STATE CAPTURE

State Capture

A case study about

natural gas exploitation

and transportation

in Romania

DATE

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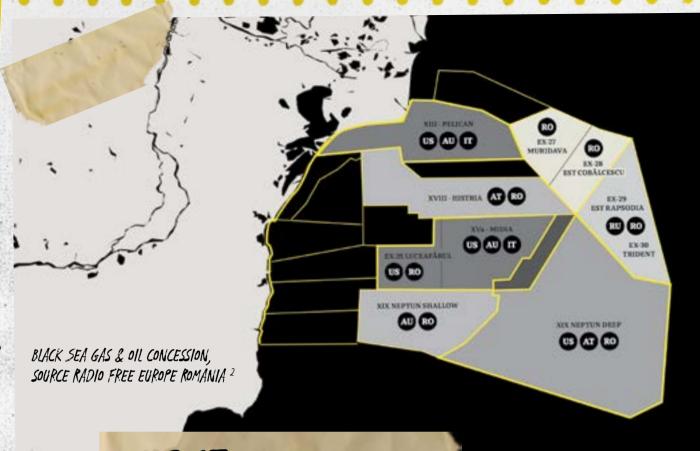
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EXECUTIVE SUMMARY

Since its inclusion in the European Union's Projects of Common Interest list in October 2013, the gas pipeline project connecting Bulgaria – Romania – Hungary – Austria (BRUA) is eligible for receiving public funding through the Connecting Europe Facility¹. In parallel, the Romanian Government and Parliament put forward once more the old idea of Romania being an important player in the European Gas Market.

The fact that a gas pipeline will connect the south and centre of Europe by transiting Romania has also created an avalanche of concession agreements for the exploitation of Black Sea's gas fields. These concession agreements have been granted more or less transparently with a stated objective of exporting gas to western Europe. The gas fields' concessionaires include well-known companies in the oil and gas industry in states like Austria, Australia, USA and Italy.

Supported financially by public banks such as the European Investment Bank (EIB), under the Investment Plan for Europe, and the European Bank for Reconstruction and Development (EBRD), and backed politically by the Romanian Government and Parliament, these mega-projects, with significant environmental impact, are currently benefiting from favourable legislative changes and derogations from laws set to protect the environment, the protected natural areas or the property rights.

 $^{^2 \,}https://romania.europalibera.org/a/cine-sunt-jucatorii-care-foreaza-petrol-gaz-marea-neagra/29899262.html$

EUROPEAN FINANCIAL CONTRIBUTION TO GAS PROJECTS IN ROMANIA



TUZLA – PODIȘOR PIPELINE (BLACK SEA GÁS CONNECTION) EUR 150 MILLION LOAN

the first tranche of EUR 50 million was signed on December 17, 2018 and the other EUR 100 million was signed on January 24, 2019.

BRUA PIPELINE EUR 100 MILLION LOAN

the first tranche of EUR 50 million was signed on October 27, 2017 and the second tranche of EUR 50 million was signed on December 14, 2017.



BRUA PIPELINE

EUR 60 MILLION LOAN

signed on December 14, 2017

BLACK SEA OIL & GAS – MIDIA GAS DEVELOPMENT PROJECT³

- **Equity investment** in favour of BSOG, amount not disclosed.
- Potential debt financing of the project, the exact amount of financing will only be disclosed at the signing of the facility.



BRUA PIPELINE

EUR 179.32 MILLION

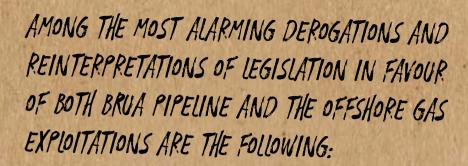
signed in 2015 for the development on Romanian territory of the National Gas Transmission System on the Bulgaria-Romania-Hungary-Austria direction, execution works Stage 1.

EUR 1.52 MILLION

signed in 2014 for Front End Engineering Design (FEED) for the construction of three Gas Compressor Stations on the Romanian territory.

³In the EBRD's response to our letter requesting additional information regarding Black Sea Oil & Dil & Di





- The operational life of the installations is estimated to be unlimited in time, meaning also that the easements will be exercised for an unlimited period;
- Forestry lands belonging to the state or the administrative-territorial units for carrying out the construction works of BRUA pipeline will be occupied free of charge;
- The special law which was initially created for the BRUA pipeline actually establishes a general derogation for all projects declared by the government to be of "national importance" in the natural gas sector and allows projects to be located in the protection zone of the natural protected areas;
- Institutions such as the National Committee of the Coastal Zone lose their usefulness because, according to the Offshore Gas Law's provisions, if the Committee does not issue an advisory opinion on the impact studies for the activities with significant impact related to works/wells operations within 60 days from the date of submission, it is considered tacitly endorsed;
- Other provisions regarding some measures for protection and authorisation of constructions on the Black Sea coast have been modified in the sense that the works for offshore installations can be carried out throughout the year, derogating from the prohibition to perform works during the summer season.

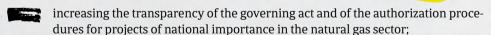


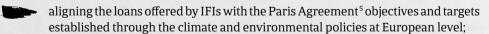
In a country like Romania where the word *corruption* becomes almost synonymous with the act of governance, it is difficult to understand why financial institutions like the EIB, whose mission is to ensure the financing of EU's policies – thus including environmental and anti-corruption policies – are turning a blind eye to abuses of power and acts of legalisation of corruption, as exemplified in this report.

The report analyses how the corruption phenomenon becomes palpable in sectors of the society, other than those the general public is acquainted to in daily life. The energy sector has been confronted with different situations over time, many of them characterised as "borderline illegal" ⁴, and the gas sector apparently is no stranger.

The report focuses on the legislative changes that have taken place for the rapid implementation of the BRUA project, as well as the totally non-transparent adoption of the Offshore Gas Law. The frequent and flagrant law violations regarding public consultation and participation in decision making processes are also analysed.

The recommendations of this report are addressed to international financial institutions, EU and Romanian decision-makers and environmental authorities, and suggest the following:





prioritizing the public consultation principle at each procedural or project implementation stage and increasing the expertise of public authorities for environmental protection regarding project assessment and authorization.

⁵The **Paris Agreement** is a treaty under the United Nations Framework Convention on Climate Change aimed at reducing global warming well below 2°C above pre-industrial levels and continuing the efforts to limit temperature rise to 1.5°C.



⁴https://www.digi24.ro/special/campanii-digi24/romania-cu-incetinitorul/zece-ani-de-la-privatizarea-distributiei-de-energie-facturi-mai-mari-cu-peste-70-acuzatii-de-coruptie-387741 (in Romanian)

⁵The **Paris Agreement** is a treaty under the United Nations Framework Convention on Climate Change aimed at reducing global warming

NTRODUCTION

This report is a showcase aiming to illustrate state capture, that situation when public actors (government, parliament, authorities or public banks) make decisions that favour certain powerful private actors to the detriment of citizens. The state thus becomes "captured" in the sense that its resources become captive to an interest group which decides to allocate them for the benefit of its members. This report does not present a case of corruption understood in the classical, legalistic sense of bribery, money laundering or fraud.

