

# THE CROATIAN PARLIAMENT

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the

## DECISION

### PROMULGATING THE ACT ON THE EXPLORATION AND EXPLOITATION OF HYDROCARBONS

I hereby promulgate the Act on the Exploration and Exploitation of Hydrocarbons passed by the Croatian Parliament at its session on 15 July 2013.

Class: 011-01/13-01/193

Reg.No: 71-05-03/1-13-2

Zagreb, 18 July 2013

The President of the Republic of Croatia

**Ivo Josipović** m. p.

## THE ACT

### ON THE EXPLORATION AND EXPLOITATION OF HYDROCARBONS

#### I. GENERAL PROVISIONS

##### *Scope of the Act*

##### Article 1

(1) The provisions of this Act refer to exploration and exploitation of the hydrocarbons located in the ground or under the bed of internal waters or the territorial sea of the Republic of Croatia or under the ground of the continental shelf of the Adriatic Sea coast all the way to the demarcation line with neighbouring countries, to which, pursuant to international law, the Republic of Croatia exercises jurisdiction and sovereign rights.

(2) This Act shall govern the management, exploration and exploitation of hydrocarbons, issue of a licence for the exploration and conclusion of an agreement on the exploitation, the fee, inspection, misdemeanour provisions and other issues.

## *Application of Regulations*

### Article 2

- (1) On occasions of issue of a licence for the exploration and conclusion of a relating agreement, the provisions of this Act shall be applied.
- (2) Issues pertaining to specification of hydrocarbon reserves, specification of exploitation fields, the registry of exploration areas and/or exploitation fields, preparation and verification of mining projects, construction and utilization of mining facilities and plants, preparation of mining plans and performance of mining surveys, site rehabilitation, damage compensation, safety and protection measures, qualifications and skills needed for conducting particular mining works and other issues which have not been regulated by this Act and regulations to be adopted based on this Act, shall be appropriately subject to the provisions of the Mining Act and regulations that have been adopted based on the Mining Act.
- (3) In case other regulations of the Republic of Croatia referring to the scope of this Act are contrary to its provisions, this Act shall prevail.
- (4) Issues which have not been regulated by this Act but pertaining to the scope of this Act and/or are related therewith shall be subject to the provisions of a regulation that governs such issues.

### Article 3

This Act contains provisions which have been harmonized with the following documents of the European Union:

- Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons, (OJ L 164, 30.6.1994),
- Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and of the Council Directives 2006/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009).

## *Definition of Terms*

### Article 4

For the purposes of this Act the following definitions shall apply:

- 1) *Agency for Hydrocarbons* means a legal entity acting as a public authority that autonomously and independently performs affairs within the scope and competences stipulated by this Act and other regulations related to the application of this Act (hereinafter: Agency);
- 2) *Effective date* means the day when an agreement is signed by the last party thereto in compliance with this Act;

3) *Licence* means an approval for the exploration given for the purpose of agreement conclusion, which has been, following a public tendering procedure, awarded to one or more investors who previously fulfilled the conditions for licence award and pursuant to which, they have the right to direct conclusion of an agreement under the conditions explicitly prescribed by this Act (hereinafter: licence);

4) *Exploitation of hydrocarbons* means recovery of hydrocarbons from the reservoir and their processing, hydrocarbon pipeline transport if it is technologically connected with the approved exploitation field, storage of hydrocarbons and permanent gas storage into geological structures. Exploitation of hydrocarbons is permitted only within approved exploitation fields and within the borders of a verified mining project;

5) *Hydrocarbon exploitation field* means an area confined by the geographic coordinates of its peak points on land and/or at sea and by the ground depth threshold corresponding to the specified boundaries of hydrocarbon reservoirs and location conditions stated in the operational location permit issued by the body in charge of physical planning (hereinafter: exploitation field);

6) *Geological structure* means a lithostratigraphic unit within which various layers of rocks can be detected and mapped;

7) *Hydraulic unit* means a hydraulically connected pore space where pressure communication can be measured by technical means and which is bordered by flow barriers such as faults, salt domes, lithological boundaries, or by the wedging-out or outcropping of the formation;

8) *Investor* means one or more legal entities that have been issued a licence pursuant to this Act and that have concluded an agreement in compliance with this Act, under the conditions explicitly prescribed by this Act. In terms of permanent gas storage, this expression means a legal, private or public person who is exploiting an underground storage or is controlling it or who has been entrusted the power of making economic decisions on the technical operations of that underground storage;

9) *Leakage* means any release of CO<sub>2</sub> from an underground storage complex;

10) *Exploration of hydrocarbons* means all the exploration and assessment work and activities which have been defined as such in the approved operational programme and which are aimed at determination of the existence, position and shape of hydrocarbon reservoirs, their quantity and quality including the exploitation conditions, works and testing, the purpose of which includes determination of the possibility of hydrocarbon storage and permanent gas storage into geological structures as well as of exploitation conditions, including but not limited to:

- geophysical and geological scanning, interpretation of data collected in such a way and their elaboration in a study,

- drilling, deepening, swerving, fitting out, testing, temporary abandonment or termination of exploration wells,

- purchase or procurement of goods, services, materials and equipment which are necessary for performance of the abovementioned works,

Exploration of hydrocarbons is permitted only within approved exploration areas,

- 11) *Hydrocarbon exploration area* means an area confined by the geographic coordinates of its peak points on land and/or at sea, which has been, after an implemented public tendering procedure, designated for hydrocarbon exploration based on a licence (hereinafter: exploration area);
- 12) *Exploration costs* means all the confirmed costs which shall be borne by the investor within the framework of the performance of the exploration works stated in the licence;
- 13) *Commercial discovery* means every discovery or a number of discoveries of recoverable hydrocarbons laid down in the survey on the reserves, that, pursuant to this Act, justify exploitation of discovered hydrocarbon reserves;
- 14) *Concession* means the right to development and exploitation which is, after all the agreement-based requirements for deeming the discovery as commercial have been met, awarded, pursuant to this Act, to one or more investors who have previously been issued a licence for conducting exploration works;
- 15) *Corrective measures* means any measure taken to correct significant irregularities or to close leakages in order to prevent or stop the release of CO<sub>2</sub> from the underground storage complex;
- 16) *Reservoir* means any sedimentary, magmatic or metamorphous porous rock containing natural accumulation of hydrocarbons, which is confined by cap rocks and the surrounding aquifer and represents a unique hydrodynamic system;
- 17) *Local pipeline* means the pipeline that (oil or gas pipeline) connects the measuring point and the hydrocarbon delivery point of the main pipeline;
- 18) *Main pipeline* means the main state pipeline that will be made available to the investor pursuant to this Act and the agreement;
- 19) *Ministry* means the ministry responsible for mining;
- 20) *National company* means a company founded by the Government of the Republic of Croatia for the purpose of exploration and exploitation of energetically utilized mineral raw materials, which is in 100% ownership of the Republic of Croatia (hereinafter: national company);
- 21) *Competent state bodies* means the Government of the Republic of Croatia, Ministries, Agency, State Inspector's Office or any other body and/or institution of the Republic of Croatia in charge of the exploration and exploitation of hydrocarbons and relating action;
- 22) *Fee* means the amount of money that shall be, in compliance with this Act and details laid down in the agreement, paid for utilization of recovered hydrocarbons, and the amount shall be specified by a regulation of the Government of the Republic of Croatia passed following a proposal of the Ministry;
- 23) *CO<sub>2</sub> plume* means the dispersing volume of CO<sub>2</sub> in the geological formation;
- 24) *Associated company* means a legal entity that directly or indirectly controls (or is under control of) one of the parties to the agreement, or some other legal entity that directly or

indirectly controls another legal entity that directly or indirectly controls (or is under control of) one of the parties to the agreement, and it is assumed that the control implies that one legal person possesses more than fifty percent (50%) a) of voting shares in case another legal person issues the shares or b) of the rights of control or participation if the other legal person does not possess more than 20% of votes;

25) *Underground storage* means an area with a certain volume within a geological structure which is used for storage of hydrocarbons and permanent gas storage, and accompanying facilities on the surface as well as injection facilities;

26) *Post-closing period* means the period after the completion of permanent gas storage and closing of the underground storage, including the period after the transfer of responsibility to the competent body;

27) *Mining company* means one or more legal entities with its seat or subsidiary in the Republic of Croatia, registered with the competent body to conduct hydrocarbon exploration and exploitation, and a legal entity with its seat in EU Member States, registered with the competent body of the an EU Member State to conduct the exploration and exploitation of hydrocarbons. In terms of permanent gas storage, this expression entails a legal, private or public person who is exploiting an underground storage or is controlling it or who has been entrusted the power of making economic decisions on the technical operations of that underground storage pursuant to the national legislation;

28) *Mining facilities and plants* means all the facilities, plants, equipment, tools, devices and installations that are used for performance of the exploration and exploitation of hydrocarbons;

29) *Mining works* means all the mining works conducted for the purpose of the exploration and exploitation of hydrocarbons according to the licence and the agreement;

