-discriminatory and transparent manner and shall be based on objective criteria. Balancing rules shall reflect genuine system needs taking into
account the resources available to the transmission system operator. Balancing rules shall be market-based.

(2) In order to enable system users to take timely corrective action, the transmission system operator shall provide sufficient, well-timed and reliable on-line based information on the balancing status of system users. The information provided shall reflect the level of information available to the transmission system operator and the settlement period for which imbalance charges are calculated. No charge shall be made for the provision of information under this paragraph.

(3) Imbalance charges shall be cost-reflective to the extent possible, whilst providing appropriate incentives on system users to balance their input and off-take of gas. They shall avoid cross-subsidisation between system users and shall not hamper the entry of new market entrants.

(4) Any calculation methodology for imbalance charges as well as the final tariffs shall be made public by the transmission system operator.

(5) Each transmission system operator shall endeavour to harmonise, both internally and at the regional level, balancing regimes and streamline structures and levels of balancing charges in order to facilitate trade in natural gas.

**Article 45**

*Trading of capacity rights*

(1) Each transmission system operator shall take reasonable steps to allow capacity rights to be freely tradable and to facilitate such trade in a transparent and non-discriminatory manner. Every such operator shall develop harmonised transport contracts and procedures on the primary market to facilitate secondary trade of capacity and shall recognise the transfer of primary capacity rights where notified by system users.

(2) The harmonised transport contracts and procedures shall be notified to the State Regulator.

**Article 46**

*Network development and investment decisions*

(1) By the 31st of October of the year which precedes the relevant year, transmission system operator shall submit to the State Regulator a ten-year transmission network development plan based on existing and forecast supply and demand after having consulted all the relevant stakeholders. The transmission network development plan shall contain efficient measures in order to guarantee the adequacy of the system and security of supply.

(2) The ten-year network development plan shall in particular:

1. indicate to market participants the main transmission infrastructure that needs to be built or upgraded over the next ten (10) years;
2. contain all the investments already decided and identify new investments which have to be executed in the next three (3) years; and
3. provide for a time frame for all investment projects.

(3) When elaborating the ten-year network development plan, the transmission system operator shall make reasonable assumptions about the evolution of the productions, supply, consumption and exchanges with other countries, taking into account investment plans for regional and Energy Community-wide networks, as well as investment plans for storage facilities.

(4) The State Regulator shall consult all actual or potential system users regarding the ten-year network development plan in an open and transparent manner. Persons or undertakings claiming to be potential system users may be required to substantiate such claims. The State Regulator shall publish the result of the consultation process, in particular possible needs for investments.
(5) The State Regulator shall examine whether the ten-year network development plan covers all investment needs identified during the consultation process. The State Regulator may require the transmission system operator to amend its ten-year network development plan.

(6) The State Regulator shall monitor and evaluate the implementation of the ten-year network development plan.

(7) In circumstances where the transmission system operator, other than for overriding reasons beyond its control, does not execute an investment, which, under the ten-year network development plan, was to be executed in the following three (3) years, the State Regulator shall take at least one of the following measures to ensure that the investment in question is made, if such investment is still relevant on the basis of the most recent ten-year network development plan:
   1. require the transmission system operator to execute the investments in question;
   2. organise a tender procedure open to any investors showing interest for the investments in question; or
   3. oblige the transmission system operator to accept a capital increase to finance the necessary investments and allow independent investors to participate in the capital.

(8) Where the State Regulator has made use of its powers under the subparagraph 2 of paragraph 7 of this Article, it may oblige the transmission system operator to agree to one or more of the following options:
   1. financing by any third party;
   2. construction by any third party;
   3. building the new concerned assets itself; or
   4. operating the new concerned assets itself.

(9) The transmission system operator shall provide the investors with all information needed to realise the investments, shall connect new assets to the transmission network and shall generally make its best efforts to facilitate the implementation of the investment project. The relevant financial arrangements shall be subject to approval by the State Regulator.

(10) Where the State Regulator has made use of its powers under paragraphs 7 and 8 of this Article, the costs of the investments in question shall be covered by tariff items for the transmission of natural gas.

**Article 47**

*Compliance programme and compliance officer*

(1) Regardless of its organisational form and/or implemented solutions for its unbundling, as required under paragraphs 4 and 5 of Article 30 [*Legal status of the TSO*] of this Law, the transmission system operator shall establish a compliance programme setting out measures taken to ensure that discriminatory conduct is excluded, and ensure a method for monitoring compliance with that programme. The compliance programme shall set out the specific obligations of employees of the transmission system operator to meet those objectives. It shall be subject to approval by the State Regulator. Compliance with the programme shall be independently monitored by a compliance officer.

(2) The compliance officer shall be appointed by the Supervisory Body, in case the independent transmission operator is designated, or by the supervisory board or, if such board is not formed, by the collective management body of the transmission system operator, subject to the prior approval by the State Regulator. The State Regulator may refuse the approval of the compliance officer only for reasons of lack of independence or professional capacity. The compliance officer may be a natural or legal person and shall be independent in his or her work and actions.
The independence of the compliance officer shall be ensured in the following manner:

1. He or she shall have no other professional position or responsibility, interest or business relationship, directly or indirectly, with any part of the vertically integrated undertaking or with its controlling shareholders or, as the case may be, with any natural gas undertaking exercising another activity than the transmission of natural gas;

2. He or she shall exercise no professional position or responsibility, interest or business relationship, directly or indirectly, with the vertically integrated undertaking or any part of it or its controlling shareholders other than the transmission system operator for a period of three years before the appointment;

3. Upon termination of his or her contractual relation with the transmission system operator, he or she shall have no professional position or responsibility, interest or business relationship with any part of the vertically integrated undertaking or its controlling shareholders or, as the case may be, with any natural gas undertaking exercising another activity than the transmission of natural gas, for a period of not less than four (4) years; and

4. He or she shall hold no interest in or receive any financial benefit, directly or indirectly, from any part of the vertically integrated undertaking or, as the case may be, from any natural gas undertaking exercising another activity than the transmission of natural gas.