However, we consider that studying and understanding the events described in this report is important because their effects are significant. In this particular case, the gas exploitation in the Black Sea may represent the allocation of important resources for investments that will accelerate climate change and may result in the failure to meet European climate and environmental objectives. Without a real consultation of citizens and civil society organisations and without considering the alternatives, these decisions lead to a state capture for the purpose proposed by Nicholas Hildyard⁶ and other researchers:

"The focus is not on bribes or money laundering or fraud – important as these are to expose – but on lawful, routine, accepted practices that decay, debase or otherwise deteriorate the political processes through which society as a whole might reach a view as to what constitutes "the good society", contested as that view will always be. One consequence of such decay is certainly anti-social gain, generally financial or political, by well-placed groups or individuals: and this in turn may further the process of democratic decay. But it is the decay of democratic politics, not the gain per se, that constitutes corruption; and it is in this sense that the words "corruption" and "corrupt" are used throughout the text, a usage that has longer history than the relatively recent equation of corruption simply with bribery, money laundering and fraud.7"



uploads/2016/12/Corrupt-but-Legal_9Dec.pdf

nup://www.unecornernouse.org.ux/resource/corrupt-negal
Nicholas Hildyard, Corrupt but legal: Institutionalised corruption and development finance, CounterBalance, December 2016, p. 6. Available at https://www.counter-balance.org/wp-content/ 6 http://www.thecornerhouse.org.uk/resource/corrupt-legal

According to the latest Transparency International⁸ report regarding the perception of corruption, Romania ranks better than only three other EU states – Hungary, Greece and Bulgaria – and the score has been decreasing from year to year. Worldwide, in 2018, Romania achieved a rating comparable to that of countries such as Belarus, Senegal or Tunisia.

The public perception is that the corruption phenomenon in Romania has reached its worst form, known in the specialized literature as state capture.

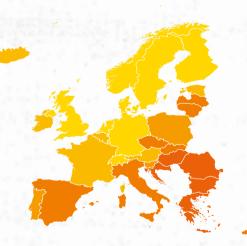
CORRUPTION PERCEPTIONS INDEX 2018

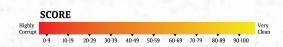
EUROPEAN UNION



AVERAGE SCORE

8 https://www.transparency.org/cpi2018#downloads





SCORE COUNTRY/TERRITORY	RANK	
-------------------------	------	--

88	Denmark	1
85	Finland	3
85	Sweden	3
82	Netherlands	8
81	Luxembourg	9
80	Germany	11
80	United Kingdom	11
76	Austria	14
75	Belgium	17
73	Estonia	18
73	Ireland	18
72	France	21
64	Portugal	30
60	Poland	36
60	Slovenia	36
59	Cyprus	38
59	Czech Republic	38
59	Lithuania	38
58	Latvia	41
58	Spain	41
54	Malta	51
52	Italy	53
50	Slovakia	57
48	Croatia	60
47	Romania	61
46	Hungary	64
45	Greece	67
42	Bulgaria	77



Corruption is a threat to democracy, the rule of law, social equity and justice, weakening the principles of an effective administration, undermining the market economy, breaching fundamental rights such as the right to property and endangering the stability of state institutions.

We see more and more state institutions that work in favour of interest groups related to politics, the business sector (due to the lack of competition) and the media. The various power groups - the political clientele - are the products of an endless transition process in Romania, and they have been at the wheel of the country's financial and natural resources since the early '90s, rotating with each electoral cycle.

The European Bank for Reconstruction and Development (EBRD) has a mandate precisely to ensure the transition of the states east of the Iron Curtain to a market economy based on respecting democracy, the principles of transparency, participation and the rule of law. The EBRD equity project (the Vadu Gas Terminal) showcased in this report depicts how the bank strays away from its commitment to these principles, in spite of its declared intention of "providing assistance to the Romanian Government for improving the legal framework of offshore oil and gas operations".

Moreover, international financial institutions such as EBRD, EIB, the World Bank or even the recently established European Strategic Investment Fund - which have adopted transparency and ethical standards even before countries like Romania did in their internal legislation – raise concerns about applying these standards fully in relation to extractive industry projects like BRUA or the Vadu Gas Terminal. Ironically, such projects are often located in countries with weak rule of law and a bad track record of transparency and public participation in decision making. Thus, multilateral development banks can be associated to maintaining poles of influence and political power in these states, appearing willing to tolerate autocratic regimes and derogations from legislation and institutional policies for the benefit of an apparent greater good. The case of money laundering from Azerbaijan state structures – The Azerbaijani Laundromat⁹ – and the payment of approx. EUR 800.000 to an EBRD director for consultancy as well as to other influential politicians from many European states is emblematic.

In an attempt by European leaders to reduce gas imports from Russia, the EBRD and EIB allocated EUR 1 billion and 1.5 billion respectively to the Southern Gas Corridor in order connect to alternative sources, such as the Shah Deniz (Azerbaijan) deposits in the Caspian Sea¹⁰. This project's approval has virtually defied all signals regarding the disastrous environmental impact¹¹, as well as the concerns over the consolidation of political dictatorship and the oppressive regime in Azerbaijan¹². Additionally, no less than fifteen of the companies selected to build the Southern Gas Corridor pipeline have been involved in various forms of corruption in the past¹³. Neither of these aspects changed the Banks' decision to approve the loans, in spite of numerous red flags raised by civil society organisations.

This project is branching out in Romania through the construction of the BRUA14 gas pipeline (connecting Bulgaria - Romania - Hungary - Austria) which is considered by the Romanian government a project of strategic national importance. Its last phase will include the exploitation of gas deposits discovered in the Black Sea at medium and deep sea levels. In this last phase the EBRD itself became a shareholder.

In this context, the environmental protection legislation in Romania, already fragile when having to compete with politically-backed infrastructure projects of "national importance", is practically butchered in the Parliament, in order to ease the implementation of megalomaniac projects such as BRUA and the gas platforms in the Black Sea. This is possible with the broad support of the Parliament, the local and national environmental protection authorities, the international financial institutions that fund them and a serious lack of transparency that keeps them away from the media and public eye.

 $The \, deliberate \, deviation \, from \, the \, ordinary \, legislative \, path \, that \, all \, projects \, of \, strategic \, deliberate \, deviation \, from \, the \, ordinary \, legislative \, path \, that \, all \, projects \, of \, strategic \, deliberate \, deviation \, from \, the \, ordinary \, legislative \, path \, that \, all \, projects \, of \, strategic \, deliberate \, deviation \, from \, the \, ordinary \, legislative \, path \, that \, all \, projects \, of \, strategic \, deliberate \, deviation \, deviati$ and national importance must go through until their implementation calls to question the integrity of those who facilitate their achievement, and changing the rules along the way in accordance to other interests and needs creates a negative precedent.

https://emerging-europe.com/voices/the-azerbaijani-laundromat-why-it-matters/

¹⁰ https://www.tap-ag.com/the-pipeline/the-big-picture/southern-gas-corridor

[&]quot;https://bankwatch.org/publication/failure-of-the-european-investment-bank-to-ensure-proper-climate-impact-assessment-for-tap-tanap

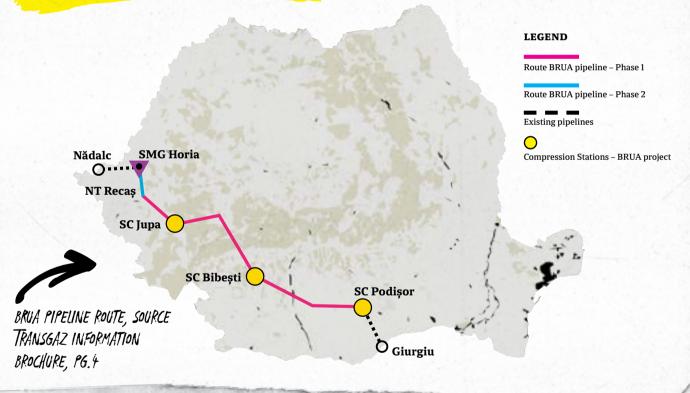
¹² https://www.intellinews.com/bankwatch-hits-out-at-ebrd-s-pipeline-loan-to-non-transparent-oppressive-azerbaijan-130995/

¹³ https://bankwatch.org/project/southern-gas-corridor-euro-caspian-mega-pipeline#risky-busine

https://www.azernews.az/oil_and_gas/146028.html

DESCRIPTION OF PROJECTS

BRUA CORRIDOR



The project consisting in the "development on the territory of Romania of the National System of Natural Gas Transport on the Bulgaria-Romania-Hungary-Austria corridor" entails the construction of a new gas pipeline that will connect the Technological Hub (TH) Podișor with the Gas Measurement Station (GMS) Horia, in the direction of Podișor – Corbu – Hurezani – Hațeg – Recaș – Horia. ¹⁵