30) *Storage complex* means an underground storage site and surrounding geological domain which may have effect on overall storage integrity and security of permanent gas storage, i.e. secondary containment formations;

31) *Water column* means the vertically continuous mass of water from the surface to the bottom sediments of a water body;

32) *Hydrocarbons* means oil, natural gas and gas condensate recovered in the exploration area and/or exploitation field in compliance with the licence and the agreement;

33) *Agreement* means an agreement which is concluded between the Government of the Republic of Croatia and the investor after the licence issue pursuant to the provisions of this Act (hereinafter: agreement);

34) *Contracting parties* means the Government of the Republic of Croatia on one side and the investor on the other side according to their share in the agreement;

35) *CO<sub>2</sub> stream* means a flow of substances that results from CO<sub>2</sub> capture process;

36) *Permanent gas storage* means injection followed by permanent storage of CO<sub>2</sub> flows into underground geological structures;

37) *Costs of mining works* means all the confirmed costs and expenses of the investor pursuant to the agreement;

38) *Significant irregularity* means any irregularity in the injection or permanent storage operations or in the conditions of the underground storage complex itself, which implies the risk of a leakage or risk to environment or human health;

39) *Closing of the underground storage* means the definitive cassation of CO<sub>2</sub> injection into that underground storage;

40) *Significant risk* means a combination of a probability of occurrence of damage and a magnitude of damage that cannot be disregarded without calling into question the purpose of this Act for the underground storage concerned.

### *Ownership over the Hydrocarbon Reserves*

#### Article 5

(1) The hydrocarbon reserves in the reservoirs located on land, at sea and/or in the ground over which the Republic of Croatia exercises sovereignty, jurisdiction and/or sovereign right, are in exclusive possession of the Republic of Croatia.

(2) The right to ownership and other proprietary rights of third natural and/or legal persons over land do not encompass the right to ownership over the hydrocarbons and the right to performance of mining works.

(3) The Republic of Croatia has the exclusive right to explore and exploit hydrocarbons and this right can be transferred to a third legal entity under the conditions prescribed by this Act.

(4) The ownership over recovered hydrocarbons or distribution of their quantities shall be established in an agreement in compliance with the provisions of this Act.

(5) The Ministry will monitor the status of the hydrocarbon reserves and make deals with them within its competences.

(6) The hydrocarbons stored in underground storages shall be regarded as recovered and servient holders of the right to disposal of these hydrocarbons are entitled to make deals with them.

(7) The hydrocarbons to be returned to underground storages for industrial purposes such as for testing, underground maintenance and similar shall not be deemed as recovered.

### *Competences of the Ministry and the Agency*

#### Article 6

(1) The competences of the Ministry shall be the following:

a) preparation and organization of presentations aimed at introduction of potential investors with the hydrocarbon potentials of certain regions of the Republic of Croatia

- b) implementation of the unique procedure for licence issue and agreement conclusion,
- c) preparation of regulations with respect to the exploration and exploitation of hydrocarbons,
- d) affairs and liabilities referred to in Article 2 paragraph 2 of this Act.

(2) The competences of the Agency shall be the following:

a) participation in the preparation and organization of presentations aimed at introduction of potential investors with the hydrocarbon potentials of certain regions of the Republic of Croatia,

b) making proposals to the Ministry for rendering a decision on implementation of a public tendering procedure for licence issue and agreement conclusion,

c) participation in the implementation of the unique procedure for licence issue and agreement conclusion,

d) specification of the costs of the hydrocarbon exploration and obtaining technical documentation for the exploitation field,

e) providing conditions for efficient exercise of the rights and liabilities of the investor pursuant to issued licences and concluded agreements,

f) keeping track with exploration and exploitation tendencies and international standards thereto and ensuring their application,

g) participation in the preparation of reports on the fulfilment of the investor's commitments pursuant to issued licences and concluded agreements,

h) participation in the agreement-based cost control for the purpose of reimbursement of costs,

i) cooperation and providing assistance to the investor and coordination between the investor and competent state bodies on issuing other permits needed for completion of commitments under the issued licenses and concluded agreements,

j) cooperation and providing assistance to the investor for the purpose of regulation of relations from the field of property law with respect to land plots within the exploitation area and/or exploitation field,

k) submission of reports to the European Commission on all general difficulties which are indicated with due business confidentiality and faced by the investors when initiating or carrying out activities of application for implementation of hydrocarbon exploration and/or exploitation activities in third countries,

(3) Agency shall cooperate with competent state bodies within the framework of their competences in the implementation of the supervision over the performance of mining works in compliance with the issued licence, concluded agreement, provisions of this Act and provisions of other special regulations.

(4) Agency shall be entitled to, at any time as long the licence and agreement are effective and valid, request any data and/or information from the investor with respect to the fulfilment of their commitments in accordance with the conditions stated in the issued licence and provisions of the concluded agreement, provisions of this Act and other special regulations, and the investor shall submit these data to the Ministry.

### *Legal Protection*

#### Article 7

(1) Decisions made by the Government of the Republic of Croatia and the Ministry in compliance with this Act shall be effective. There shall be no right of appeal against decisions made by the Government of the Republic of Croatia and the Ministry pursuant to this Act, but the disaffected party may apply for an administrative dispute at a competent court.

(2) In case of breach of the provisions of this Act and/or any other regulation of the Republic of Croatia and in case of a failure to act in line with decisions of the Government of the Republic of Croatia and the Ministry or non-adherence to the conditions stated in the issued licence and provisions of the concluded agreement, the Ministry shall provide the investor with a written notice.

(3) Breaches committed by the investor and the deadline for their remedy shall be stated in the notice laid down in paragraph 2 of this Article.

(4) In the event the investor does not remedy the breach previously warned of within the period stated in paragraph 3 of this Article, the Government of the Republic of Croatia at the proposal of the Ministry shall have the right to cancel the licence and terminate the agreement.

### *Obstacles to Exercise of Rights*

#### Article 8

(1) The rights to participate in a public tendering procedure shall be granted to mining companies regulated by this Act.

(2) The right stated in paragraph 1 of this Article cannot be exercised by the following mining companies:

1. those which have unsettled debts relating to public levies, unpaid fees for exploitation of mineral raw materials, unpaid fees for exploitation of forests and/or forest land or agricultural land for the purpose of exploitation of mineral raw materials or relating to illegal exploration and exploitation of mineral raw materials, and which have unmet liabilities in rehabilitation and protection of the nature and environment.

2. those which have been founded or co-founded by a natural person or legal entity that has unsettled debts defined in point 1 of this paragraph.

(3) The rights referred to in paragraph 1 of this Article can be exercised by mining companies that are not affected by the obstacles stated in paragraph 2 of this Article. This shall be demonstrated by the following:



1. certificate of the Tax Administration on non-existence of debts demonstrating that a mining company has no unsettled debts relating to public levies in the Republic of Croatia;

2. certificate of the State Inspector's Office proving that a natural person or legal entity has not been caught in illegal exploration and/or exploitation of mineral raw materials. If a natural person or legal entity has explored and/or exploited mineral raw materials on an illegal basis, they shall submit a valid evidence that the Republic of Croatia has been compensated for the damage. Valid evidence shall also include a concluded settlement under the condition that the party has met its commitments laid down in the settlement;

3. certificate of the ministry competent for mining and the ministry competent for financial affairs which proves that a mining company has no unsettled debts relating to the fee for exploitation of mineral raw materials in the Republic of Croatia;

4. certificate of the body competent for the state property management as a legal person with public authorities demonstrating that a mining company has no unsettled debts relating to exploitation of forests and/or forest land or agricultural land for the purpose of exploitation of mineral raw materials in the Republic of Croatia;

5. certificate of the ministry competent for nature and environmental protection proving that a mining company has no unsettled debts referring to unmet commitments with regard to rehabilitation and protection of the nature and environment.

(4) The rights stated in paragraph 1 of this Article may also be exercised by a mining company established in an EU Member State and registered with the competent body of an EU Member State to conduct the exploration and exploitation of mineral raw materials, and which meets the requirements stated in paragraph 1 of this Article, i.e. that there are no obstacles to exercise of these rights, which is demonstrated by respective certificates stated in paragraph 2 of this Article and issued by the competent bodies in the EU Member State in which the mining company is established.

*Transfer and the Effects of the Transfer of the Rights and Liabilities referred to in the Licence and the Agreement*

Article 9

(1) The investor may completely or partially transfer the rights and liabilities referred to in the licence and the agreement only under the condition that the Government of the Republic of Croatia at the proposal of the Ministry has given explicit prior written consent thereto.

(2) The investor shall not be bound to apply for a prior written approval of the Government of the Republic of Croatia referred to in paragraph 1 of this Article if the transfer of the rights and liabilities regulated in the licence and the agreement is made to an associated company.

(3) In case of the transfer referred to in paragraph 2 of this Article, the investor shall remain jointly and severally liable for all the rights and liabilities referred to in the licence and the agreement together with the associated company.

(4) The investor may apply for the consent referred to in paragraph 1 of this Article only with respect to the company that meets all the requirements for the licence issuing and agreement award pursuant to this Act.