The transmission system operator shall without delay deliver to the State Regulator a proposal for appointment of the compliance officer and the terms of his or her agreement with the company, especially terms relating to commencement, duration and termination of appointment, remuneration conditions, substantive and other rights.

Within three weeks from the day of receipt of the proposal referred to in paragraph 4 of this Article the State Regulator may object to the proposed appointment decision or to the terms of the agreement concluded with the compliance officer where:

1. Doubts arise as to the professional independence of the nominated compliance officer within the meaning of paragraph 3 of this Article and the appointment terms, including remuneration and other substantive rights; or

2. In the case of premature termination of a term of office, doubts exist regarding the justification of such premature termination. Premature termination shall be considered unlawful where indicating termination circumstances not in conformity with the provisions of this Law on the independence from the vertically integrated undertaking.

The compliance officer shall be in charge of:

1. Monitoring the implementation of the compliance programme;

2. Elaborating an annual report, setting out the measures taken in order to implement the compliance programme and submitting it to the State Regulator;

3. Reporting to the responsible bodies of the transmission system operator and issuing recommendations on the compliance programme and its implementation;

4. Notifying the State Regulator on any substantial breaches with regard to the implementation of the compliance programme; and

5. Reporting to the State Regulator on any commercial and financial relations between the vertically integrated undertaking and the transmission system operator.

Where an independent system operator has been designated as transmission system operator, the compliance officer shall make recommendations with respect to the decisions regarding the appointment and renewal, the working conditions, including remuneration, and the termination of the term of office of the persons responsible for the management and/or members of the administrative bodies of the transmission system owner and of the independent system operator.
The compliance officer shall submit the proposed decisions on the investment plan or on individual investments in the network to the State Regulator, at the latest by the moment when respective decision on such plan and/or investments is adopted by the responsible management body of the transmission system operator.

The conditions governing the mandate or the employment conditions of the compliance officer, including the duration of his or her mandate or employment, shall be subject to approval by the State Regulator. Those conditions shall ensure the independence of the compliance officer, including by providing him with all the resources necessary for fulfilling his or her duties. During his or her mandate, the compliance officer shall have no other professional position, responsibility or interest, directly or indirectly, in or with any part of the vertically integrated undertaking or with its controlling shareholders or, as the case may be, with any natural gas undertaking exercising another activity than the transmission of natural gas.

The compliance officer shall report to the State Regulator regularly, either verbally or in writing, and shall have the right to report regularly, either orally or in writing, to the responsible bodies of the transmission system operator.

The compliance officer may attend all meetings of the managing staff and corporate bodies of the transmission system operator, including the general assembly, supervisory and management bodies, which have the obligation to inform the compliance officer of scheduled meetings and to provide him with all necessary materials.

The compliance officer shall attend all meetings that address the following matters:

1. conditions for access to the system, in particular regarding tariffs, third party access services, capacity-allocation and congestion-management, transparency, balancing and secondary markets;
2. projects undertaken in order to manage the natural gas system and to maintain and develop the transmission network, including investments in new transport connections, in expansion of capacity and in optimisation of existing capacity; and
3. energy purchases or sales necessary for the operation of the transmission system.

The compliance officer shall monitor the compliance of the transmission system operator with the provisions regulating confidentiality of the transmission system operator and the transmission system owner.

The compliance officer shall have access to all relevant data and to the offices of the transmission system operator and to all the information necessary for the fulfilment of his or her tasks. The compliance officer shall have access to the offices of the transmission system operator without prior announcement.

With prior approval of the Supervisory Body, in case the independent transmission operator is designated State Regulator, or of the supervisory board or, if such is not formed, the collective management body of the transmission system operator may dismiss the compliance officer. It shall dismiss the compliance officer for reasons of lack of independence or professional capacity upon request of the State Regulator.

To the safety of the employment position of the compliance officer, if employed at the transmission system operator, the provisions of the laws regulating protection of union representatives in Bosnia and Herzegovina shall apply.

**Article 48**

**Delivery of data and information to the transmission system operator**

Producers, storage system operators, distribution system operators and final customers connected to the transmission system shall, upon request of the transmission system operator, deliver to the transmission system operator data and information required for the purpose of
operation, management and development of the system, including but without limitations the following information:

1. on supply and demand characteristics, as well as other information required for regulating the transportation of natural gas;
2. required for realising access to the system and its use;
3. required for forecasting the demand for natural gas, as well as deviations from the production and/or import plans and annual investment plans;
4. required for planning the operation of the system in the short-term period;
5. required for the access to ancillary services;
6. required for monitoring the quality of supply; and
7. required for monitoring the security of supply.

(2) The transmission system operator shall exchange metering data and other relevant information required for the purpose of operation, management and development of the system with other transmission system operators in Bosnia and Herzegovina, as well as with operators of interconnected transmission systems.

(3) Natural gas market participants shall provide the transmission system operator with any relevant data and information, which is necessary for carrying out the duties tasks of the transmission system operator, including those required for collection and aggregation of the respective data of the natural gas system.

**Article 49**

*Regional and international cooperation of the transmission system operator*

(1) The transmission system operator in coordination with the State Regulator shall particularly promote and facilitate the cooperation of transmission system operators at a regional level, including on cross-border issues with the aim of creating a competitive internal market in natural gas, foster the consistency of relevant legal, regulatory and technical framework and facilitate integration of the isolated systems forming gas islands that persist in the Energy Community, in line with the assumed international commitments of Bosnia and Herzegovina.