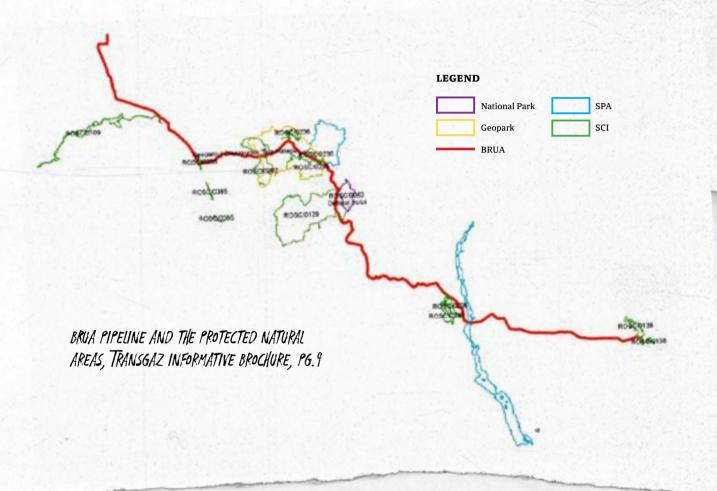
Phase 1 of the project covers the construction of a **479 km** pipeline between **Podișo**r (22 km west of Bucharest) and **Recaș** (west Romania) and the above-ground associated installations – Podișor, Bibești and Jupa Gas Compression Stations ¹⁶, which will ensure a bidirectional gas flow. In the **Phase 2** of the project a **50 km** long pipeline will also be built, connecting **Recaș** with **GMS Horia.**

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 $^{^{15}\} https://www.transgaz.ro/sites/default/files/brosura_transgaz_varianta_finala.pdf$

¹⁶ An above-ground installation through which the pressure of natural gas is increased so that it can be transported at the pressure of the pipeline.

ONGOING



According to the plan, the pipeline will cross 11 counties and 79 administrative-territorial units, communication routes (national, county, communal roads, railway lines) cadastral and non-cadastral waterways, valleys and canals, oil, gas, water pipelines, telecommunication networks, but also forestry areas, grasslands and agro-ecosystems ¹⁷.

The works will occupy a total land area of approx. 1085 hectares of which approximately 1073 ha will be occupied temporarily and 12 ha definitively. The pipeline will intersect seven Natura 2000 protected areas, will cross the protected natural areas of national interest Dinosaur Geopark and the Jiu Valley National Park, and will be located near other four protected natural areas ¹⁸.

The estimated value of the BRUA project amounts to EUR 560 million of which EUR 178 million are allocated by the European Commission through the Connecting Europe Facility¹⁹. The Financing Agreement for this was signed in September 2016²⁰.

2016 was also the year when a legislative project – Law 185/2016, aimed at removing possible obstacles in the implementation of projects of national importance in the natural gas sector - was initiated. Signing the financing agreement for BRUA Phase 1 and issuing of this law at the same time may seem a coincidence. This report aims to show that it wasn't one and that a series of political and legislative decisions were taken to facilitate this project.

http://new.transgaz.ro/sites/default/files/comunicat_de_presa_9_09_2016.pdf



¹⁷ According to the Environmental Agreement no. 3/05.12.2016 for the BRUA project; ¹⁸ According to the Environmental Agreement no. 3/05.12.2016 for the BRUA project;

¹⁹ https://ec.europa.eu/inea/en/connecting-europe-facility

EXPANSION OF THE NATIONAL SYSTEM FOR THE TRANSPORTATION OF NATURAL GAS EXTRACTED FROM THE BLACK SEA



While for the BRUA project the rules were simplified and the construction work started²¹, the construction of two other pipeline projects is considered necessary, as the investments in the extraction of natural gas from the Black Sea fields are about to begin²².

One of them will connect the Black Sea shore with the international transit pipeline T1 and will be located in Constanța County, crossing the administrative-territorial units of Corbu, Săcele, Cogealac and Grădina.

The pipeline will be built following the signing of a Cooperation Agreement in December 2015 between the technical operator of the national natural gas transport system - TRANSGAZ – and the companies Black Sea Oil & Gas, Petro Ventures Europe B.V. and Gas Plus International B.V., holders of an agreement for the exploration, development and exploitation of the Midia gas field²³. The National Transport System (NTS) will be expanded through the construction of this pipeline which will take over the extracted offshore gas.

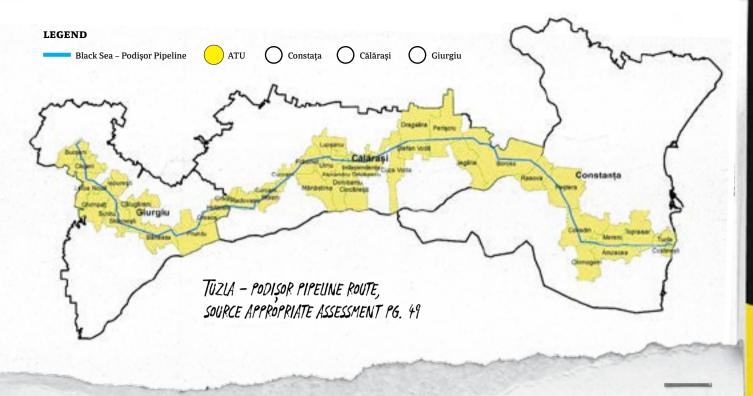
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²¹https://www.investenergy.ro/proiectul-brua-lucrarile-sunt-grafic-se-lucreaza-pe-17-santiere-la-3-statii-de-comprimare-aproximativ-500-de-kilometri-de-conducta-peste-500-de-muncitori/

²² https://www.focus-energetic.ro/black-sea-oilgas-se-apuca-sa-scoata-gazul-din-marea-neagra-55873.html

 $^{^{}z_3} http://www.anpm.ro/documents/840114/32873275/RIM_Vadu-Tranzitl_TRANSGAZ_final.pdf/776538f6-aa9f-430a-841f-859f98478c0d pg.5$



The pipeline will be built following the signing of a Cooperation Agreement in December 2015 between the technical operator of the national natural gas transport system - TRANSGAZ – and the companies Black Sea Oil & Gas, Petro Ventures Europe B.V. and Gas Plus International B.V., holders of an agreement for the exploration, development and exploitation of the Midia gas field. The National Transport System (NTS) will be expanded through the construction of this pipeline which will take over the extracted offshore gas.

The pipeline will be 24.37 km long and will cover about 40 hectares of land, of which only 0.1 ha will be permanently occupied²⁴. In this case, the pipeline will predominantly cross agricultural land, grasslands, will intersect roads and water streams and some parts of the route stretch for 10 km on the Danube Delta protected area and the Razim Sinoe Complex. In addition, the pipeline will be located near other protected areas - Danube Delta Biosphere Reserve, Dobrogea Gorge and Cheia Jurassic Reefs – the distance between the pipeline and these perimeters varying between 250-850 meters²⁵. The total cost of this project is estimated at EUR 9 million²⁶.

The second pipeline designed for the transportation of natural gas extracted from the Black Sea continental shelf will connect the shoreline (Tuzla) with the gas compression station in Podişor, Giurgiu county. The route of this pipeline is 308 km long and will also cross Constanta and Călărași Counties.

Similar to the other projects, the route of Tuzla – Podişor pipeline will cross eight Natura 2000 sites over a length of 14.24 km and will pass near another 3 Natura 2000 sites, at distances between 9-45 meters²⁷. This pipeline will receive from the EIB a total financing of EUR 150 million. This loan was granted in two instalments, the first financing contract amounting to EUR 50 million was signed in December 2018. The contract for the second tranche of EUR 100 million was signed in January 2019 ²⁸.

To transport the natural gas extracted from the Black Sea deposits it is necessary to build not only pipelines, but coastal terminals also. According to the Technical Code of the Natural Gas Sector

"a coastal terminal is understood as the assembly of installations located on the Black Sea shore where the acquisition of natural gas from submarine exploitation perimeters is ensured or, respectively, the point at which the natural gas meets the technical quality conditions in order to be tradable.