(5) The Government of the Republic of Croatia shall provide the investor with the prior approval stated in paragraph 1 of this Article, except in the event there are justified reasons for rejection of the application for obtaining the prior approval.

(6) The Ministry shall decide on the investor's application for obtaining the prior approval referred to in paragraph 1 of this Article within 30 days after reception of such an application.

(7) The costs incurred in relation with the transfer of the rights and liabilities defined in the licence and the agreement shall be borne by the investor in their entirety.

(8) The investor shall, without delay, inform the Ministry about the intention to transfer the rights and liabilities referred to in the licence and the agreement, and the Government of the Republic of Croatia, via national company, shall have the pre-emptive right to acquire shares in the rights and liabilities referred to in the licence and the agreement.

(9) Apart from the Government of the Republic of Croatia, a company proposed by the Government of the Republic of Croatia shall also have the right referred to in paragraph 8 of this Article if that company meets all the requirements for the licence and agreement award pursuant to this Act.

(10) In case the Government of the Republic of Croatia or the company referred to in paragraph 9 of this Article decides to acquire a share in the rights and liabilities specified in the licence and the agreement based on the transfer of the rights and liabilities under that agreement, the value of that share shall not be smaller than 10%.

(11) If the investor does not act in accordance with paragraph 8 of this Article, it shall be assumed that there is a justified reason for rejection of the application for obtaining a prior approval for the transfer of the rights and liabilities referred to in the licence and the agreement by the Government of the Republic of Croatia.

(12) The transfer of the rights and liabilities referred to in the licence and the agreement which has been made contrary to the provisions of this Act shall be considered null and void.

## II LICENCE AND CONCESSION FOR THE EXPLORATION AND EXPLOITATION OF HYDROCARBONS

### *Unique Procedure for a Licence Issuing and Conclusion of an Agreement*

#### Article 10

(1) For the purpose of exploration and exploitation of hydrocarbons, it shall be necessary to obtain a licence and an agreement, according to which common and other goods can be used for economic purposes in line with this Act.

(2) Licence issuing and conclusion of an agreement shall be carried out pursuant to a single public tendering procedure.

(3) Mining works may be conducted exclusively pursuant to an issued licence and a concession which shall constitute an integral part of the licence if the requirements for its

issuing, foreseen by this Act, have been met, all in accordance with the conditions defined in the agreement.

(4) Performance of mining works shall be permitted exclusively within the exploration and/or exploitation area.

(5) The procedure for implementation of a public tendering procedure shall be regulated by a special decision of the Government of the Republic of Croatia in accordance with the implementing regulations adopted by the Ministry.

(6) An investor who has been issued a licence pursuant to the provisions of this Act shall be granted a concession without conducting any other procedure if a commercial discovery has been declared and under the condition that all the contractual liabilities have been properly met, which the Government of the Republic of Croatia will determine by its decision on the fulfilment of conditions.

(7) The concession referred to in paragraph 6 of this Article shall constitute an inseparable integral part of the licence under the condition that after the completion of the exploration works, the hydrocarbon reserves or the structure, shape, size and volume of geological structures appropriate for hydrocarbon and permanent gas storage are confirmed, that the exploitation field is specified in compliance with the location permit, that the mining exploitation project is developed and tested and that the investor fulfils other conditions prescribed by this Act.

### *Procedure for a Licence Issuing*

#### Article 11

(1) The Government of the Republic of Croatia shall invite for tenders with regard to licence issuing in line with the provisions of this Act.

(2) A decision on implementation of a public tendering procedure with regard to licence issuing shall be made by the Government of the Republic of Croatia if it determines that there is a need for specification of individual hydrocarbon reserves in a certain area and for evaluation of their economic efficiency, or following a proposal of the Ministry.

(3) Prior to invitation for tenders, the Ministry may organize presentations in cooperation with the Agency, in order to introduce potential investors with the hydrocarbon potentials of certain regions of the Republic of Croatia.

(4) A notice on a public tendering procedure shall contain information on the licence, geographical area or areas to be covered by the licence and a draft deadline for licence issuing.

(5) A licence issuing shall not encompass:

a) a licence issuing solely based on a change of the name or ownership of the investor that is also the holder of an existing approval, a change of the structure of the investor or transfer of the licence,

b) a licence issuing to the investor that possesses some other type of a licence if possession of that type of a licence involves the right to issue the aforementioned licence,

c) a decision of competent state bodies made within the scope of the licence, which refers to obtaining, interruption, extension or termination of the activities or an extension of the licence itself.

### *Prior Actions*

#### Article 12

(1) The Ministry shall, at least 30 days prior to invitation for tenders, require special conditions, limitations and a consent with regard to borders of a proposed exploration area from competent state bodies, local and regional self-government units which govern the proposed exploration area and from legal entities acting as public authorities.

(2) If the bodies and/or entities stated in paragraph 1 of this Article do not respond within 30 days, it shall be assumed that these bodies and/or entities agree with the borders of the proposed exploration area and that they have no special conditions and restrictions thereto.

(3) In order to conduct a public tendering procedure, the Government of the Republic of Croatia shall establish an Expert Committee for its implementation pursuant to the provisions of this Act.

### *Expert Committee for Conducting a Public Tendering Procedure*

#### Article 13

(1) The minister competent for mining shall appoint two officers of the Ministry as the president and secretary of the Expert Committee, respectively.

(2) In addition to the members referred to in paragraph 1 of this Article, the Expert Committee shall consist of representatives of the following bodies:

- the Agency,
- the Ministry competent for financial affairs,
- the Ministry competent for maritime affairs, transport and infrastructure,
- the Ministry competent for construction and physical planning,
- the Ministry competent for environmental and nature protection,

– the body competent for monitoring business operations of the energy sector and investments.

(3) In addition to the members referred to in paragraph 1 and 2 of this Article, the Expert Committee may include representatives of other competent state bodies, scientific and educational institutions.

## *Preliminary Actions for Invitation for Tenders*

### Article 14

(1) Preliminary actions for invitation for tenders shall be performed by the Expert Committee referred to in Article 13 of this Act in compliance with the provisions of this Act and other regulations.

(2) Preliminary actions shall encompass all the activities that precede the public tendering procedure referred to in paragraph 1 of this Article, particularly the following:

- Content and conditions of the public tendering procedure for the licence issuing,
- Preparation of a feasibility study on the licence issuing,
- Assessment of the licence value,
- Preparation of tendering documentation,
- Determination of the type and amount of guarantee for a reliable bid and execution of the licence and the agreement,
- Amount of the pecuniary fee for the purchase of the tendering documentation,
- Outlining special conditions and limitations of hydrocarbon exploration for granting concession,
- Setting the borders of the exploration area,
- Determination of the type and content of the agreement,
- Defining the criteria for selection of the successful bidder.

(3) The Ministry may prescribe other preliminary actions for the licence issuing by means of its document.

## *Procedure for the Licence Issuing*

### Article 15

(1) The procedure for the licence issuing shall begin with adoption of a decision on the implementation of the procedure with regard to the licence issuing by the Government of the Republic of Croatia in line with the provisions of this Act.

(2) Public tendering procedure for licence granting shall be published at least three months prior to the expiration of the deadline for submission of tenders in mass media and on the official website of the Ministry.

(3) The Ministry shall publish tenders with regard to the licence issuing in the Official Journal of the European Union at least six months prior to the expiration of the deadline for submission of tenders.

(4) The contents and conditions of public tendering procedures with regard to the licence issuing as well as the criteria for selection of the successful bidder shall be designated by the Government of the Republic of Croatia, following a proposal of the Expert Committee, in a separate decision prior to making a decision on the tender announcement.

(5) The criteria for selection of the successful bidder referred to in paragraph 4 of this Article shall be based on the technical, financial and professional eligibility of a bidder as well as on the tender quality.

### *Submission and Deadline Modes and Decision-Making*

#### Article 16

(1) Tenders shall be sent to the address of the Ministry in a sealed envelope in writing and shall be accompanied with a receipt.

(2) Tenders submitted within the deadline foreseen in the tendering documentation shall be binding for bidders until a respective decision is made.

(3) A submitted tender may not be amended.

(4) Deadlines for tender submission shall be six months from the announcement of a tender.

(5) The Government of the Republic of Croatia shall make a respective decision within two months after the expiration of the deadline for tender submission.

### *Licence Content*

#### Article 17

Pursuant to a public tendering procedure conducted in compliance with the provisions of this Act and after the selection of the successful bidder, the Government of the Republic of Croatia shall make a decision on the issue of a licence which shall involve the following:

- Date of decision-making,
- Name of a bidder,
- Scope of the licence accompanied with all the activities which the licensee is authorized to undertake when conducting mining works,
- Designation of the right to direct grant of a concession in case of declaration of a commercial discovery under the condition the investor has properly met the contractual commitments,
- Detailed surveys of the exploration area accompanied with geographical coordinates,
- Validity of the licence with the possibility of its extension,
- Type of agreement and the main terms and conditions of the agreement which shall be concluded pursuant to the issued licence,

– Liability of the licensee to harmonize with the conditions relating to nature and environmental protection, and with other special conditions which shall be fulfilled during the validity of the licence,

– Signature of authorized person.