(2) The transmission system operator shall cooperate with the Energy Community Regulatory Board and within its framework with regulatory authorities and transmission system operators of other countries to ensure the compatibility of regulatory frameworks, with the aim of creating a competitive regional market in natural gas.

(3) The transmission system operator, with prior approval of the State Regulator, may participate in the work of one or more integrated system(s) at the level of one or more regions covering two or more Energy Community Parties for allocation of transmission capacity and for checking the operational security.

(4) Transmission system operator shall promote operational arrangements in order to ensure the optimum management of the Energy Community network and shall promote the development of energy exchanges, the coordinated allocation of cross-border capacity through non-discriminatory market-based solutions, paying due attention to the specific merits of implicit auctions for short-term allocations, and the integration of balancing mechanisms.

(5) Where vertically integrated transmission system operator participates in a joint undertaking established for implementing such cooperation, the joint undertaking shall establish and implement a compliance programme which sets out the measures to be taken to ensure that discriminatory and anticompetitive conduct is excluded. That compliance programme shall set out the specific obligations of employees to meet the objective of excluding discriminatory and anticompetitive conduct. It shall be notified to the Energy Community Regulatory Board.
Compliance with the programme shall be independently monitored by the compliance officers of the vertically integrated transmission system operators.

CHAPTER VII
TRANSPARENCY AND PROVISION OF INFORMATION

Article 50
Right of access to accounts

(1) The State Regulator and other competent authorities of Bosnia and Herzegovina authorised by the applicable laws shall, insofar as necessary to carry out their activities, have a right of access to the accounts of natural gas undertakings, the activities of which are regulated under this Law, as set out in Article 51 [Unbundling of accounts] of this Law.

(2) The State Regulator and other competent authorities of Bosnia and Herzegovina, as referred to in paragraph 1 of this Article, shall preserve the confidentiality of commercially sensitive information. Such information may be provided for the disclosure only under the terms and conditions provided by laws.

Article 51
Unbundling of accounts

(1) Natural gas undertakings, whatever their system of ownership or legal form is, shall draw up, submit to audit and publish their annual accounts under the terms and conditions stipulated in the applicable laws of Bosnia and Herzegovina and in compliance with international accounting standards.

(2) Natural gas undertakings which are not legally obliged to publish their annual accounts shall keep a copy of these at the disposal of the public in their head office.

(3) The transmission system operator and, where relevant, the transmission system owner shall, in their internal accounting, keep separate accounts for their activities related to the transmission as they would be required to do if such activities were carried out be separate undertakings, with a view to avoiding discrimination, cross-subsidisation and distortion of competition. Revenues from ownership of the transmission system shall be specified in the accounts.

(4) Without prejudice to paragraph 3 of this Article, all natural gas undertakings shall keep separate accounts, which may be consolidated, for natural gas activities not relating to transmission, distribution and storage, and, where relevant, those not relating to natural gas.

(5) Internal accounts of natural gas undertakings shall include a balance sheet and a profit and loss account for each activity.

(6) The audit referred to in paragraph 1 of this Article shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in paragraph 3 of this Article is respected.

(7) Natural gas undertakings shall specify in their internal accounting the rules for the allocation of assets and liabilities, expenditure and income, as well as for depreciation, without prejudice to nationally applicable accounting rules, which they follow in drawing up the separate accounts referred to in paragraph 3 of this Article. Those internal rules may be amended only in exceptional cases. Such amendments shall be mentioned and duly substantiated.

(8) The annual accounts shall indicate in notes any transaction of a certain size conducted with related undertakings.
Article 52
Provision of information

(1) The Council of Ministers, the Ministry, the State Regulator and other competent authorities of Bosnia and Herzegovina shall, insofar as necessary to carry out their activities, have a right to request from natural gas undertakings for any data and information related to their natural gas activities.

(2) The State Regulator shall have a right to request from other authorities of Bosnia and Herzegovina and natural gas undertakings for any data and information necessary for due fulfilment of its tasks related to the monitoring of the natural gas market, including such relevant data and information obtained from the Energy Community institutions and/or the Energy Community Parties or any other third countries.

(3) Natural gas undertakings shall provide the data and information referred to in paragraphs 1 and 2 of this Article under the terms and conditions established by legal acts. Rules on provision of information to the State Regulator shall be adopted by the State Regulator.

Article 53
Transparency requirements concerning the transmission system operator

(1) The transmission system operator shall make public detailed information regarding the services it offers and the relevant conditions applied, together with the technical information necessary for system users to gain effective access to the system.

(2) In order to ensure transparent, objective and non-discriminatory tariffs and facilitate efficient utilisation of the system, the transmission system operator shall publish reasonably and sufficiently detailed information on tariff derivation, methodology and structure.

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

(4) The relevant points of a transmission system on which the information is to be made public shall be approved by the State Regulator after consultation with system users.

(5) The transmission system operator shall always disclose the information required by this Law in a meaningful, quantifiably clear and easily accessible manner and on a non-discriminatory basis.

(6) The transmission system operator shall make public ex-ante and ex-post supply and demand information, based on nominations, forecasts and realised flows in and out of the system. The State Regulator shall ensure that all such information is made public. The level of detail of the information that is made public shall reflect the information available to the transmission system operator.

(7) The transmission system operator shall make public measures taken, as well as costs incurred and revenue generated to balance the system.

(8) The natural gas market participants concerned shall provide the transmission system operator with the data referred to in this Article also taking into account requirements of Article 48 [Delivery of data and information to the transmission system operator] of this Law.