 $^{^{24}}$ http://www.anpm.ro/documents/840114/32873275/RIM_Vadu-Tranzit1_TRANSGAZ_final.pdf/776538f6-aa9f-430a-841f-859f98478c0d

https://www.transgaz.ro/sites/default/files/uploads/users/admin/plan_de_dez_2017_-2026.pdf, pg.54
 http://www.transgaz.ro/sites/default/files/brosura_informativa_pentru_proiectul_mn-podisor_v2.pdf

²⁸ https://www.transgaz.ro/sites/default/files/comunicat%20BEI%2024%20ian%202019%20EG%20%20final%20%20docx.pdf

Two such terminals will be built on the Black Sea shore, one located in Corbu (Vadu village) and the other in Tuzla.

VADU GAS TERMINAL

This is part of the Midia Natural Gas Development Project (Project) carried out by Black Sea Oil & Gas (BSOG) together with its partners – Petro Ventures Europe B.V. and Gas Plus International B.V. – through which the natural gas fields Ana and Doina will be exploited. In addition to the construction of the terminal, the Project consists of five production wells (one subsea well at Doina field and four platform wells at Ana field) a subsea gas production system over the Doina well which will be connected through an 18 km pipeline with a new unmanned production platform located over Ana field. A 121 km subsea pipeline will ensure the delivery of the gas from Ana platform to the shore, where a 4.1 km underground pipeline will connect to the new gas treatment plant²⁹.

In March 2017, Black Sea Oil & Gas Company, owned by Carlyle, the largest private equity fund in the world, announced the construction of a gas treatment plant in Vadu village, Constanța county. BSOG had initially declared that it had discovered between 10 and 20 billion cubic meters of natural gas in the Romanian Black Sea and the investments needed for the production to start, prefigured for 2019, could reach USD 500 million. Since 2015, BSOG has been the successor to the Black Sea perimeters owned until then by the Canadian company Sterling Resources which retired from Romania. The company was originally called Midia Resources and was founded by Sterling Resources. Sterling also inherited an agreement with Rompetrol through which it could exploit the natural gas fields located on the continental shelf of the Black Sea and on the perimeters

around Snake Island, which were established back in 2009 before the International Court of Justice after a dispute regarding the delimitation of the continental shelf and the exclusive economic zone between Romania and Ukraine³⁰.

In 2008, a political scandal broke around the Canadian company - Sterling Resources - and Călin Popescu Tăriceanu, the then Prime Minister of Romania, who was accused of handing over the exploitation of the gas perimeters around Snake Island to Sterling by secretly extending the memorandum signed with the Romanian State³¹.

Fast forward to March 2018, when BSOG's Midia Gas Development Project received the environmental permit for its implementation. The permit states that the location of the gas treatment station is situated 160 meters east from the limits of the Danube Delta Biosphere Reserve and the Danube Delta site boundaries and Razim Sinoe Complex. At the West, the distance between the site of the treatment station and the boundaries of the protected areas is of only 2 meters. In relation to residential areas, the treatment station is located close to Vadu village, at approx. 2.5 km away from the nearest households³².

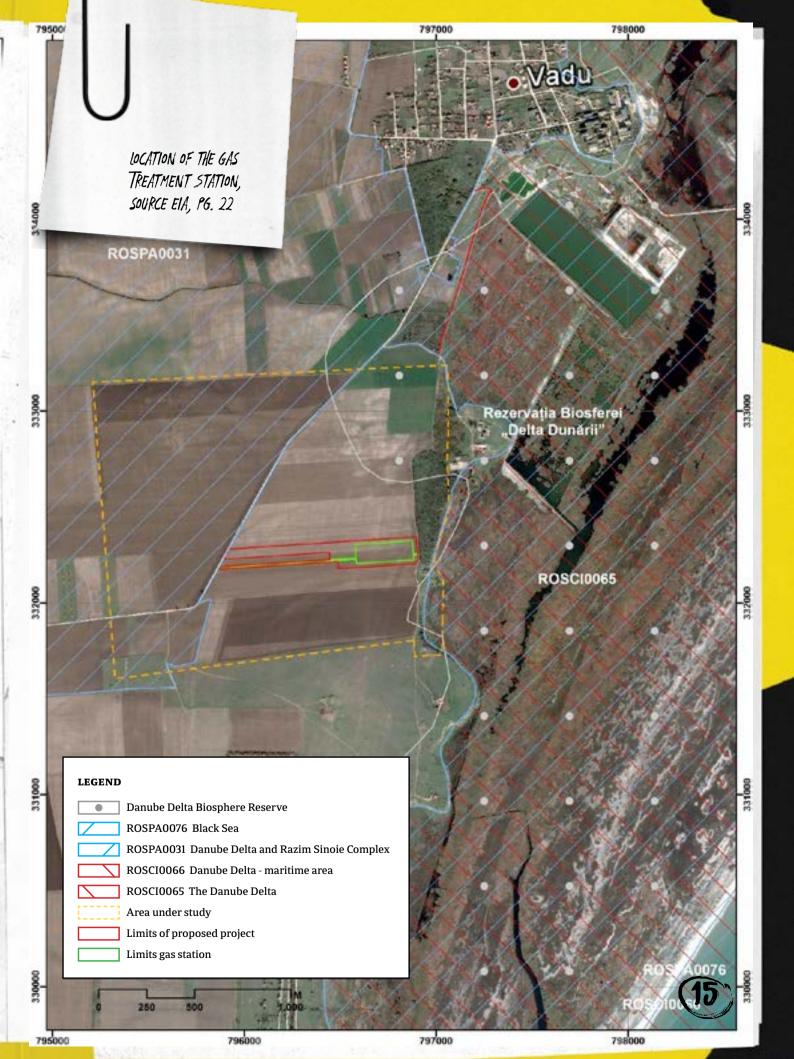
29 https://www.blackseaog.com/ro/proiecte/mdg/

 $^{\rm 30}$ https://www.news.ro/politic-extern/aniversarea-a-10-ani-de-cand-romania-a-castigat-la-haga-impotriva-ucrainei-in-dosarul-privind-insula-serpilor-1922403703262019021018837701

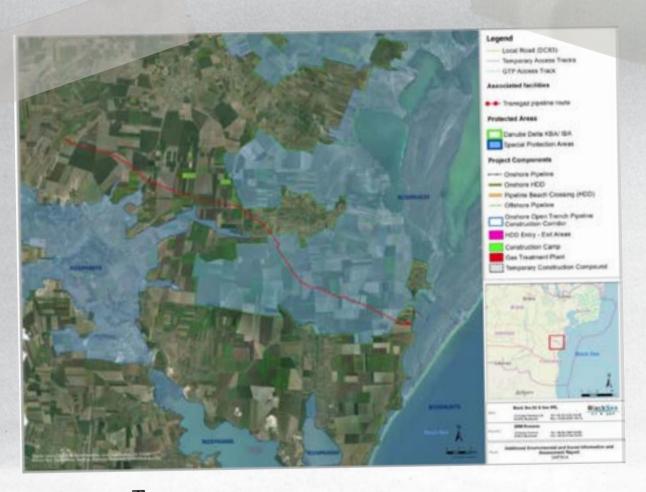
³¹ https://www.hotnews.ro/stiri-esential-5386494-petrolul-din-zona-insulei-serpilor-deja-concesion at-lantului-firme-sterling-canada-melrose-edinburgh-via-midia-resources-romania.htm

32 Appropiate Assessment for the Gas Treatment Station Project, pg.14





The Environmental Impact Assessment report states that the operating life of the Gas Treatment Station will depend on the dynamics of gas production, the lifetime of the gas fields being estimated at 10-15 years³³.



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LOCATION OF VADU - TI PIPELINE, SOURCE ESIA MGD PROJECT

33 EIA Report, pg. 24



TUZLA GAS TERMINAL

This project involves the construction of a Gas Measurement Station and a Control Centre for the natural gas production platform located in the Neptune perimeter of the Black Sea, owned by Exxonmobil Exploration and OMV Petrom.

