

Schoenherr
Philippe & Partners
CC: DG Energy

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Subject: EFET¹ inputs to the study on challenges faced when entering/trading on different gas markets in the EU

In this letter, EFET would like to highlight some of the major barriers that EFET members are facing when entering or operating on some of the gas markets in the EU. We highlight some of the most foreclosing provisions of the past years that have prevented or delayed the development of liquid wholesale markets in these countries.

Austria

- **License:** registration required (NRA)
- **Local establishment:** registered address within the EU required
- **Fees:** annual fee of ~25.000 €.
- **Reporting:** weekly reporting obligation of import, export and domestic production volumes

Belgium:

- **Licence:** formally, there is only a licence obligation for suppliers, but due to an interpretation document of the Belgian NRA this requirement also applies in whole or in part to traders (i.e. when the gas traded at the hub is for consumption in Belgium). It is not clear how trades over the VTP are treated if they involve end-customers.

If you deliver to end users in Wallonia, even industrial large energy consumers on the transmission grid, you are required to have a license with the regional regulator CWaPE whereas such requirement does not exist in Flanders or Brussels Regions.

- **Financial requirements:** none if the rating is sufficient
- **Fees:** fixed plus variable fee exists
- **Reporting:** we are not aware of any obligations for traders, when you do have a license 2 – 3 very extensive and overlapping reports towards the national regulator and as many to the Ministry of Economy
- **Transparency:** due to the existence of four regulatory authorities (Belgium, Flanders, Wallonia, Brussels) transparency is imperfect

Czech Republic:

- **License:** no requirement for an entity with a registered address in a Member State of the European Union or that has a gas trading license granted in another Member State to have a local establishment. However, to the best of our knowledge, it appears that such requirement would arise for a foreign entity in case a tax-free permission for gas is sought and remains in place for entities from outside the EU. Even though the Act on Stabilisation of Public Budgets does not foresee it, an interpretation of the Directorate General of Customs states the opposite.

¹ The European Federation of Energy Traders (EFET) promotes competition, transparency and open access in the European energy sector. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and a competitive economy. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org.

France:

- **License:** ministerial license required, the process involves submitting multiple documents in French, making the process very lengthy (3-4 months). No interim period has been offered to UK-based entities, whose licenses will be cancelled as soon as the UK leaves the European Union. Reporting requirements were simplified and the burden decreased over the last years.
- **Financial requirements:** none if the rating is sufficient
- **Fees:** high fee for title transfer at the VTP
- **Other:** Nominated quantities of storage facilities and LNG terminals cannot be netted with VTP quantities, as some are valid at 0°C and others at 25°C.

Greece:

- **License:** registration in the National Natural Gas System Users Registry is required. The process entails submitting multiple documents in Greek, making the application procedure lengthy and overall costly.
- **Local establishment:** no physical local presence required. Yet, a delivery agent resident in Greece has to be appointed and a copy of the relevant contract has to be sent to the NRA.

Hungary:

- **License:** license required with NRA
- **Financial requirements:** supervisory fee (for the license), different fees linked to the clearing house membership
- **Local establishment:** no physical local presence required for EU/EEA entities, but required for Swiss and UK entities post-Brexit. Yet, a delivery agent resident in Hungary has to be appointed and a copy of the relevant contract has to be sent to the NRA
- **Fees:** turnover-based fee, calculated against the net sales revenues on each transaction (effectively working as a tax)
- **Reporting:** multiple reporting obligations (monthly, quarterly, yearly) to be done in Hungarian
- **Other:** Lengthy administrative process, transparency to be improved, uncertainty in regulatory changes. Business plan to be attached to the license application has to be audited.

Italy:

- **License:** Registration with NRA required.
- **Financial requirements:** Bank guarantees have to be provided for all TSO/Exchanges and if insufficient, access is blocked automatically. Only guarantees from major banks with Italian branches are admissible.
- **Fees:** Annual payment for the work of the NRA, which must be calculated by the Trader on annual turnover. In addition, there is a levy for the strategic storage reserve.
- **Reporting:** Same data as submitted under REMIT, have to be reported again manually through the NRA portal (in m³ instead of MWh) for the annual monitoring report of the NRA. Other burdensome authorisations and reporting requirements to the Ministry of Economic Development apply in case of gas imports.
- **Other:** Complex technical integration of the GME exchange to Trayport for daily use. Each user of the GME exchange needs a personal Italian certified e-signature for access (complex and expensive process).