(9) Transmission system operator shall keep at the disposal of the national authorities, including the State Regulator and the Competition Council, as well as of the Energy Community Secretariat all information referred to in this Article and all technical information necessary for system users to gain effective access to the system, information related to relevant points for transparency requirements, and information to be published at all relevant points and the time schedule according to which that information should be published for a period of five (5) years.
Article 54
Confidentiality obligations

(1) The State Regulator and other competent authorities of Bosnia and Herzegovina shall preserve the confidentiality of commercially sensitive information provided by natural gas undertakings, and shall use the data and information obtained only for the purposes indicated in their request for information. The confidential information may be disclosed only under the terms and conditions established by the laws.

(2) Without prejudice Articles 50 [Right of access to accounts] and 53 [Transparency requirements concerning the transmission system operator] of this Law or any other legal duty to disclose information, the transmission system operator, the natural gas market operator and, where relevant, the transmission system owner shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its activities, and shall prevent information about their own activities which may be commercially advantageous from being disclosed in a discriminatory manner. Such information may be disclosed only under the terms and conditions established by the laws, or in case where it is expressly required for carrying out a business transaction. In particular, they shall not disclose any commercially sensitive information to the remaining parts of the undertaking, unless this is necessary for carrying out a business transaction.

(3) In order to ensure the full respect of the rules on information unbundling, the transmission system owner and the remaining part of the vertically integrated undertaking shall not use joint services, such as joint legal services, apart from purely administrative or IT functions.

(4) The transmission system operator shall not, in the context of sales or purchases of natural gas by related undertakings, misuse commercially sensitive information obtained from third parties in the context of providing or negotiating access to the system.

(5) Information necessary for effective competition and the efficient functioning of the market shall be made public. That obligation shall be without prejudice to protecting commercially sensitive information.

CHAPTER VIII
NATURAL GAS MARKET

Article 55
Market opening

All finals customers in Bosnia and Herzegovina shall be eligible and shall be therefore entitled to a free choice of supplier of natural gas and its change.

Article 56
Measures to promote market opening

(1) The State Regulator, in cooperation with the Entity Regulators and the Competition Council, shall conduct inquiry of the natural gas market functioning at least every two (2) years starting from the first year after entry into force of this Law.

(2) If necessary, the State Regulator shall, within the scope of its competence and regulatory powers, establish all required and proportionate measures for the promotion of efficient market competition and thus ensure regular functioning of the natural market. The State Regulator, upon its own initiative or following the request of the Energy Community Secretariat, shall take such measures wherever deemed necessary.
The measures referred to in paragraph 2 of this Article shall be proportionate, non-discriminatory and transparent. Those measures may be put into effect only following the notification to the Energy Community Secretariat and based on its respective opinion.

**Article 57**

*Organisation of trade in natural gas*

(1) Trade in natural gas may be performed by a natural gas undertaking based on a license issued in accordance with this Law.

(2) The trade license shall be issued by the State Regulator under the terms and conditions stipulated in this Law and the licensing rules based on the following key preconditions:

1. the trade license to a natural gas undertaking, which is authorised for the supply of natural gas in the Entity, shall be issued without any additional proceedings after its notification to the State Regulator on the intended engagement in the trade in natural gas, submission of information on the valid supply license and payment of the regulatory fee set by the State Regulator upon the licensees;

2. the trade license to a natural gas undertaking, which is not authorised for the supply of natural gas and intends to proceed only with the wholesale trade in natural gas (on the internal wholesale market and/or cross-border trade), shall be issued following the simplified procedure elaborated in the licensing rules.

(3) The State Regulator shall ensure, in accordance with the international commitments of Bosnia and Herzegovina, that the procedure for issuing the license for performance of the trade in natural gas and the requirements set out in the license do not discriminate against traders coming from any Energy Community Party. Registration of the seat in Bosnia and Herzegovina or other equivalent preconditions for undertaking the commercial activities may still be required under the terms and conditions stipulated in the applicable laws of Bosnia and Herzegovina. Such preconditions shall be set and applied in a clear, transparent, justified and non-discriminatory manner.

(4) Each trader shall make available to the State Regulator, the Competition Council and, in conformity with international commitments of Bosnia and Herzegovina, to competent institutions of the Energy Community, within a period of five (5) years, all relevant data related to all transactions arranged with wholesale customers and with the transmission system operator or natural gas market operator in connection with purchase and sale of natural gas, including gas derivatives.

(5) The data referred to in paragraph 4 of this Article must include details on relevant transactions such as duration, terms of delivery, import and settlement, amounts, date and time of execution, transaction prices and methods for identifying the wholesale customer in question, in addition to specific details on all unsettled sale agreements and gas derivatives.

**Article 58**

*Scope of the natural gas market*

(1) The natural gas market shall include the retail and wholesale natural gas market.

(2) Transactions between final customers and their suppliers shall take place on the retail natural gas market.

(3) The wholesale natural gas market shall include:

1. bilateral natural gas market;
2. day-ahead natural gas market;
3. balancing natural gas market.
Purchase and sale on the wholesale natural gas market shall be contracted under bilateral agreements, as well as on organised natural gas markets, i.e. day-ahead natural gas market and balancing natural gas market.

The transmission system operator shall procure balancing services from the balancing service providers in the balancing market in line with the balancing rules adopted by the State Regulator. The balancing rules shall define the terms and conditions related to balancing, including but without limitations rules for balancing service providers, procurement of balancing services, determination of quantities to be settled with balance service providers and financial settlement with balance service providers.

The natural gas market operator shall be responsible for the organisation of the natural gas market on the whole territory of Bosnia and Herzegovina in accordance with the market rules passed by the natural gas market operator subject to prior approval of the State Regulator.