The construction works will take place on an agricultural land of approximately 24 ha and will be located at 216 meters east from the Tuzla Marine area and the Black Sea protected area and approx. 3 kilometres from the nearest residential areas of Tuzla and Costinești villages.



AMENDMENTS

FOR GAS EXPLOITATION AND GAS TRANSPORT PROJECTS

LAW 185/2016 - BRUA LAW

The development path of Law 185 was not a straightforward one. It began in 2013 when the BRUA project was included in the List of Projects of Common Interest³⁴, ready to receive funding through the Connecting Europe Facility. Prior to the signing of the financing agreement, in February 2016, the Romanian Senate registered a legislative proposal regarding the measures needed to implement on Romania's territory the Natural Gas Transport System connecting Bulgaria-Romania-Hungary-Austria³⁵. The proposal was sent for debate and approval following an emergency procedure.

The urgency may be explained by the fact that the project was initiated in 2013 and that it was necessary to speed up the formalities so that the deadlines are respected and the pipeline can be completed in 2020. Another likely explanation is the investigation initiated by the European Commission in February 2017 to assess whether Transgaz, the operator of the national gas transport system, has restricted the gas export from Romania to other Member States. According to the Commission statement, "the investigation examines whether the lack of or delayed investments in the construction of necessary infrastructure for the gas export to other Member States breached the EU's antitrust rules"36.

The initial content of the legislative proposal was based on many derogations from national and international environmental protection laws, agricultural land and forests, protected natural areas or cultural heritage safeguards, but also on provisions contrary to regulations in the field of property rights protection. In spite of this, the legislative draft was sent for approval to six specialized committees of the Senate, of which only three offered a favourable opinion. The other committees signalled the lack of compliance with the drafting procedure of normative acts, the presence of a large number of rules of reference, many incorrect or partially incorrect, and also legally incorrect or contradictory formulations³⁷.

After months of formalities, the Senate rejected the legislative proposal in June 2016³⁸.

In September, the same legislative proposal was this time registered at the Chamber of Deputies of the Romanian Parliament³⁹, which is also the determining authority for projects with environmental impact. The emergency procedure was not approved at this level either, so the legislative proposal followed its normal course. The procedure in the Chamber of Deputies lasted only one month, and in October the legislative initiative became Law no. 185/2016.

https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32013R1391&from=EN

https://www.senat.ro/legis/lista.aspx?nr_cls=L238&an_cls=2016 ttps://ec.europa.eu/romania/news/20170106_investigatie_concurenta_transgaz_ro

https://www.senat.ro/legis/PDF/2016/16L238LG.pdf

³⁸ https://www.senat.ro/legis/lista.aspx?nr_cls=L238&an_cls=2016 39 http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=15816

If the draft law started with regulations specific to the BRUA pipeline, its promulgated form actually sets the implementation rules for all projects of national importance in the field of natural gas⁴⁰. Therefore, for the natural gas sector, the rules are already established, and most are favourable to the industry, and they put environmental factors under considerable pressure.

One concrete example is the establishment of an easement right on the land needed to build the pipeline. Thus, by establishing a right of easement in favour of the project owner (Transgaz), the company will have the right to pass the property both during the construction works, and in case of maintenance works carried out during the pipeline's operational life. At a first glance, this regulation seems acceptable, but in the BRUA Project's Appropriate Assessment Study⁴¹, it is mentioned that the duration of the exploitation of the objectives is estimated to be unlimited in time, meaning that the right of easement will be exercised for an unlimited period. This serious limitation of the property right resembles an attempt to expropriate, but without going through all the complicated stages of such a procedure.

Other derogations establish the free of charge occupation of the forest lands belonging to the state or to the administrative-territorial units for carrying out the construction works of the pipeline. In more detail, the law provides that temporary occupation of forest land [...] shall be done free of charge for the entire duration of the pipelines related to projects of national importance. In the absence of these changes, according to the Forest Code, temporary occupation is approved for a period of maximum 10 years with the possibility of extending the period for another 10 years, but the initiators of the law considered it is still temporary occupation even if the pipeline exploitation duration is estimated to be unlimited in time.

It is worth mentioning that for the temporary occupation of areas of the national forest fund, certain monetary contributions are instituted: a guarantee that is paid in advance for the approval of the temporary occupation and which is deposited in the fund for the improvement of the land registry; a rent that is partially deposited in the forest conservation and regeneration fund, in the fund destined to the forest registry management, but also in the forest accessibility fund, and other monetary obligations equivalent to the growth loss determined by the exploitation of the wood before the technical exploitation age and expenses for the reinstallation and maintenance of the forest vegetation⁴². Even the Ministry of Economy, in one of the negative opinions granted to the draft law, stated that this derogation could lead to the increase of the state budget expenditures because the forest conservation and regeneration fund is also a source of funding for various national reforestation programs⁴³.

Having reduced the barriers that could stand in the way of the project implementation by seriously amending the property rights rules and the ones regulating the forestry sector, the only area left to undergo changes is the regime of the protected natural areas. On its route, the BRUA pipeline will intersect seven Natura 2000 sites and cross the protected area of national interest "Dinosaur Land" Geopark. In other words, 4.73% of the length of the pipeline will overlap with these perimeters⁴⁴, and other parts of the pipeline will come near five other protected natural areas. The legislation for the protection of natural areas stipulates that in areas of full protection and in the buffer zones related to these special perimeters are prohibited, among other, any form of exploitation or use of natural resources45, but now the BRUA law establishes a general derogation for all projects of national importance in the field of natural gas and allows the location of projects right on the surfaces of these protection areas.

⁴² Forestry Code, Cap. IV, Art. 42, par. (1); (http://legislatie.just.ro/Public/DetaliiDocumentAfis/170527)

Opinion of the Ministry of Economy, Trade and Relations with the business environment from July 2016.
 http://www.anpm.ro/documents/12220/2231306/EA+BRUA.pdf/db57a03e-bb4c-4a28-9c09-7e8b112b9793, pg. 64

⁴⁵ According to art. 22, para. (4) of Government Decision 57/2007 regarding the regime of the protected natural areas, the conservation of natural habitats, of the flora and the wildlife, the full protection area represents that perimeter that includes "the most valuable assets of the natural heritage within the protected natural areas". According to art. 22 paragraph (7) of the same normative act, the buffer zones are those surfaces that make the transition between the areas with full protection and those of sustainable development.

^{*}According to art. 23 of Law 185/2016 on some measures necessary for the implementation of projects of national importance in the field of natural gas (http://legislatie.just.ro/Public/DetalliDocument/182923).

⁴⁰ http://www.cdep.ro/pls/proiecte/docs/2016/pr315_16.pdf

⁴¹ http://www.anpm.ro/documents/12220/2231306/EA+BRUA.pdf/db57a03e-bb4c-4a28-9c09-7e8b112b9793, pg. 65

OFFSHORE GAS LAW AND ROTALTIES

The history of the exploitation of natural gas deposits in Romania starts in 1909 when the first natural gas well in the country and the fourth worldwide was installed in Mureş County 47 . Regarding the offshore gas exploitations, the year 2009 marked the end of a dispute between Romania and Ukraine concerning the definition of the continental shelf and the exclusive economic zone. The conflict was settled before the International Court of Justice where, out of the 12.000 km² disputed, Romania was assigned a portion of 9.700 km² and Ukraine 2,300 km². 48 By this decision, Romania was granted access to an estimated 70 billion cubic meters of gas and 12 million tons of oil 49 .