### *Licence-Based Rights*

#### Article 18

(1) The holder of a licence shall have the right to hydrocarbon exploration and direct grant of a concession in case of a commercial discovery and under the condition that the investor properly meets the contractual commitments.

(2) The licence shall explicitly denote the right to direct grant of a concession and the conditions to exercise of that right referred to in paragraph 1 of this Article.

(3) Pursuant to the issued licence, the investor shall conclude an agreement with the Government of the Republic of Croatia in accordance with the content of the issued licence within six months at the latest and it shall specify in detail all the rights and liabilities of the contractual parties with respect to performance of mining works and other rights and liabilities stated in the licence.

(4) The provisions of the agreement referred to in paragraph 3 of this Article shall not be contrary to the content of the issued licence.

(5) During the validity of the issued licence, concession and agreement, the investor shall act pursuant to the provisions of the issued licence, granted concession and concluded agreement, decisions of the Government of the Republic of Croatia and the Ministry made pursuant to the provisions of this Act, provisions of this Act and its implementing regulations, and other regulations of the Republic of Croatia as well as applicable international standards of the exploration and exploitation of hydrocarbons.

### *Validity of the Licence*

#### Article 19

(1) The licence shall be issued for a maximum period of 30 years and comprises the exploration and exploitation period commencing as of direct grant of the concession in case of fulfilment of all the conditions for its granting pursuant to the provision of Article 10 paragraph 6 of this Act.

(2) Calculation of the period of the validity of the licence and the agreement referred to in Article 18 paragraph 3 of this Act shall start on the effective date of the agreement.

(3) The exploration period shall last five years at the most and due to justified reasons and following a proposal of the investor, it can be prolonged no more than two times during the exploration period in a way that each of the extensions may last six months at the most.

(4) Pursuant to the provision of Article 21 paragraph 4 of this Act, the exploration period shall be automatically extended during the procedures and activities referred to in Article 21 paragraphs 1 and 2 of this Act.

(5) The extension of the exploration period referred to in paragraphs 3 and 4 of this Article shall not influence the total period of the validity of the licence referred to in paragraph 1 of this Article.

(6) After the expiration of the exploration period in case the requirements for direct grant of a concession stated in this Act have been met, the exploitation period shall start and shall last until its expiry date stipulated in the licence.

(7) The exploitation period, i.e. the period of the concession validity may be extended by the Government of the Republic of Croatia pursuant to an application of the investor, in case of which the period stated in paragraph 1 of this Article shall be prolonged too.

(8) The application of the investor for extension of the period referred to in paragraph 7 of this Article shall be submitted to the Ministry by the investor at least 12 months prior to the expiry date of the licence.

(9) The Government of the Republic of Croatia shall respond to a timely application referred to in paragraph 8 of this Article in writing within three months after the delivery of such an application, bearing in mind the fact that the Government of the Republic of Croatia shall not be bound to accept that application.

### *Cancellation and Revocation of the Licence*

#### Article 20

(1) The licence shall be cancelled in the following cases:

1. after the expiration of the validity of the licence or after the expiration of the extended period of the validity of the licence,

2. by cancellation or termination, for any reason whatsoever, of the agreement made pursuant to the issued licence,

3. dissolution of a legal entity that is a holder of the licence, except in a case of transformation or in a case of universal legal succession pursuant to a law that regulates companies,

4. by revocation of the issued licence.

(2) The Government of the Republic of Croatia shall revoke the licence in the following cases:

1. if contractual liabilities are not met by the licence holder,

2. if the licence holder conducts mining works for which is not permitted under the licence or if it does not perform them in the way which is stipulated by the licence and the agreement,



3. if the licence holder conducts mining works contrary to the measures for occupational safety, people`s and property safety and contrary to the measures and liabilities with respect to nature and environmental protection, or if they in any way violate any positive regulation of the Republic of Croatia, which has been disclosed by the State Inspector`s Office,

4. illiquidity and/or bankruptcy of the investor as the licence holder,

5. in other situations foreseen by this Act.

(3) Cancellation and revocation of the licence shall result in simultaneous termination of the agreement made based on it.

(4) The licence, i.e. the rights and liabilities stated therein may be transferred to a third legal entity exclusively in case of the agreement transfer referred to in Article 9 of this Act and under the conditions stipulated by the same Article.

### *Utilization of Land and Underground*

#### Article 21

(1) In accordance with the issued licence and in compliance with the provisions of the concluded agreement, the body in charge of the management of state-owned property as a legal entity acting as a public authority shall provide the investor with a document granting an authorization for undisturbed utilization of the land within the borders defined in the licence and the agreement if the exploration area is owned by the Republic of Croatia.

(2) If the land stated in paragraph 1 of this Article is not owned by the Republic of Croatia but by third natural and/or legal persons, the investor shall, after presentation of the anticipated exploration works as part of the works defined in the agreement, regulate the relations from the field of property law with the owners in an appropriate way in order to be able to exercise the rights granted by the licence and the agreement on that land. If the investor cannot regulate the relations from the field of property law within three months, it shall inform the Ministry and the Agency thereabout and initiate action aimed at expropriation of the land plots in accordance with the regulations on property expropriation.

(3) The Agency shall provide the investor with assistance in the regulation of the relations with the land owners.

(4) If there is a need for issuing special prior approvals and/or licences by competent bodies of the Republic of Croatia to the investor for the purpose of performance of mining works, and which are necessary for undisturbed utilization of the land and/or underground internal sea waters or territorial sea of the Republic of Croatia or underground continental shelf of the Adriatic Sea up to the demarcation line with neighbouring countries on which the Republic of Croatia, in accordance with international law, exercises jurisdiction and sovereign right, the investor shall obtain such approvals and/or licences after the decision on the selection and prior to the commencement of mining works.

(5) The Agency shall provide an appropriate assistance to the investor in the procedures for obtaining papers and/or documents referred to in paragraph 4 of this Article.

(6) The exploration period referred to in Article 19 paragraph 3 of this Act shall not run until the completion of the action and procedures referred to in paragraphs 1, 2 and 4 of this Article.

(7) The investor shall bear all the costs incurred in the procedures referred to in paragraphs 1, 2 and 4 of this Article.

### *Types of Agreements and Mandatory Content of the Agreement*

#### Article 22

(1) Pursuant to this Act and for the purpose of mining works on exploration and exploitation, the investor and the Government of the Republic of Croatia will conclude one of the following types of agreements, thereby directly obtaining a concession:

– Agreement on the exploration and division of the hydrocarbon exploitation,

– Agreement on the exploration and exploitation with fees and taxes payment obligation.

(2) The agreement shall be concluded between the investor and the authorized representative of the Government of the Republic of Croatia, in the name and on behalf of the Republic of Croatia.

(3) Depending on the nature of mining works and other circumstances, the combination of agreement types referred to in paragraph 1 of this Article is possible.

(4) The draft of each agreement will be an integral part of the bidding documents.

(5) Regardless of the type of the agreement to be concluded between the investor and the Government of the Republic of Croatia, the agreement shall contain the following:

– the duration of the exploration period and the period of exploitation including development, in accordance with the duration deadlines regulated by this Act;

– a minimum amount of exploration works and a minimum amount of funds that will be spent for the execution of these works, the possibility of their audit as well as the amount of compensation in case of unmet commitments;

– the terms and conditions of development and control of the final report and/or study on reserves;

– the terms and method of calculation of cost reimbursement;

– the method for calculating the price of hydrocarbons and hydrocarbons for cost reimbursement;

– the place of acquisition of ownership rights over the exploited hydrocarbons;

– definition of the compensation payment obligation in the amount specified in a separate decision of the Government of the Republic of Croatia;

- definition of the types and obligations of bonuses payment;
- tax payment obligation pursuant to the regulations of the Republic of Croatia;
- legal status, functions and obligations of the operating company;
- after joint establishment of the existence of a commercial discovery, the investor shall submit the proposal of financing the beginning of exploitation, the course of exploitation and total program of annual exploitation to the Ministry for an approval;
- the obligation of abandonment of the part of the exploration area;
- the conditions and conditions for determining, developing and funding the establishment of the exploitation field, the course of exploitation and the total annual program of exploitation;
- the terms and conditions for the development and verification of the mining exploitation project;
- the terms of hydrocarbon transport;
- the right of ownership and the transfer of the ownership of the assets acquired and used in the course of execution of the agreement;
- the right of ownership of the geological information obtained in the course of execution of the agreement;
- the type and quantity of industrial waste and waste water discharge and the conditions for rehabilitation of exploration area and/or exploitation field;
- the obligation of environmental and nature protection and safety measures with regard to their protection;
- terms and conditions of public infrastructure use;
- the obligation of rehabilitation of the exploration area and/or exploitation field after completion of mining works;
- the methods of monitoring the execution of the agreement, i.e. the rights and obligations arising from the agreement;
- the terms and conditions for abandonment of the exploration area and/or exploitation field;
- the obligation of insurance of the works, equipment and people pursuant to the provisions of this Act, special regulations of the Republic of Croatia and international standards in exploration and exploitation of hydrocarbons;
- the obligation of allocation of an amount of money to a special account or an obligation of submitting a bank guarantee for the rehabilitation of exploration area and/or exploitation field;

- the force majeure provisions and procedures thereunder;
- the provisions for resolving disputes and applicable law thereto;
- the rules for the preparation of documents necessary for exploration works;
- the rules for determination of the amount of hydrocarbons in the reservoir, the assessment rules regarding the quality and quantity of extracted reserves left and/or lost in the exploration area and/or exploitation field;
- the accounting rules in accordance with special regulations of the Republic of Croatia and international standards;
- the terms and conditions of liquidation of wells and surface infrastructure with detailed technical and financial conditions;
- the obligation of confidentiality with regard to information obtained by the Government of the Republic of Croatia and the investor during the mining works and the validity of the licence and agreement.