### Article 59

**Designation and activities of the natural gas market operator**

1. The natural gas market operator shall be selected in an open competition or other transparent procedure under the terms and conditions established by the Ministry. Qualification requirements, technical and financial capacities, as well as other criteria for selection of the natural gas market operator shall be set by the Ministry.

2. Selection of the natural gas market operator shall be organised and carried out by the State Regulator. The selected undertaking shall be designated as a natural gas undertaking by issuance of a license for operation of the natural gas market under the terms and conditions of this Law and licensing rules referred to in paragraph 6 of Article 9 [Licensing for the performance of natural gas activities]. The natural gas market operator shall be designated for a period up to five (5) years.

3. The natural gas market operator may be a company owned by the transmission system operator, considering that the transmission system operator ensures its functional independence from the natural gas market operator and includes respective measures preventing the discriminatory conduct in its compliance programme.

4. The natural gas market operator shall perform its duties in a transparent and non-discriminatory manner under the supervision of the State Regulator. Duties of the natural gas market operator and its particular competences with regard to the organisation and operation of the natural gas market shall be elaborated in the market rules referred to in Article 60 of this Law.

5. The natural gas market operator shall apply the fee for organisation of the natural gas market set by the State Regulator in accordance with the annual operational plan and financial plan of the natural gas market operator.

6. The natural gas market operator shall keep a separate account for the transactions involving purchase and sale of natural gas.

### Article 60

**Market rules**

1. Market rules shall define the manner of organisation and operation of the natural gas market.

2. Market rules shall *inter alia* define in particular:
   1. design of the natural gas market;
   2. procedures, principles and standards for organisation and operation of the natural gas market in line with the applied natural gas market model;
   3. method for identification and registration of natural gas market participants;
4. general terms and conditions of contracts concluded on the natural gas market;
5. standards and procedures for keeping records of the natural gas market;
6. other issues necessary for the organisation and operation of the natural gas market.

(3) The natural gas market operator shall pass the market rules upon prior approval of the State Regulator, as referred to in paragraph 2 of Article 77 [Transitory provisions with regard to the organisation of the natural gas market] of this Law. Market rules shall be published in the Official Gazette of Bosnia and Herzegovina.

Article 61
Natural gas market participants

(1) Natural gas undertakings and other legal and natural persons shall be allowed to participate in the natural gas market for sale and/or purchase of natural gas under the terms and conditions stipulated in this Law and the market rules.

(2) Each natural gas market participant, including producers, traders, suppliers, including those performing the supply of natural gas as a public service, and final customers, shall be entitled for trade in natural gas on the organised natural gas market of Bosnia and Herzegovina under the terms and conditions stipulated in this Law and the market rules.

(3) Natural gas market participants shall regulate their mutual rights and obligations by contracts in line with the market rules.

Article 62
Monitoring and supervision of the natural gas market

(1) The State Regulator shall carry out the monitoring and supervision of the natural gas market under the terms and conditions stipulated in this Law and in the rules on the monitoring of the natural gas market, as adopted by the State Regulator.

(2) By the 31st of March each year the State Regulator shall prepare and publish the report on the natural gas market which at least shall include a detailed review of the organisation and functioning of the natural gas market in Bosnia and Herzegovina, analysis of the activities of the natural gas market participants, and indicated trends of any developments in the natural gas market.

(3) While processing with the monitoring and supervision of the natural gas market, the State Regulator shall pursue that conditions for effective competition in the natural gas market and its development are established, and possibilities for market abuse are timely intercepted and controlled under the terms and conditions stipulated in the applicable laws. For the purpose stated herein, where appropriate, the State Regulator shall closely cooperate with the Competition Council and Entity Regulators considering their specific competences in the relevant field of regulation.

(4) The natural gas market operator and each transmission system operator, within their respective competences, shall inform the State Regulator on any indicated or potential infringements of requirements for activities in the natural gas market.

(5) Monitoring of competition of the natural gas market in Bosnia and Herzegovina shall be also ensured by the Competition Council with the framework of its competence under the applicable laws of Bosnia and Herzegovina.

Article 63
Derogations in relation to take-or-pay commitments

(1) In cases where a natural gas undertaking encounters, or considers it would encounter, serious economic and financial difficulties because of its take-or-pay commitments accepted in one or
more gas purchase contracts, such natural gas undertaking may apply to the State Regulator for a temporary derogation from the duty to provide access. Applications shall be presented on a case-by-case basis, either before or after refusal of access to the system, at the choice of the natural gas undertaking. Where a natural gas undertaking has refused access, the application shall be presented without delay. The application shall be accompanied by all relevant information on the nature and extent of the problem and on the efforts undertaken by the natural gas undertaking to solve the problem.

(2) The State Regulator shall notify the Energy Community Secretariat without delay of its decision to grant a derogation, together with all the relevant information with respect to the derogation. That information may be submitted to the Energy Community Secretariat in an aggregated form, enabling the Energy Community Secretariat to reach a well-founded decision.

(3) With respect to the situation described in paragraph 1 of this Article, if alternative solutions are not reasonably available, the State Regulator may decide to grant a derogation. When deciding on derogation, the State Regulator shall take into account, in particular, the following criteria:

1. the objective of achieving a non discriminatory, transparent competitive gas market;
2. the need to fulfil public service obligations and to ensure security of supply;
3. the position of the natural gas undertaking in the gas market and the actual state of competition in the market;
4. the seriousness of the economic and financial difficulties encountered by natural gas undertakings, the transmission system operator or eligible customers;
5. the dates of signature and terms of the contract or contracts in question, including the extent to which they allow for market changes;
6. the efforts made to find a solution to the problem;
7. the extent to which, when accepting the take-or-pay commitments in question, the undertaking could reasonably have foreseen, having regard to the provisions of this law, that serious difficulties were likely to arise;
8. the level of connection of the system with other systems and the degree of inter-operability of these systems; and
9. the effects the granting of a derogation would have on the correct application of this law as regards the smooth functioning of the internal gas market.