Currently, according to the data updated by the National Agency for Mineral Resources (NAMR), the continental shelf of Romania is divided into several concessions perimeters for the purpose of carrying out exploration-development-exploitation activities, as follows⁵⁰:

XIX NEPTUN 1

concesionat de OMV Petrom S.A.;

XIX NEPTUN 2

OMV Petrom S.A. (50%) + EXXONMOBIL Exploration & Production Romania Ltd. (50%);

XIII PELICAN

Black Sea Oil & Gas S.R.L. (65%) + Petro Ventures Resources S.R.L. (20%) + Gas Plus International B.V. (15%);

XV MIDIA B

(shallow water surface B)

Black Sea Oil & Gas S.R.L. (65%) + Petro Ventures Resources S.R.L. (20%) + Gas Plus International B.V. (15%);

XVIII ISTRIA

concesionat de OMV Petrom S.A. (100%);

EX-25 LUCEAFĂRUL

Petro Ventures Europe B.V. (50%) + Black Sea Oil & Gas S.R.L. (50%);

EX-27 MURIDAVA

S.C. Petromar Resources B.V. (80%) + S.C. Petromar Resources S.A. (20%);

EX-28 EST COBĂLCESCU

S.C. Petromar Resources B.V. (70%) + S.C. Petromar Resources S.A. (30%);

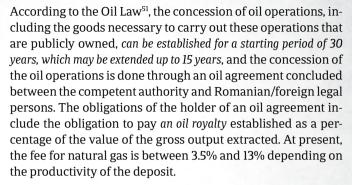
EX-30 TRIDENT

Lukoil Overseas Atash S.R.L. (88%) + SNGN Romgaz S.A. (12%);

⁴⁷ https://adevarul.ro/locale/sibiu/istoria-gazelor-naturale-romania-sarurile-potasiu-incendiul-avut-nevoie-400-vagoane-apa-1_59242cd65ab6550cb85f4ef1/index.html

⁴⁸ https://rowikipedia.org/wiki/Rela%C8%9Biile_dintre_Rom%C3%A2nia_%C8%99j_Ucraina
⁴⁹ https://romanialibera.ro/actualitate/eveniment/romania-castiga-la-haga-disputa-cu-ucraina-145291

50 https://www2.deloitte.com/content/dam/Deloitte/ro/Documents/RaportImpactProiecteOfshore_ROPDF_pg_12



During 2018, it was concluded that this royalty, as well as other rules and obligations regarding the natural gas sector, must be modified and thus the legislative proposal regarding the adoption of measures to implement the oil operations by the owners of oil agreements related to offshore oil fields was adopted⁵².

This last legislative initiative intended to establish a clear and equitable framework for carrying out the exploitation activities, through which both the State and investors could benefit from. What followed was a battle between the interests of the oil agreement holders and those of the political actors, a fight that focused on two components: a financial component and the other regarding sustainability and sustainable development.

On February 12, 2018, the draft law was adopted by the Senate in a form that eliminates the additional tax for investors for offshore exploitation, a tax established previously by the Government Ordinance no. 7/2013. According to this ordinance, the producers were given the possibility to no longer sell at a regulated price the quantity of gas extracted, having to pay instead an additional tax calculated as the difference between the market price and the regulated price in the year 2012⁵³. This additional tax was established as a measure to increase the contributions owed by the producers to the state budget, considering that until the issuance of the ordinance, the State only collected the royalties which at that time were small and calculated at an outdated reference price, established in 2008. February 2018 was also the moment when an NAMR Order was issued, amending the reference price. This situation was criticised by the companies because the reference price established now by the Austrian hub⁵⁴ is higher than the one established on the basis of quotations in the Romanian market, meaning that the value of the royalties would also increase⁵⁵.

52 http://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?idp=16830



 $^{^{\}rm SI}$ http://legislatie.just.ro/Public/Detalii Document/52681 – Oil Law nr. 238/2004, Cap. IV, art. 27, art. 30, art. 49 par. (2)

http://www.dreptonline.ro/legislatie/og_7_2013_impozit_venituri_suplimentare_deregleme_re_preturi_sectorul_gazelor_naturale.php

⁵⁴ Central European Gas Hub is the most important trading point for natural gas in Central Europe. Following an audit of the Court of Accounts that revealed that since 2008 NAMR has no longer updated the reference price for the calculation of royalties, the Authority has concluded a research and consultancy contract with the University of Petroleum and Gas Ploiesti for research and technical expertise regarding the establishment of the reference price. Following this research, it was agreed that for the calculation of the reference price, the "hub price" method will be used - valuation based on retire and volumes traded on an external stock exchange. Thus, the proposed formula takes into account the average price of the transactions carried out in a month at the hub expressed in EUR/MWh, the average annual calorific value of natural gas in Romania and the average exchange rate for RON against EUR.
⁵⁵ https://www.digi24.ro/stiri/economie/energie/petrolistii-cer-redeventele-la-gaze-la-preturi-autohtone-desi-ue-ne-cere-sa-exportam-1042659

In addition to eliminating the additional tax, the legislative proposal provisions included the introduction of a tax credit in favour of the producers, and also many legislative derogations meant to facilitate the start of investments.

What followed after February 2018 was a continuous to-andfro of opinions issued by the various Senate committees and of debates in the committee of industry.

In July 2018, before receiving the opinions of the specialized committees, a new version of the Offshore Gas Law emerged, but in a different form than the known one: the tax credit was eliminated, the additional tax was introduced again, and a derogation from the Law on electricity and gas was introduced by which it is required that producers sell 50% of the quantity of natural gas extracted, on the Romanian market flancing any transparency principles, this version was presented in a television studio, with formulas and calculations presented briefly on a flip chart and obviously, without any prior consultation with the relevant stakeholders.

These changes were made behind closed doors, in the absence of any principles of transparency and without proper negotiation with everyone involved⁵⁷. But these things did not represent an obstacle, so at that time, the draft law was adopted by the Chamber of Deputies, as the determining authority, and sent for promulgation⁵⁸.

Conflicting debates began to arise, even the governing partners, PSD and ALDE being at the centre of disputes⁵⁹. The dissatisfactions of ALDE's elected representatives focused primarily on the lack of studies and calculations that would underpin the new changes, but also on the lack of consultation of all stakeholders. On August 2, 2018, the President sent the law for review back to the Parliament, but it was promulgated without further changes in early November.

Even after its promulgation, the tensions were still ongoing. The Black Sea fields' concessionaires were still dissatisfied with the high value of the taxes, but also with the limited deductibility and avoided deciding on the scheduled investments⁶⁰.

In addition to the tangled legislative path and the numerous changes made along the way, the draft law contains derogatory provisions from the national laws in force, meant to have a favourable impact on investors. Thus, the Ministry of Energy takes over the responsibility of issuing building permits, which belonged, according to the law, to the mayors of the administrative-territorial units on which the works related to the offshore projects would be carried out⁶¹. Moreover, another provision requires the authorities of the local public administration to transpose the protection and safety zones generated by the works⁶² into the local spatial plan, the detailed urban plan or the general urban plan. This way, the only entities that

will have to take into account the urban planning provisions are all other natural or legal persons except the investors into offshore fields, by the mere fact that the restrictions deriving from such works will simply be transposed into the urban plan, without prior public consultations.

The National Committee of the Coastal Zone no longer find its usefulness in the new normative act either, because according to the provisions, by derogation from Government Decision no. 202/2002 on integrated management of the coastal zone, in case the Committee does not issue an advisory opinion on the impact studies for the activities with significant impact related to the works within 60 days from the date of the submission, the advisory opinion is considered to be tacitly endorsed to a provision that is really not in line with the regulatory framework for integrated coastal zone management. Basically, the holders of offshore oil agreements have the green light for the construction of pipelines, installations and other structures related to offshore projects, the administrative act issued by the Committee being left ineffective.

In all the turmoil created by the introduction of the tax on extra revenues, a situation that raised concerns for the investors, the important conditions specified in Article 18 of the law have been overlooked. This article states that the holders of oil agreements regarding offshore oil fields that are being executed at the date of entry into force of the present law are applied, during their entire period of execution, the level of royalty, the percentages of oil royalty, the gross production thresholds related to these quotas and the specific tax regime applicable to the activities of exploration, development, exploitation and abandonment based on the agreements existing at the date of entry into force of this law. In other words, those who already operate in the offshore fields of the Black Sea continue to carry on their activity as before, without being affected by the provisions of the new law.