### *Duration and Validity of the Agreement*

#### *Article 23*

- (1) The agreement shall enter into force on the day of its signing by authorized representatives of the contracting parties.
- (2) After the entry into force of the agreement, the Ministry shall enrol it to the appropriate registers, established under special regulations, within 30 days.
- (3) The agreement shall be concluded no later than three months from the day of the decision on the selection in the public tendering procedure for issuing the licence.
- (4) Duration and validity of the agreement will be defined pursuant to the provisions of this Act and the conditions of the issued licence.
- (5) Pursuant to Article 19, paragraphs 1 and 2 of this Act the agreement may not exceed 30 years, including extensions permitted by this Act, except in the event of force majeure when the maximum duration of the agreement may be extended for the duration of such an event pursuant to paragraph 8 of this Article.
- (6) Pursuant to the provision of paragraph 5 of this Article and the provision of the Article 19, paragraph 6 of this Act the agreement may be extended at the request of the investor, for the purpose of a rational exploitation of hydrocarbons and protection of reservoirs.
- (7) Failure to comply with the terms and conditions of the issued licence and with the provisions of the agreement caused by events of force majeure shall not be a breach of terms and conditions of the licence and the provisions of the agreement.
- (8) In the event of termination of the mining works, i.e. delay in the performance thereof, caused by events of force majeure, the period due to force majeure shall not be included in the

maximum total duration of the agreement and the issued licence pursuant to the provisions of this Act, i.e. the duration of the agreement and licence shall be extended for the duration of the force majeure.

### *Termination of Agreement*

#### Article 24

- (1) The Government of the Republic of Croatia and the investor may terminate the agreement in the manner and in accordance with the provisions of the agreement.
- (2) Termination of the agreement shall not relieve the parties of the obligations that existed at the time of the decision to terminate the agreement.
- (3) The agreement shall be automatically terminated in the event of revocation of the licence pursuant to this Act.
- (4) In the event of an early termination of the agreement the investor will, unless otherwise provided under the agreement, freely dispose of its property.
- (5) In the event referred to in paragraph 4 of this Article, the Republic of Croatia shall have a priority right in the acquisition of the investor's property. Details of transferring the ownership of such property that was owned by the investor during the validity of the agreement and at the time of its termination will be defined in the agreement.
- (6) In the event of termination of the agreement, the investor will independently and at its own expense, return the area of mining works to its original state, all in accordance with the special regulations on environmental and nature protection, safety of people and property, protection of human health and other applicable special regulations and international standards on the exploration and exploitation of hydrocarbons.

### *Ownership of the Property Required for Mining Works*

#### Article 25

- (1) Movable and immovable property acquired for the purpose of mining works, which may be separated without causing damage to the fixed assets, shall be owned by the investor that acquired the property, unless the value of the property has not been reimbursed in the process of cost reimbursement, whereupon the ownership of that property shall be acquired by the Republic of Croatia. At the same time, the investor that performs the mining works shall be authorized to use that property for the mining works in exploration area and/or exploitation field and shall assume the risks and costs of the use and storage of the property.
- (2) In the event of cancellation of the licence and/or termination of the agreement, regardless of the reasons for cancellation and/or termination, i.e. expiration of the licence and/or agreement, any immovable property or structure inseparable from the immovable property in the exploration area and/or exploitation field shall become the ownership of the Republic of Croatia and regardless of whether the costs of such property were reimbursed or not in the course the validity of the licence and/or the agreement.

## *Terms for Execution of Mining Works*

### Article 26

- (1) Terms for execution of mining works shall be defined in the issued licence, concluded agreement, provisions of this Act and other applicable special regulations.
- (2) If during the exploration period, there is a discovery of hydrocarbon reserves, the Investor shall immediately inform the Ministry of that discovery, carry out development activities including the evaluation of reserves, develop a study on hydrocarbon reserves and confirm the quantity and quality of hydrocarbon reserves in accordance with the provisions of a special regulation. Deadlines for the announcement of the discovery, deadlines for the development of the study on hydrocarbon reserves and confirmation of the quantity and quality of hydrocarbon reserves will be defined in the agreement.
- (3) If the balance reserves of hydrocarbons are determined in accordance with the conditions defined in the agreement on the division of exploitation, the Investor has the right to reimbursement of costs related to the execution of mining works in the manner and within the deadlines specified in the agreement.
- (4) If the balance reserves of hydrocarbon are determined in accordance with the terms of the agreement, which is not an agreement on the exploration and division of exploitation, the Investor has the right to reimbursement of costs related to the execution of mining works in the manner and within the deadlines defined in those agreements.
- (5) If, after the expiry of the exploration period or its extension in accordance with the provisions of this Act, there are no commercial discoveries, the Investor is not entitled to a reimbursement of his expenses. In this case the licence and the agreement shall expire.
- (6) In the event that the Investor and the Ministry determine that it is not a commercial discovery, the Investor shall leave that part of the exploration area in accordance with the provisions of this Act and agreement.
- (7) If the Investor expressly declares that he is willing to proceed with execution of the mining works and there are no legal impediments thereof, the Investor will be allowed to proceed with the works at his own risk and expense.

### *Right to Purchase Acquired Hydrocarbons*

### Article 27

- (1) The Republic of Croatia shall have the priority right to purchase the entire or a part of acquired hydrocarbons which, according to the agreement, would belong to the Investor on the basis of market conditions, depending on the method of exploitation.
- (2) The right of the Republic of Croatia referred to in paragraph 1 of this Article, the quantity of hydrocarbon purchased pursuant to this Article, determining the repurchase price and the payment method shall be determined by the agreement.

### *Supervision of the Execution of Mining Works*

## Article 28

- (1) The State Inspectorate shall be responsible for the supervision of execution of the mining works in accordance with a special regulation.
- (2) Other competent government bodies shall exercise supervision of the execution of the mining works within their jurisdiction in accordance with special regulations.
- (3) Competent government bodies shall supervise the work program of the Investor and the plan of execution of the mining works in order to determine whether they are performed on time and in accordance with the terms of the issued licence and the agreement provisions, this Act and other regulations.

### *Measurement of the Acquired Quantities of Hydrocarbons*

## Article 29

A State Inspector shall periodically, at intervals established in the agreement, exercise control measurement of the exploited hydrocarbon quantities, using methods accepted by the international standards for the exploration and exploitation of hydrocarbons.

### *Reimbursement*

## Article 30

- (1) The Investor shall pay a fee in the manner provided for in this Act.
- (2) The amount of the fee and the ratio of allocation of fee income shall be determined by the Government of the Republic of Croatia, at the proposal of the Ministry.
- (3) The Ministry and the Agency shall regularly monitor the payment of fee.
- (4) The Investor shall be required to provide to the Ministry and the Agency a proof of calculated and paid fees for the previous year, every year before the 15<sup>th</sup> March.

### *The Rights of the Investor during the Mining Works*

## Article 31

The Investor during the execution of the mining works shall have the following rights:

- To take possession of and use the exploration area and/or exploitation field in accordance with the provisions of this Act;
- Build, within and outside the exploration area and/or exploitation field, operational, administrative and logistical infrastructure needed for the execution of the mining works and the right to use them in accordance with the provisions of this Act;
- Use third party services to carry out mining works,

- Freely dispose of his part of acquired hydrocarbons in the Republic of Croatia and freely export it outside the Republic of Croatia,
- Propose and negotiate with the Ministry regarding the problems that may arise from the issued licence and concluded agreement and/or the extension thereof,
- Relinquish a part or all of his rights and stop all the activities in the exploration area and/or the exploitation field in accordance with the conditions defined in the issued licence, the provisions of the agreement and this Act,
- In the case of the transfer of his part in accordance with the provisions of the agreement to the legal entities in the territory of the Republic of Croatia, the Investor shall have the right, in accordance with special regulations, to freely dispose of that amount,
- Exercise other rights to which he is entitled to by the issued licence, agreement and this Act.