(4) A decision on a request for a derogation concerning take-or-pay contracts concluded before 1 July 2006 should not lead to a situation in which it is impossible to find economically viable alternative outlets. Serious difficulties shall in any case be deemed not to exist when the sales of natural gas do not fall below the level of minimum off-take guarantees contained in gas-purchase take-or-pay contracts or in so far as the relevant gas-purchase take-or-pay contract can be adapted or the natural gas undertaking is able to find alternative outlets.

(5) Natural gas undertakings which have not been granted a derogation as referred to in paragraph 1 of this article shall not refuse, or shall no longer refuse, access to the system because of take-or-pay commitments accepted in a gas purchase contract. In this regard, the State Regulator shall ensure that relevant provisions of this law regulating the third-party access and gas supply contracts are fully applied and properly implemented.

(6) Any derogation granted by the State Regulator shall be published and duly substantiated.

(7) This Article shall be mandatory applied by all natural gas undertakings operating in Bosnia and Herzegovina, irrespective of whether they are authorised for natural gas activities by the State Regulator or the Entity Regulators, i.e. the State Regulator shall have an exclusive competence to grant a derogation in relation to take-or-pay commitments.
CHAPTER IX
SECURITY OF SUPPLY

Article 64
Security of supply

(1) Natural gas market participants shall plan and take measures for a secure supply of natural gas in accordance with the security of supply standards, as referred to in paragraph 2 of this Article, and shall be responsible for the security of supply of natural gas within their scope of activity.

(2) The Ministry shall adopt the natural gas emergency plan (hereinafter – “the emergency plan”), which shall specify adequate minimum security of supply standards and regulate the measures for securing a reliable and efficient supply of natural gas, and therefore shall inter alia establish:

1. instruments and measures ensuring that supplies for protected customers are secured to an appropriate and clearly defined extent at least in the event of:
   a. a partial disruption of national gas supplies during a period to be determined by the Ministry;
   b. extremely cold temperatures during a determined peak period; and
   c. periods of exceptionally high gas demand during the coldest weather periods statistically occurring every 20 (twenty) years;

2. a schedule for the reduction or cessation of the supply of natural gas to particular categories of customers in the case of a crisis situation in the natural gas sector;

3. role and responsibilities of natural gas undertakings and of non-household gas customers, taking into account different extents to which they are affected in the event of a crisis situation in the natural gas sector, and their interaction with competent authorities;

4. requirements for storage facilities, where relevant, to contribute to a defined degree to achieving the security of supply standards and/or indicative targets for a possible future contribution of storage, either located in Bosnia and Herzegovina or another Energy Community Party, to security of supply; and

5. other relevant measures and actions to be taken to remove or mitigate the impact of a gas supply disruption, as applied considering clearly defined crisis levels.

(3) The Ministry shall ensure that the emergency plan does not place an unreasonable and disproportionate burden on participants in the natural gas market and are compatible with the requirements of a competitive internal gas market.

(4) The emergency plan shall be mandatory complied with by natural gas market participants. The emergency plan shall be publicly announced and made available to the Energy Community Secretariat, and it shall be implemented in a non-discriminatory and transparent way.

(5) If an adequate level of interconnection is available, the Ministry, other competent authority or the natural gas undertaking in charge may take the appropriate measures in cooperation with authorities and/or natural gas undertakings of another Energy Community Party, including bilateral agreements, to achieve the security of supply standards using storage facilities located within that other Energy Community Party. These measures, in particular bilateral agreements, shall not impede the proper functioning of the internal gas market.

Article 65
Monitoring of security of supply

(1) The Ministry shall monitor, in cooperation with the State Regulator, the Entity Regulators and, where relevant, with other competent authorities of Bosnia and Herzegovina, as well as with the
transmission system operator (or operators), the security of supply of natural gas in Bosnia and Herzegovina. Such monitoring shall, in particular, cover:

1. proper implementation of the security of supply standards, as stipulated in paragraph 2 of Article 64 [Security of supply] of this Law, including measures taken to remove or mitigate the impact of a gas supply disruption and, where appropriate, preventive measures to remove or mitigate the risks related to the potential impact of a gas supply disruption;
2. the balance of supply and demand on the natural gas market of Bosnia and Herzegovina;
3. the degree of new long-term gas supply import contracts from third countries;
4. the existence of adequate liquidity of gas supplies;
5. the level of working gas and of the withdrawal capacity of gas storage;
6. the level of interconnections of the natural gas system of Bosnia and Herzegovina with the systems of its neighbouring Energy Community Parties;
7. the level of expected future demand and available supplies and, consequently, the foreseeable gas supply situation in function of demand, supply autonomy and available supply sources;
8. envisaged additional capacity being planned or under construction;
9. the quality and level of maintenance of the networks; and
10. measures to cover peak demand and to deal with shortfalls of one or more suppliers.

(2) By the 31st of July each year the Ministry shall prepare and publish a common single report for Bosnia and Herzegovina, incorporating the information collected and compiled by the State Regulator, the Entity Regulators and, where relevant, by other competent authorities and the transmission system operator (or operators). This report shall outline the findings resulting from the monitoring of those issues referred to in paragraph 1 of this Article, as well as any measures taken or envisaged to address them. First report shall be prepared and submitted in six (6) months after adoption of this Law. Report prepared by the Ministry shall be submitted to the Energy Community Secretariat forthwith.