Poland:

- **License:** very complex procedure laid down in the Energy Act and requiring multiple documents that tend to become outdated before a decision on issuing a license is reached. Two license types exist – for domestic trading/supply and for cross border gas trading. The

process is the most complex in all of Europe, requires frequent communication with the NRA and for larger companies can take years. **Note:** after the amendments of the storage obligations in Poland in 2017, commercial access to the market involving cross-border gas exchanges is practically impossible (costly SSO services in Poland², obligation to maintain firm capacities on the border with a Member State if foreign storage is used³)

- **Financial requirements:** collaterals demanded from some of the new entrants tend to be unreasonably high, especially since separate collaterals are required by the TSO, the NRA and the exchange
- **Local establishment:** registered address within the EU/EFTA required
- **Fees:** annual fees calculated against the revenue from licensed activities are payable and support the state budget rather than the works of the NRA.
- **Reporting:** frequent and overlapping reporting obligations, demanding reports to be sent to the NRA, the Ministry, TSO, Central Statistics Office and the Energy Market Agency
- **Other:** highly unstable regulatory environment – while contacts with the NRA can be easily maintained, few information come from the Ministry and changes to the law are done with short or no consultation at all.

Romania:

- **License:** license required
- **Financial requirements:** license acquisition requires providing high bank guarantees
- **Local establishment:** local establishment required
- **Fees:** Fees calculated against the company's turnover has been set for 2% of turnover for 2019 and it is to be reduced back to 0,2% in 2020 (NRA)
- **Reporting:** monthly and annual reporting obligations
- **Other:** highly-unstable regulatory environment, consultation are done usually exclusively in Romanian and at a very short notice. Producer price cap and obligation to trade on the centralized gas market discourage trading⁴.

Slovakia:

- **License:** Although no license is formally required, its number is necessary in order to register with the customs authority and thus forcing traders to register for a supply license. Local establishment is required for non-EU registered entities.
- **Financial requirements:**
- **Local establishment:**
- **Fees:** title transfer fees in place and high
- **Reporting:** Burdensome frequent reporting obligations
- **Other:** Register of Public Sector Partners requires disclosing private information of individuals who own companies involved in trading, creating a tremendous administrative burden and discouraging new entrants.

Spain:

- **License:** Registration with the Ministry of Energy is required. In order to operate in the MIBGAS platform the trader has to register with the gas TSO (Enagás), as per Royal Decree RD 984/2015.
- **Financial requirements:** the Ministry calculates the amount of guarantees required from the entrant. MIBGAS does not demand financial guarantees.

² See [EFET letter on the Polish storage accessibility](#)

³ See [EFET letter on Polish storage obligations](#)

⁴ See [EFET letter regarding the changes to the Electricity and Natural Gas law](#)

- **Local establishment:** MIBGAS allows firms not established in Spain to operate on their platform.
- **Fees:** MIBGAS registration is cost-free.
- **Reporting:** Burdensome frequent reporting to the NRA, Ministry and industry body CORES, often involving 0-type reporting. Non-standard financial reporting obligations (audited quarterly reports not sufficient)
- **Transparency:** All legislation, access rules and consultations are not only lengthy but only available in Spanish. Very little information is provided for in English and the TSO does not provide English workshops for market participants unlike other MSs.
- **Other:** a Spanish registration number (NIF = Número de Identificación Fiscal or CIF - código de identificación fiscal) and a digital signature certificate are required for tax and reporting purposes. Additionally, there is no alternative procedure in place for shippers domiciled outside of Spain. Existing limitation in the secondary market for capacity given that an assignee of capacity buying short term capacity from another shipper is invoiced by the TSO with the tariff corresponding to the duration of the assigned standard product(s) instead that with the original tariff paid by the assignor. The same rule applies in an unduly way to transfers of right/subletting of capacity.