### *Obligations of the Investor during the Execution of the Mining Works*

#### Article 32

During the execution of the mining works the Investor shall have the following obligations:

- Apply the most effective methods and technologies for the execution of the mining works, based on the international standards in the exploration and exploitation of hydrocarbons,
- Execute the mining works in accordance with the terms of the issued licence, the provisions of the agreement, the provisions of this Act and other special regulations,
- Comply with all the requirements relating to nature and environment protection, safety of navigation if the mining works are carried out at sea, protection of the reservoirs, to provide measures for the safety and health of people, all in accordance with the conditions of the issued licence, the provisions of the Agreement, the provisions of this Act and other special regulations,
- In the event of environmental pollution during the execution of the mining works, treat it in an environmentally acceptable manner,
- Provide the Ministry, the Agency, the State Inspectorate and other competent state bodies in accordance with their supervisory powers under this Act, the insight into all the necessary documents and information and access to sites where the mining works are being executed,
- Regularly inform the Ministry and the Agency about the fulfilment of his obligations and fulfilment of the planned mining works,
- Take into account the protection of cultural and historic buildings in the Republic of Croatia,
- Pay on time all the taxes and other liabilities in accordance with the terms of the issued licence, the provisions of the agreement, the provisions of this Act and other special regulations of the Republic of Croatia,



–Return the land or other natural area that was damaged during the mining works to its original condition, at its own expense,

–In accordance with the provisions of the agreement allocate to a special account the agreed amount for rehabilitation of the exploration area and/or exploitation field,

–Notify the Agency immediately of any disputes with third parties that might have an impact on the execution of the terms of the issued licence, agreement obligations and compliance with the provisions of this Act and other special regulations,

–Perform all other obligations arising from the issued licence, signed agreement, the provisions of this Act and other special regulations,

–Every year, before the 15<sup>th</sup> March of the current year, submit an annual report according to special regulations on the fulfilment of his obligations defined in the issued licence and/or agreement to the Ministry and the Agency for the previous year.

### *Responsibilities of the Investor*

#### Article 33

(1) The Investor shall be responsible for the execution of the mining works in accordance with the terms of the issued licence, the provisions of the agreement, this Act and other special regulations.

(2) The Investor shall be responsible for the acts and/or omissions occurred during the execution of the mining works which are not consistent with international standards in the exploration and exploitation of hydrocarbons.

(3) In the event that the Investor is represented by more legal entities, their responsibility referred to in paragraph 1 and 2 of this Article shall be considered joint and several liability.

### *Joint Exploitation of Reservoirs*

#### Article 34

(1) The joint exploitation of reservoirs shall imply the coordination of the mining works of two or more Investors whose exploitation fields surpass the area used by each individual Investor.

(2) In the case referred to in paragraph 1 of this Article, the Investors may conclude an agreement on joint exploitation of these reservoirs with the prior harmonization of terms of such agreement with the Ministry.

(3) If the Investors cannot agree on the joint exploitation of these reservoirs, the Agency will hire an expert witness to solve the problem, whose expert finding and opinion will form the basis for procedure in compliance with the provisions of Article 46 of this Act.

(4) The costs of the expert witness referred to in paragraph 3 of this Article shall be paid by the Investors.

## *Transport with Pipelines*

### Article 35

- (1) The Investor shall be required, within the mining works, to build a local pipeline as a connection of the exploitation field to the main pipeline, which will be owned by him in accordance with the terms of the agreement.
- 2) The Agency will provide technical assistance and support to the Investor in the procedures of obtaining licences and approvals of state competent bodies required for the construction of local pipelines referred to in paragraph 1 of this Article.
- (3) The construction and maintenance of local pipelines referred to in paragraph 1 of this Article shall be in accordance with the execution of the mining works, rules and safety and environmental protection measures, all with the application of provisions of special regulations and international standards in the exploration and exploitation of hydrocarbons.
- (4) In case of free capacities of local pipeline referred to in paragraph 1 of this Article, in accordance with a special regulation, the Investor is required to make it available to third parties with an appropriate fee.
- (5) The Investor can use the available capacities of the main pipelines to transport acquired hydrocarbons, according to bidding, i.e. negotiated terms with the owner of the main pipeline.
- (6) Pipeline transportation tariff referred to in paragraphs 4 and 5 of this Article shall be established and charged by the owner of the pipeline with prior approval of the Ministry.

### *General Principles of the Protection of Nature and Environment, Health and*

### *Safety of People and Assets*

### Article 36

- (1) During the execution of the mining works the Investor shall take all measures to protect nature and the environment, health and safety of people and assets regulated by special regulations, and in accordance with the terms of the issued licence, the provisions of the agreement and this Act.
- (2) In addition to obligations referred to in paragraph 1 of this Article, the Investor is obliged to conduct a rehabilitation of the exploration area and/or exploitation field after the completion of the mining works.

### *Measures for the Protection of Nature and Environment*

### Article 37

For the purpose of overall protection of nature and environment from adverse effects of the mining works, the Investor shall ensure the following during their execution:

– Take all necessary measures and specific measures prescribed by special acts or regulations to prevent pollution, especially through the application of best available techniques in terms of the provisions of special regulations,

– Not to cause significant pollutions of nature and environment,

– Avoid the creation and/or production of waste, i.e. ensure using the waste or, where these measures cannot be achieved, dispose of waste in a manner to avoid or minimize impacts on environment and in accordance with the principles of proximity according to a special regulation,

– Effectively use energy,

– Take all necessary measures and specific measures prescribed by special acts or regulations to prevent accidents and repair their consequences,

– Upon termination of the mining works, take all measures to avoid the risk of pollution of nature and environment and to return the area of the plant to a favourable, i.e. satisfactory condition.

### *Rehabilitation*

#### Article 38

(1) Upon completion of the mining works the Investor shall be required, in accordance with special regulations, to rehabilitate the exploration area and/or exploitation field and notify the State Inspectorate and other competent bodies thereof.

(2) If the State Inspectorate, and if necessary, other competent state bodies find that after the completion of the mining works the prescribed rehabilitation was conducted, they will issue a certificate and notify the Ministry and the Agency thereof.

(3) In case the Investor fails to rehabilitate the exploration area and/or exploitation field, the Agency will conduct the rehabilitation at the expense of the Investor.

### *Occupational Safety*

#### Article 39

The Investor shall implement, during the mining works the occupational safety measures in accordance with the regulations for occupational safety and regulations setting forth the requirements for safe operation and health of the workers employed in the execution of works.

### *Stability of the Agreement Provisions*

#### Article 40

(1) In the event that during the validity of the issued licence and concluded agreement there are changes and/or amendments to the provisions of acts and regulations that were in force at the time of entry into force of the licence and the agreement, including changes and/or additions to acts and other regulations as a result of concluded international treaties to which

the Republic of Croatia becomes a party, and which substantially affect the economic and/or commercial provisions of the licence or the agreement and/or to other essential interests of the agreement parties, the Government of the Republic of Croatia and/or the Investor will accede to negotiations for possible changes and/or amendments of the licence or the agreement to ensure the balance of interests and planned economic results of the parties that existed at the time of issuing the licence or concluding the agreement and which are consistent with the provisions of the issued licence or the signed agreement.

(2) The provision referred to in paragraph 1 of this Article shall not apply in case of changes and/or amendments to acts and regulations governing labour relations, protection of nature and environment, protection of human health, occupational safety, protection of people and safety of assets, conservation of mineral wealth and safety of the mining works.

### *Property over Documents and Data Related to hydrocarbons*

#### Article 41

(1) All geological, geophysical, geochemical, ecological and other data, as well as data which are the result of the data analysis, data about hydrocarbon reserves, structure and rock and mineral samples that the Investor owns and data which are collected by carrying out the mining work in the period of the licence validity and the signed contract, shall be the exclusive property of the Republic of Croatia.

(2) The Investor shall be authorised to use the data referred to in paragraph 1 of the Article only for the purpose of carrying out the mining work during the licence validity and the signed contract respecting confidentiality in compliance with the provisions of this Act.

### *Confidentiality and Data Protection*

#### Article 42

(1) None of the parties of the contract concluded on the basis of the issued licence shall, without the explicit prior permission of the other party, disclose, publish or distribute to a third party any data considered confidential in terms of this Act, or the content of the issued licence and the provisions of the signed contract.

(2) Data considered confidential in terms of paragraph 1 of the Article may be given only to the lawyers as legal counsellors or legal representatives in possible disputes submitted to authorized body or other counsellors, which are engaged by one of the contracting parties, and to entities performing accounting and auditing services for the contracting parties, to the entities engaged by the Ministry/Agency and/or the Investor to carry out the mining work and to other entities, if it is highly necessary for any of the contracting parties to carry out the issued licence and/or the signed contract and other operations related to it, but only to the extent necessary to provide services and/or operations for the needs of any of the contracting parties, and under condition that the special contract is signed with the entity mentioned above, or that the other appropriate legal act is signed by that entity, which commits itself firmly to keep confidentiality of data which is, in compliance with the Act, considered to be secretive.