(3) The report referred to in paragraph 2 of this Article shall inter alia cover the following:
1. the competitive impact of the measures taken pursuant to Article 64 [Security of supply] of this Law on all natural gas market participants;
2. the levels of storage capacity, if any;
3. the extent of long term gas supply contracts concluded by companies established and registered in Bosnia and Herzegovina, and in particular their remaining duration, based on information provided by the companies concerned, but excluding commercially sensitive information, and the degree of liquidity of the gas market; and
4. the regulatory frameworks to provide adequate incentives for new investment in exploration and production, storage and transport of natural gas, taking into account Article 26 [Exemptions for new interconnectors] of this Law.

(4) For the purpose of carrying out its monitoring and reporting duties stipulated in this Article, the Ministry shall closely cooperate with competent authorities of Bosnia and Herzegovina, including the State Regulator and the Entity Regulators, as well as with the transmission system operator (or operator), and in this regard:
1. all data and information possessed by the State Regulator and the Entity Regulators, collected in course of carrying their regulatory functions, as well as any other relevant information possessed by other competent authorities of Bosnia and Herzegovina shall be transferred to the Ministry without any delay upon receipt of respective written request;
2. each transmission system operator shall provide the Ministry with information on its investment intentions or those of any other party of which it is aware as regards the provision of interconnection capacity;

3. each transmission system operator shall provide the Ministry with information on investments related to the building of internal transmission network that materially affect the provision interconnection capacity; and

4. each transmission system operator, where relevant, shall consult with transmission system operators of neighbouring and/or other countries concerned, and shall provide the Ministry with respective information on cross-border cooperation.

(5) While carrying out its monitoring and reporting duties stipulated in this Article, the Ministry shall ensure non-disclosure of the commercially sensitive information, as required under Article 54 [Confidentiality obligations] of this Law.

**Article 66**

*Safeguard measures*

(1) In the event of a sudden crisis in the energy market or where the physical safety or security of persons, apparatus or installations or system integrity is threatened, the Ministry may undertake the necessary temporary safeguard measures with the coordination of relevant authorities.

(2) Measures undertaken in cases set forth in paragraph 1 of this Article shall be applied and coordinated duly following the Emergency Plan, as referred to in paragraph 2 of Article 64 [Security of supply] of this Law, and shall cause the least possible disturbance to the functioning of the internal market and shall not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen. All such measures shall be applied temporarily in an objective, transparent and non-discriminatory manner.

(3) Any safeguard measures applied in shall be duly consulted and closely coordinated with the State Regulator and the Entity Regulators, the transmission system operator (or operators) and distribution system operators, as well as competent authorities and operators of the Energy Community Parties and/or other countries concerned.

(4) In cases where the crisis situation in the natural gas sector cannot be adequately managed with national measures, the Ministry shall notify the Chair of the Security of Supply Coordination Group of the Energy Community, which shall forthwith convene an ad hoc meeting of the Security of Supply Coordination Group for examination and, where appropriate, assisting Bosnia and Herzegovina and/or other Energy Community Parties concerned in coordinating the measures taken at national level to deal with the crisis situation in the natural gas sector.

**Article 67**

*Regional solidarity*

(1) In order to safeguard a secure supply on the internal market in natural gas, competent authorities of Bosnia and Herzegovina shall cooperate with respective competent authorities of other Energy Community Parties in order to promote regional and bilateral solidarity.

(2) The cooperation referred to in paragraph 1 of this article shall cover situations resulting or likely to result in the short term in a severe disruption of supply affecting Bosnia and Herzegovina and another Energy Community Party. It shall include:

1. coordination of measures referred to in Article 66 [Safeguard measures] of this Law;

2. identification and, where necessary, development or upgrading of electricity or natural gas interconnections;

3. conditions and practical modalities for mutual assistance.
(3) The Energy Community Secretariat and the other Energy Community Parties shall be kept informed of such cooperation.

**Article 68**

*Technical and safety rules*

(1) The technical and safety provisions applicable for natural gas facilities and associated equipment, including technical safety criteria, minimum technical design and operational requirements, as well as requirements for technical inspections thereto, shall be regulated by the rules and regulations, as referred to in Article 27 [Compatibility and interoperability of the system] of this Law, adopted by the Ministry and competent authorities of the Entities within the framework of their competences and jurisdictional powers.

(2) Such rules and regulations shall be clearly defined, objective and non-discriminatory, and shall ensure the interoperability of the natural gas system of Bosnia and Herzegovina.

(3) The professional qualification and experience of natural and legal persons authorised to carry out technical and safety responsibilities, such as physical construction, engineering and maintenance works with natural gas facilities and associated equipment shall be defined in the rules and regulations referred to in paragraph 1 of this Article.

**CHAPTER X**

**LIABILITY AND DISPUTE SETTLEMENT**

**Article 69**

*Liability of natural gas undertakings*

(1) Natural gas undertakings shall be liable for carrying out their duties and fulfilling their tasks with regard to each particular natural gas activity in due compliance with requirements and obligations stipulated in this Law, other laws regulating natural gas activities in Bosnia and Herzegovina and their implementing regulations.

(2) Natural gas undertakings shall perform their activities based on the general principles established in Article 4 of this Law [General principles for the management of natural gas activities] and shall ensure safe and reliable operations technical and safety provisions adopted by the Ministry and competent authorities of the Entities, as referred to in Article 68 [Technical and safety provisions] of this Law.

(3) Natural gas undertakings, or any other persons in charge, may become liable for their non-performance or misconduct under the terms and conditions established by this Law or other applicable laws of Bosnia and Herzegovina.

**Article 70**

*Dispute settlement*

Complaints filed by natural gas market participants or any other parties concerned with regard to acts or omission of the transmission system operator, natural gas market operator, traders and, where relevant, transmission system owner shall be heard, as well as disputes between such persons shall be settled by the State Regulator under the terms and conditions stipulated in the Law on Transmission of Electric Power, Regulator and Electricity Market in Bosnia and Herzegovina and in the rules on hearings and dispute settlement adopted by the State Regulator.
(1) All rulings issued by the State Regulator shall be appealable to the Court of Bosnia and Herzegovina.