Other derogations⁶⁴ concern the validity of the right of passage established by law in the case of immovable property on which procedures are carried out under Law 10/2001, in the sense that the subsequent situation of the immovable property will not invalidate the issuance and valid exercise of the right of way. For the exercise of the right of way, compensations are granted and their value is determined by evaluators selected and nominated by the Ministry of Energy. In the case of public or privately state-owned immovable property, the compensations are transferred to the state budget.

Other provisions regarding some measures of protection and authorization of the constructions in the Black Sea coast area have also been modified, in the sense that the works related to offshore investments can be carried out throughout the year, derogating from the prohibition of carrying out works during the summer.

⁵⁶ http://www.cdep.ro/pls/proiecte/docs/2018/pr033_18__1_.pdf

⁵⁷ https://www.hotnews.ro/stiri-esential-22557798-timp-comisii-erau-dezbateri-liviu-dragnea

prezentat-modific-rile-legea-offshore-anun-votat-azi.htm

⁵⁸ http://www.cdep.ro/pls/proiecte/votf_adoptate2015?dat=20180709 , no.1.

 $^{^{59}}$ https://www.cotidianul.ro/legea-offshore-varujan-vosganian-s-a-suparat-pe-guvern-si-psd/ 60 https://www.cotidianul.ro/petrolistii-din-marea-neagra-ameninta-voalat-ca-pleaca/

http://legislatie.just.ro/Public/DetaliiDocumentAfis/206913, art. 4, par. (1)

⁶² http://legislatie.just.ro/Public/DetaliiDocumentAfis/206913, art. 7, par. (3)

⁶³ http://legislatie.just.ro/Public/DetaliiDocumentAfis/206913 art. 15, art. 16, par. (2).

⁶⁴ http://legislatie.just.ro/Public/DetaliiDocumentAfis/206913, art. 11;

PRACTICES IN APPLYING THE LEGAL PRINCIPLES AND PROVISIONS REGARDING PUBLIC CONSULTATION AND PARTICIPATION IN DECISION MAKING



The public consultations for the BRUA Phase I project and BRUA Phase II took place between October 28 - November 8, 2016, and September 18-22, 2017 respectively.

Regarding the Phase I, public consultations were organized in Giurgiu, Teleorman, Argeş, Gorj, Hunedoara, Caraş-Severin and Timiş counties in communities close to the gas pipeline route. According to the Final Report on the results of the public consultations ⁶⁵ prepared by the project owner, representatives of local public authorities, associations of owners and / or producers, owners of land and / or forests, tenants, as well as representatives of civil society were invited to attend. For Phase II, public debates took place in Giurgiu, Gorj, Caraş-Severin, Timiş and Arad counties having the same target audience.

Bankwatch Romania participated in the public consultations in Turcineşti, Gorj County for Phase I and in Bucşani, Giurgiu County for Phase II of the pipeline project. In both cases, the debates started with presenting the project, the relevant technical data and the advantages at local and national level, continuing with discussions regarding the environmental impact, the compensation procedures and ending with a session of questions and answers. In Turcineşti, one of the landowners affected by the construction of the pipeline was concerned about the amount of compensation they would receive, but the project owner ensured a fair compensation for those affected would be provided. In Bucşani, the consultations were conducted in the same manner, and there were also some landowners who asked for additional explanations regarding the compensation procedure. Although there were several owners who asked for clarification regarding the compensations, in general, this subject had been dealt with prior to the organization of public consultations, between representatives of the local public authorities, the project holder and landowners. In these circumstances, these public consultation meetings serve only a formal purpose, the real exchanges of information taking place separately, in bilateral meetings.





VADU - TI PIPELINE

The project owner organized in September 2018 two meetings in which representatives of local and county public authorities, representatives of NGOs, and landowners affected by the pipeline's construction were invited to attend. The public consultations took place in Săcele and Grădina villages.

Transgaz's representatives responsible for the land situation and those from the environmental and technical department also participated. Of the local authorities, only the Local Council of Săcele village had representatives, while those from the County Council of Constanța were completely missing. Of the non-governmental organizations, the only one present was Bankwatch Romania. As for the other stakeholders, in this case the land owners, they could not be identified, although the hall was almost full.

According to the Public Participation Concept⁶⁶, published on the website of the project holder, the meeting should also include a brief presentation of the challenges, risks and potential impacts, aspects related to the health and safety of the community, development benefits and local opportunities. However, after the moderator finished reading the presentation of the project, he skipped everything else and went directly to questions expressed by the participants. Only one question was asked and the public consultation lasted only 40 minutes, including the presentation of the project and the questions stage.

A similar situation was also encountered at the Grădina, with the same team and the same participants. The presentation of the project was carried out under the same conditions, but to the end, two men raised some questions regarding certain technical aspects of the project and the compensation procedure. These two men seemed to be of the company's technical staff, also participating in the meeting in Săcele. Just like the first consultation meeting, this one took about 45 minutes.

Transgaz representatives present at the public consultation mentioned that the details regarding the compensation granted to the landowners were given previously when the owners were identified, that is, before the organization of these public debates.

Following these consultations, we asked ourselves what was the purpose of their organization, given that the entire procedure was characterized by superficiality, and the landowners were not present for a better understanding of the situation and to hear, in turn, the possible concerns expressed by other categories of interested public, such as NGOs.

 $^{^{66}} https://www.transgaz.ro/sites/default/files/uploads/users/admin/Concept\%20 participare\%20 public\%20\%20-\%20T1\%20 final.pdf for the first of t$

VADU GAS TREATMENT PLANT

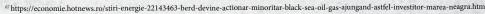
The situation of the Vadu gas terminal, with the related natural gas exploitation and transport facilities, is a special one. In November 2017⁶⁷, the European Bank for Reconstruction and Development (EBRD) became one of the shareholders of Black Sea Oil & Gas (BSOG) company. The transaction is motivated by EBRD as an additional support in the natural gas production process and also in providing assistance to the Government of Romania for improving the legal and regulatory framework for offshore oil and gas operations.

The cooperation between BSOG and the EBRD, however, comes with a series of requirements that the Project owner should respect in the elaboration of all the documents prior to its implementation. But what is there to be done when the EBRD itself grants a derogation from its own Social and Environmental Policy and approves the first phase of the project in the absence of any reports of social and environmental impact assessment? The Bank's policy in this regard comprises ten Performance Requirements that all financed projects must meet. Each project is assigned a certain category (A, B or C) which determines how the environmental and social assessment will take place, the level of stakeholder involvement and the degree of transparency regarding the project information.

Regarding the Vadu Project, the implementation of the procedures imposed by the EBRD presents a series of inconsistencies for which we addressed the Bank in the hope of receiving some clarification. On the EBRD's website, the project is presented with two Project Summary Documents^{68 69} (PSD) in which one can find information about the category of the project, the environmental and social documents available to the public, the value of the financing and details about the loan beneficiary. The two PSDs, however, contain different environmental impact categories, the loan values are not mentioned, and the environmental and social documents are the same for both, although they were prepared in 2019, and one of the PSDs is dated in 2017 - the moment of EBRD's equity investment in BSOG.

Given the magnitude of this project, but also the contradictions encountered in studying the documents, in June 2019 representatives of Bankwatch Romania went to Vadu to find out more details from the local community, but also to see what steps have been taken in starting the project. Arriving in the village, we were struck by both the absence of the inhabitants and the lack of available information. The seller from the village store did not know much about the project, except that the road connecting Vadu with Corbu commune would be paved by BSOG, but there was no sign of any work in progress.