(3) The obligation to maintain confidentiality shall last for five years after the expiry of the issued licence or the signed contract, for any reason.

## *Insurance*

### Article 43

(1) The Investor, during the validity of the issued licence and the signed contract, shall have and maintain in force the appropriate insurance policy which covers the investor's and third parties' property, health and security of the investor's employees and third parties, ecological damage and any other possible risks in the process of carrying out the mining work, in which the Investor shall respect the effective special provisions in the insurance area.

(2) Pursuant to paragraph 1 of this Article the Investor shall undertake to conclude insurance policies that:

- insure wells, plants, equipment, buildings and other movable and immovable property of the Investor
- insure the potential damage occurred in nature and environment, especially related to the pollution of air, water, ground and underground areas, within and outside the exploration area and/or exploitation field,
- insure the potential damage under the land surface (eruption, loss of geological layer, loss of tank, land surface pollution caused by eruption, pollution of underwater and so on),
- generally insure the Investor's responsibility, for the Investor's employees and for any other personnel engaged by the Investor to carry out the mining work for the third parties,
- generally insure the responsibility for the Investor's employees and any other person engaged by the Investor to carry out the mining work for the third parties.

(3) The Investor shall make and/or reinstate the issued insurance policies during the whole validity of the issued licence and the signed contract.

(4) The Investor shall, apart from the insurance policies referred to in paragraph 2 of this Article, be make insurance policies in compliance with the specific regulations if these policies are not included in the content of the above regulation.

## *Force Majeure*

### Article 44

(1) In case that the Investor shall not fulfil his rights and liabilities under the licence and the contract and/or shall disobey the provisions of this Act and other applicable provisions due to force majeure, such Investor's activities and/or negligence shall not be taken as violation of licence and contract.

(2) As force majeure circumstances shall be considered circumstances beyond the influence of the Government of the Republic of Croatia and the Investor which could not be foreseen, avoided or prevented, such as war (announced or not), threat of war or the existence of war circumstances, natural disasters, the decisions made by authorized bodies the consequences of which is the impossibility to carry out the mining work, as well as all other circumstances that international standards take as force majeure.

(3) Lack of financial assets and/or any other Investor's financial instability, as well as insolvency and/or initiating bankruptcy/liquidation proceedings over the Investor shall not be considered force majeure.

(4) In case that the Investor is prevented from fulfilling his rights and liabilities under the issued licence and the signed contract, he will without further delay inform thereof the Ministry and the Agency by stating the reasons for this prevention and its expected duration.

(5) In case the period of force majeure should last more than 18 months, each contracting party shall have the right to cancel the contract, except if the Investor till the end of the stated period has not succeeded to refund the cost of carrying out the mining work, in which case only the Investor shall have the right to cancel the contract, making a decision by himself.

(6) In case the period of force majeure should last more than 3 years, the Government of the Republic of Croatia shall have the right to unilateral cancellation of contract.

(7) Provisions of this Act on force majeure shall not apply to obligation to fulfil due money claims.

### III PERMANENT GAS DISPOSAL IN GEOLOGICAL STRUCTURES

#### Article 45

(1) provisions of this Chapter shall not apply to the planned permanent CO<sub>2</sub> disposal in geological structures in quantities less than 100 kilotons in total, undertaken for exploration, development or testing new products and procedures.

(2) Permanent CO<sub>2</sub> disposal in water column shall not be allowed.

(3) Geological structure can be defined as an underground storage, in compliance with this Act and the Mining Act, if, according to the expected conditions of use, there is no significant risk of gas leakage, and if there is no significant risk for human health and environment.

#### Article 46

(1) In order to authorize permanent CO<sub>2</sub> disposal in geological structures, the concession application shall contain:

1. The name and the address of the potential investor
2. The evidence of technical qualifications of the potential investor
3. Characterization of the underground storage and storage complex, as well as evaluation of the expected storage safety in compliance with the provisions of this Act and the special regulation governing the conditions for defining structure, shape, size and volume of geological structures suitable for permanent gas disposal,
4. The total quantity of CO<sub>2</sub> which is compressed and permanently stored, as well as the planned sources and methods of transport, structure of CO<sub>2</sub> streams, speed and pressure injection and the location of compression plants
5. Description of measures to prevent major irregularities,
6. The proposed monitoring plan in compliance with Article 49 of this Act.

7. The proposed plan for corrective measures in compliance with Article 51 of this Act,

8. The proposed temporary plan for the period after the closing of the underground storage in compliance with Article 52 of this Act,

9. Data from the Environmental Impact Assessment/ decision on acceptability of environmental intervention according to the regulations which determine environmental protection,

10. The evidence that the financial guarantee or some other equivalent instrument, as required in Article 54 of this Act, shall be valid and in force before the gas compression starts.

(2) The Ministry shall make the request referred to in paragraph 1 of this Article available to the European Commission within 30 days upon its receipt and other documents which are taken into account by giving permission for permanent CO<sub>2</sub> disposal in geological structures.

(3) The Ministry shall inform the European Commission about the draft decision on granting the concession.

### *Criteria*

#### Article 47

The criteria for granting the concession for permanent CO<sub>2</sub> disposal in geological structures shall be:

1. The meeting of all relevant requests referred to in this Act, the specific regulation governing the terms for defining structure, shape, size and volume of geological structures suitable for permanent gas disposal and regulations in the environmental protection area,

2. That the Investor is financially solvent and technically competent to exploit and control the site safely, and that the professional and technical development, as well as the training of the Investor and the staff is completely provided,

3. If more than one storage deposits in the same hydraulic unit is concerned, the potential gas activities are such that sites may at the same time meet the requirements of this Act and special regulation governing conditions determining structure, form, size and volume of geological structures, suitable for permanent gas storage.

4. The view of the European Commission on the draft decision on granting concession.

#### Article 48

(1) The decision on granting concession which approves permanent disposal of CO<sub>2</sub> in geological structures shall consist of:

1. name and address of the Investor

2. exact location and boundaries of the underground storage and storage complex and information about hydraulic unit,

3. requests referring to permanent storage, total quantity of approved CO<sub>2</sub> storage, limit pressure of reservoirs and maximum speed and injection pressures,

4. requests referring to composition of CO<sub>2</sub> streams and process of its receiving, as well as additional requests concerning injection procedures and permanent storage operations, especially requests for preventing major irregularities,

5. the approved plan of monitoring, liability of plan implementation and liability of its updating in compliance with Article 49 of this Act, as well as liabilities referring to reports in compliance with Article 50 of this Act,

6. liability of informing the Ministry and the Agency in case of leakage or major irregularities, approved plan of corrective measures and liability of implementing the corrective measures plan in case of leakage or major irregularities in compliance with Article 51 of this Act,

7. requests referring to closing and approved plan of temporary location procedure after closing referred to in Article 52 of this Act,

8. provisions of amendment, revision, update and cancel of granting concession decision,

9. liabilities referring to set up and validity of financial and other instrument in compliance with Article 54 of this Act,

(2) The Ministry shall inform the European Commission about the act referred to in paragraph 1 of this Article, and in case it differs from the European Commission views referred to in Article 46 of this Act, explain the reasons.

### *Monitoring*

#### Article 49

(1) The Investor shall monitor injection units, storage complex (including CO<sub>2</sub> plumes) and, if necessary, direct environment to:

a) compare actual and model behaviour of CO<sub>2</sub> and formational waters in the underground storage,

b) detection of major irregularities,

c) detection of CO<sub>2</sub> migration,

d) detection of CO<sub>2</sub> leakage,

e) detection of major harmful influence on direct environment, especially on potable water, human population or users of surrounding biosphere,

f) evaluation of efficiency of possible corrective measures,

g) updating the evaluation of short- and long-term safety and integrity of the storage complex, including the evaluation whether the permanently stored CO<sub>2</sub> will be entirely and permanently closed.



(2) Monitoring shall be conducted in compliance with the monitoring plan developed by the Investor in compliance with the requests specified by this Act and with regulations governing the monitoring of greenhouse gas emissions.

### *Reporting*

#### Article 50

The Investor shall submit to the Ministry and the Agency, at least once a year, a report containing:

1. All the results of monitoring in compliance with Article 49, for the period for which the report is submitted, including the information about monitoring technology it applies,
2. Quantities and properties of received and injected CO<sub>2</sub> streams, including the structure of these streams, in the period for which the report is submitted,
3. Evidence of obtaining and maintaining financial guarantee in compliance with Article 54 of this Act,
4. Any other information that the Ministry and the Agency find relevant in order to comply with the requests of the decision of granting concession and to acquire new knowledge of CO<sub>2</sub> conduct in the underground storage.