(2) The Court of Bosnia and Herzegovina may entertain appeals of decisions rendered by the State Regulator lodged with the Court within sixty (60) days of the public notice of such decision. In its review of the appeal, the Court of Bosnia and Herzegovina shall consider only the following aspects of the case:
   1. whether the State Regulator acted in violation of this Law or its implementing regulations;
   2. whether the State Regulator wrongly applied applicable rules and regulations; or
   3. whether there has appeared new facts in the case, which were not known at the time of the previous decision and which, if known, would have changed the outcome of that decision.

(3) Law on Administrative Disputes of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No 19/02, 88/07 and 83/08) shall be accordingly applied to the judicial review of the decisions of the State Regulator.

Article 72
Penalty provisions

The State Regulator shall have a power to impose effective, proportionate and dissuasive financial penalties on natural gas undertakings, as well as to ensure the enforcement of such penalties under the terms and conditions stipulated in the Law on Transmission of Electric Power, Regulator and Electricity Market in Bosnia and Herzegovina.

CHAPTER XI
FINAL AND TRANSITORY PROVISIONS

Article 73
Implementation of the Law

(1) Competent authorities of Bosnia and Herzegovina shall, within the scope of their competences and jurisdictional powers, adopt the rules and regulations, and shall make other decisions on legislative and/or regulatory incentives required for due implementation of this Law.

(2) Rules and regulations implementing this Law shall be prepared, consulted and adopted within six (6) months from the date of entry into force of this Law, unless other terms are provided in transitory provisions herein below.

(3) Until the entry into force of the rules and regulations under paragraph 2 of this Article, rules and regulations relating to the matters concerned shall apply if they are not in conflict with the provisions of this Law.

(4) Proceedings initiated before the entry into force of this Law shall be completed by applying the provisions of the respective legal and regulatory requirements which have been in force at the date of the start of such proceedings.

(5) Competent institutions of Bosnia and Herzegovina, including those operating at the level of Bosnia and Herzegovina and in the Entities, shall cooperate, within the framework of their competence and jurisdictional powers, to address and resolve issues related to the implementation of this Law.

Article 74
Transitory provisions with regard to unbundling of the transmission system operator

Conditions for independence and unbundling of the transmission system operator (or operators), as required by this Law, shall be properly implemented by 1 June 2016.

Article 75
Transitory provisions with regard to certification in relation to third countries

(1) Article 40 [Certification in relation to third countries] of this Law shall apply from 1 January 2017.

(2) Each transmission system operator shall provide the State Regulator with all relevant data and information necessary for proper implementation of requirements and obligations under Article 40 [Certification in relation to third countries] of this Law within three (3) months from the date indicated in paragraph 1 of this Article.

Article 76
Transitory provisions with regard to market opening

(1) Paragraph 1 of Article 55 [Market opening] of this Law shall apply from 1 January 2015.

(2) Until the date referred to in paragraph 1 of this Article, each non-household customer in Bosnia and Herzegovina shall be treated as eligible customer and shall be therefore entitled to a free choice of supplier and its change.

Article 77
Transitory provisions with regard to the organisation of the natural gas market

(1) The natural gas market operator shall be selected and designated, as referred to in Article 59 [Designation and activities of the natural gas market operator], not later than in six (6) months after entry into force of this Law.

(2) The State Regulator shall adopt a natural gas market model to be implemented in Bosnia and Herzegovina not later than in six (6) months after entry force of this Law. Preparation of the natural gas market model shall be organised in close cooperation with the Ministry, the Competition Council, the Entity Regulators, the natural gas market operator and the transmission system operator (or operators).

(3) Based on the market model referred to in paragraph 2 of this Article, the natural gas market operator shall draft the market rules to be approved not later than in twelve (12) months after entry into force of this Law.

Article 78
Relevant legal acts of the European Union

This Law transposes the following legal acts of the European Union, constituting the acquis communautaire on natural gas within the regulatory framework of the Energy Community:


**Article 79**

*European Union Guidelines and Network Codes*

(1) Guidelines and Network Codes adopted within the legal and regulatory framework of the European Union, and subsequently adopted by the Energy Community, shall be transposed to the domestic legislation of Bosnia and Herzegovina without any amendments or changes thereto.

(2) For the purposes of paragraph 1 of this Article, the State Regulator shall carry out the adoption of such Guidelines and Network Codes following respective notice on their adoption at the Energy Community, and shall monitor and enforce their proper application and implementation. All Guidelines and Network Codes shall be adopted by the decision of the State Regulator, which shall be publicly announced in accordance with the requirements stipulated in this Law.

(3) The State Regulator shall notify the Energy Community Secretariat on the measures adopting the Guidelines and Network Codes, and of any subsequent changes, within two (2) weeks after the adoption of such measures.

(4) For the purposes of this Article, the State Regulator shall cooperate with the Energy Community Secretariat, the Energy Community Regulatory Board and competent regulatory authorities of other Energy Community Parties.

**Article 80**

*Relationship with other legal acts*

(1) In case of any discrepancies or conflict between provisions of this Law and other legal acts regulating activities in the natural gas sector or any other related activities at the level of Bosnia and Herzegovina, provisions of this Law shall apply.

(2) Provisions of the laws regulating activities in the natural gas sector in the Entities shall be in line with this Law.

**Article 81**

*Entry into force*

This Law shall enter into force eight (8) days after publication in the Official Gazette of Bosnia and Herzegovina. This Law shall also be published in the Official Gazettes of the Entities and the District.