Wanting to get more details about the project, we stopped at Corbu Town Hall. We were surprised to find at the mayor's office a notice of the Black Sea Oil and Gas organizing an information session on the gas treatment station project in Vadu. This session was scheduled for the next day, in a restaurant on the beach in Vadu and the discussion topics mentioned on the notice were: land infrastructure and the gas treatment station, the schedule of works, the impact at the community level and the company's "social responsibility plans". The meeting would end with a questions and answers session. From the information obtained from the CSR manager, only those affected directly by the project implementation were invited to attend at this meeting, the invitations being physically transmitted a few days before. At first glance, the organization of this meeting seems to have taken place in complete confidentiality: the locals did not seem to know about this consultation, and the restaurant chosen for organizing the information session is located on the beach in Vadu at approximately three kilometres from the village itself, which locals cannot reach easily.



68 https://www.ebrd.com/work-with-us/projects/psd/black-sea-oil-gas.html

⁶⁹ https://www.ebrd.com/work-with-us/projects/psd/black-sea-midia-gas-development-project.html



According to the information made available after we registered as an interested party in this project, the implementation of the onshore component was sequenced, and the works have the following timeline:

LAND PIPELINE INSTALLATION:

July - September 2020

GAS TREATMENT STATION:

- Site preparation: September December 2019
- Civil constructions: June 2019 April 2020
- Manufacture of parts: November 2019 April 2020
- Mechanical works: January December 2020
- Equipment assembly: July 2020 February 2021
- Restoration of the site perimeter: January February 2021

Despite the fact that BSOG obtained the Environmental Permit for the implementation of the MGD Project only at the beginning of 2019, this did not represent a barrier in signing two gas supply agreements for 10 years with Transgaz and Engie, in the autumn of 2018.

The agreement with Transgaz⁷⁰ aims to transport natural gas from the resulting production from the Midia Project in the National Transport System, and the agreement signed with Engie 71 aims to purchase natural gas extracted from the Ana and Doina fields for a minimum period of 10 years. In this case, the agreement involves the acquisition of half of the gas production resulting from the Black Sea fields, according to the new regulations of the Offshore Gas Law⁷².

At the time of their signature, the agreements had no effect, and will enter into force only after a decision has been made regarding the start of the investment. Also at the time of their signature, the environmental authorizations and permits for the Project's components had not not obtained, except for the Natural Gas Treatment Station to which the environmental permit had been granted in March 2018.

The questions that arise are the following: if the environmental agreements will not be granted to the other components of the Project, will this have an effect on the implementation process? Or, on the contrary, will the Project's inconsistency with the environmental legislation and limits mean much less compared to the financial benefits that the holder will obtain, and that the Project will continue to receive formal authorizations, without real evaluations?

If no major obstacles were encountered in approving the construction of the treatment plant in Vadu, it wasn't at all the same for gas terminal project from Tuzla.

http://www.energynomics.ro/ro/black-sea-oil-gas-si-transgaz-au-contract-pe-15-ani-pentru-preluarea-productiei-de-la-marea-neagra-in-snt/

http://www.energynomics.ro/ro/black-sea-oil-gas-semneaza-cu-engie-un-acord-de-vanzare-a-gazelor-de-la-midia/
The provisions of the Offshore Gas Law impose the obligation for the natural gas producers from offshore perimeters to sell on the centralized markets of Romania a minimum of 50% of the annual gas quantity contracted for delivery in the respective year.

TUZLA GAS TERMINAL

The public debates organized in Tuzla at the end of 2017 referred both to the pipeline project that would connect the Black Sea shore to the Podișor TH, as well as to the approval of the Spatial Plan and the Opportunity Notice for the elaboration of the Zoning Urban Plan for the construction of the objective. During these consultations, the residents of Tuzla protested against the decision to build the station at such a short distance from the residential area, arguing that the presence of this objective so close to people's homes and tourist areas is a danger due to the existing technological risks.

Moreover, they explicitly requested to move the project site at a much greater distance, on the grounds that the safety zones set up around the pipes and the gas measurement station involve urban restrictions, and the construction limits imposed by the project developer affects the property rights of the other owners and are likely to impede the touristic development of the area. As the complaints of the Tuzla residents were ignored by both the authorities and the project owners, several locals decided to sue the Tuzla municipality, the County Council of Constanța, the operators of the offshore exploitation perimeter - Exxonmobil and OMV Petrom - requesting the annulment of the urbanistic documentation for the construction of the natural gas measurement station. Additionally, another lawsuit was opened in court, where the Ministry of Energy is requested to cancel the construction authorization for the pipeline project that would transport the gas extracted from the Black Sea to the Podișor TH in Giurgiu county.

The future of the Tuzla gas measurement station is uncertain, due both to the ongoing court cases, as well as to the legislation instability that the project holders invoke. According to a statement by the operators, they decided to reorganize the exploration and exploitation teams⁷³ from the Black Sea project and move them to other exploitation projects. OMV Petrom recently announced the launch of a new offshore drilling campaign in the shallow waters of the Black Sea's Istria perimeter, for which investment costs amount to EUR 30 million⁷⁴.

 $^{^{73}} https://stirileprotv.ro/stiri/financiar/echipele-omv-si-exonmobil-din-proiectul-de-exploatare-a-gazelor-din-marea-neagra-desfiintate.html$

⁷⁴https://cursdeguvernare.ro/omv-petrom-reia-forajele-in-marea-neagra-cauta-gaze-in-vechiul-perimetru-istria-dupa-ce-a-amanat-investitia-in-neptun-deep.html

CONCLUSIONS

The projects analysed in this report together with the situation prior to their implementation characterize the energy sector in Romania: non-transparent procedures, frequent and flagrant violations of the legislation regarding public consultation and its participation in decision-making, clientelism, autocratic slippages and derogations from legislation and institutional policies for facilitating private interests.

This characterization can easily be overlapped with the other sectors of interest of Romania as well as with the governance act, which has frequently changed misapplied procedural norms established precisely to protect the national interest.

The fact that public financial institutions occasionally turn a blind eye on abuses of power and acts of legalization of corruption, as exemplified in this report, denotes a lack of accountability and a questionable integrity of these institutions which should be an example regarding the compliance with environmental and anti-corruption policies and principles of transparency and public consultation in decision-making.

RECOMMENDATIONS

INTERNATIONAL FINANCIAL INSTITUTIONS:

- Climate and environmental policies should be a central and important element in the work of the Financial Institutions. European funding must be fully aligned with the Paris Agreement objectives, and in this context, the support for fossil fuels is not justified.
- Regarding the loans granted, the banks must apply all safeguards to ensure that financial support goes to projects that fully comply with environmental law, are sustainable and have a positive effect on local communities, while respecting their right to a healthy environment.
- Transparency must be intensified both at management and project level, and the local communities must be provided with an efficient consultative process for each stage of the project.
- Anti-corruption measures should not be limited to a restrictive definition of the term, which only considers explicit cases of bribery, money laundering or fraud. Preventive, proactive measures are also needed so that the most powerful private actors cannot ignore the democratic procedures needed to ensure a real public participation in the decision making, especially in cases where the decision influences national or European environmental policies.

NATIONAL AUTHORITIES:

- Before committing to the implementation of energy infrastructure mega-projects, national authorities must ensure a democratic governance, devoid of top-down forms of planning, in which legislative regimes are not modified in favor of private interests.
- High standards of transparency must be established both in the legislative procedures and at all stages of preparation and implementation of projects of national importance in the field of natural gas.
- The local authorities should intensify the facilitation process between the project owners and the local communities, in order to better inform the latter about a possible environmental and social impact, but also of other elements related to the implementation of the projects.
- In the case of the authorities responsible for the protection of the environment and the authorization of projects with potential environmental impact, it would be useful to extend and improve the expertise in evaluating the documents prior to the issuance of environmental permits, as well as ensuring the necessary transparency in all the procedural stages of authorization. Often, the websites of these institutions do not work, and in the other cases, the relevant documents cannot be easily found.



NAMR National Agency for Mineral Resources

EIB European Investment Bank

EBRD European Bank for Reconstruction and Development

BRUA Gas pipeline connecting Bulgaria-Romania-Hungary-Austria

BSOG Black Sea Oil & Gas

IFI International financing institutions

TH Technological hub

NTS Nod tehnologic

GMS Gas Measurement Station

GTS Gas Treatment Station