### *Corrective Measures*

#### Article 51

- (1) In case of leakage or major irregularities, the Investor shall immediately inform the Ministry and the Agency and shall undertake corrective measures, including the measures referring to protection of human health. In case of leakage or major irregularities, which imply the risk of leakage, the Investor shall also inform the central government authority, competent for protection of nature and environment.
- (2) Corrective measures referred to in paragraph 1 of this Article shall represent the minimum action according to corrective measures plan.
- (3) At any time the Ministry and the Agency may request from the Investor to undertake necessary corrective measures, as well as measures referring to human health protection. That may be additional measures or measures that differ from the corrective measures plan. The Ministry and the Agency may undertake corrective measures at any time and on their own initiative.
- (4) If the Investor fails to undertake corrective measures, the Ministry and Agency shall undertake the necessary corrective measures.
- (5) Any costs referring to measures referred to in paragraphs 3 and 4 of this Article, shall be charged by the Ministry from the Investor, also through withdrawal of funds from the financial guarantee, in compliance with Article 54 of this Act.

### *Closing*

## Article 52

(1) The underground storage shall close:

- a) if all the relevant requirements from the decision of granting concession are fulfilled,
- b) on justified request of the Investor, upon the approval of the Ministry,
- c) if the Ministry decides so after the cancellation of granting concession decision.

(2) After closing the underground storage in compliance with paragraph 1, item a) or b) of this Article, the Investor shall remain liable for monitoring, reporting and corrective measures in compliance with the requests prescribed by this Act, for all the liabilities referring to conveyance of emission units in case of leakage, in compliance with the Act governing the air protection and prevention and rehabilitation measures in compliance with regulations governing damage to nature and environment, until the liability for the underground storage transfers to the Agency in compliance with Article 53 of this Act. The investor shall be liable for the final isolation of the underground storage and removal of the injection unit.

(3) Liabilities referred to in paragraph 2 of this Article shall be met by the Investor, based on the procedure plan after closing, which is based on the best practice and in compliance with the requirements of this Act. Before closing the underground storage, according to items a) or b) of paragraph 1 of this Article, temporary procedure plan after closing should be:

- a) updated if necessary by taking into account risk analysis, the best practice and technological improvements,
- b) submitted to the Ministry and the Agency for approval,
- c) be approved by the Ministry as the final procedure plan at closing.

(4) After the closing of the underground storage, in compliance with paragraph 1, item c) of this Article, the Agency shall be liable for monitoring, reporting and corrective measures in compliance with the requirements of this Act, for all liabilities referring to conveyance of emission units in case of leakage, in compliance with the act for air protection and prevention and rehabilitation measures in compliance with the regulations governing damage to nature and environment. Requirements referring to procedure after closing in compliance with this Act shall be fulfilled by the Agency on the basis of temporary procedure plan referred to in paragraph 3 of this Article, which shall update if necessary.

(5) Costs referring to measures referred to in paragraph 4 of this Article, shall be charged by the Agency from the Investor, through withdrawal of funds from the financial guarantee, in compliance with Article 54 of this Act.

### *Transfer of liability*

## Article 53

(1) When the underground storage is closed in compliance with provisions of Article 52, paragraph 1, items a) or b) of this Act, all legal liabilities regarding monitoring, reporting and corrective measures, in compliance with requirements prescribed by this Act, conveyance of emission units in case of leakage, in compliance with the act governing air protection and prevention and rehabilitation measures in compliance with regulations governing damage to

nature and environment, shall be transferred to the Agency on its own initiative or at the request of the Investor if the following conditions are met:

- a) All available evidence indicates that stored CO<sub>2</sub> will be completely and permanently retained,
- b) The minimum period, determined by the Ministry has passed. That minimum period may be less than 20 years only if the Ministry is convinced that the criterion referred to in item a) of this paragraph is met before the expiry of that period,
- c) Financial liabilities referred to in Article 54 of this Act are fulfilled,
- d) The underground storage is isolated and injection equipment removed.

(2) The investor shall draw up a report which documents that the requirement referred to in paragraph 1 item a) of this Article is fulfilled and submit it to the Ministry to approve the transfer of liability. That report shall confirm at least that:

- a) Actual behaviour of injected CO<sub>2</sub> matches its model behaviour,
- b) No leakage can be detected,
- c) The underground storage switches to long-term stability condition.

(3) When the Ministry and the Agency establish that requirements referred to in item a) and b) of paragraph 1 of this Article are fulfilled, the Ministry shall draw up a draft decision on the approval of transfer of liability. The draft decision shall specify the method which determines that requirements referred to in paragraph 1 item d) of this Article are fulfilled, as well as possible updated requirements concerning the isolation of the underground storage and removal of injection equipment. Should the Ministry and the Agency consider that requirements referred to in paragraph 1 item a) and b) of this Article are not fulfilled, the Ministry shall provide an explanation to the Investor.

(4) The Ministry shall put at the disposal of the Commission the report referred to in paragraph 2 of this Article within 30 days from its receiving, as well as draft decision of approval of transfer of liability.

(5) When the Ministry establishes that the requirements referred to in paragraph 1 items a) to d) of this Article are respected, it makes a decision on approval of transfer of liability and informs thereof the Commission, if that decision is contrary to the Commission view referred to in paragraph 4 of this Article, an explanation shall be required.

### *Financial guarantee*

#### Article 54

(1) The Investor shall have a financial guarantee, which is valid and effective, before injection, in order to insure fulfilment of all liabilities that emerge in the decision of granting concession, issued in compliance with this Act, including requirements referring to closing and post-closing period.

(2) The financial guarantee shall be periodically adjusted to the changes of estimated risk of leakage and estimated costs of all liabilities that emerge within the decision on granting concession.

(3) The financial guarantee or any other equivalent instrument referred to in paragraph 1 of this Article shall remain valid and effective:

- a) After closing the underground storage in compliance with Article 52, paragraph 1, items a) or b) of this Act, until the liability for underground storage is not transferred to the Agency, in compliance with Article 53 of this Act,
- b) After the cancellation of the decision on granting concession,
- c) Until the issuance of a new decision on granting concession,
- d) If the storage is closed in compliance with Article 52, paragraph 1, item c) of this Act to transfer of liability in compliance with Article 53 of this Act, provided that financial liabilities referred to in Article 55 of this Act are fulfilled.

### *Financial mechanism*

#### Article 55

(1) The Investor shall provide financial contribution to the Ministry before the transfer of liability, in compliance with Article 52 of this Act.

(2) In determining the contribution referred to in paragraph 1 of this Article, criteria referred to in this Act and elements referring to the history of CO<sub>2</sub> storage shall be considered, relevant for establishing liabilities after the transfer and it covers anticipated supervision costs in the period of 30 years.

## IV ADMINISTRATIVE SUPERVISION AND INSPECTION

#### Article 56

(1) Administrative supervision of the implementation of this Act and regulations based on it shall be conducted by the Ministry.

(2) Inspection of the implementation of this Act and regulations based on it shall be conducted by the State Inspectorate and other inspections in compliance with this Act and other regulations.

### *Specific Measures to Implement Inspection*

#### Article 57

(1) In implementing inspection, a Mine Inspector of the State Inspectorate shall:

1. ban the mining works if irregularities and disadvantages can cause immediate danger to life and health of workers and other citizens or significant property damage;
2. ban the mining works on hydrocarbon exploration if these works are conducted without licence, contrary to the licence and the approved work programme;

3. ban the mining works on hydrocarbon exploitation, if it is conducted without agreement or contrary to the agreement and verified mining documents;

4. suspend the construction of mining facilities and plants if they are constructed without building permit or not constructed according to it.

(2) Complaint against the decision of State Inspectorate referred to in paragraph 1 of this Article shall not delay execution.

### *Elimination of Deficiencies*

#### Article 58

If the Mine Inspector of the State Inspectorate in performing inspection observes violation of provisions of this Act or violation of regulations based on this Act, beside the measures of banning referred to in Article 57 of this Act, he will order to the Investor the elimination of deficiencies, i.e. irregularities within a specified time.

## V VIOLATION PROVISIONS

#### Article 59

(1) The Investor will be fined in the amount of 100,000.00 to 500,000.00 HRK for the violation:

1. if the transfer of licences and/or agreements issued in compliance with this Act shall not be conducted in compliance with the provisions of this Act,

2. if conducting the mining works on hydrocarbon exploration without licence, i. e. contrary to the licence and approved work plan,

3. if performing hydrocarbon exploitation without agreement, i. e. contrary to the agreement and verified mining documents,

4. if not reporting the start and end of the mining works based on licence and/or agreement,

5. if not implementing necessary safety measures and/or implement rehabilitation of the exploration area and/or exploitation field, after the mining works are finished or permanently suspended.

6. if stores CO<sub>2</sub> in water columns,

7. if stores CO<sub>2</sub> without approval or decision on granting concession,

8. if does not undertake without delay corrective measures necessary for preventing CO<sub>2</sub> leakage and removal of other irregularities that represent a risk for CO<sub>2</sub> leakage,

9. if does not perform supervision of the compression plant, storage complex (including CO<sub>2</sub> plumes if necessary) and immediate neighbour in accordance with Article 49 of this Act.

(2) For violations referred to in paragraph 1 of this Article the liable person of the Investor will be fined in the amount of 10,000.00 to 50,000.00 HRK.

#### Article 60

(1) The Investor will be fined in the amount of 50,000.00 to 250,000.00 HRK for the following violations:

1. if the Ministry and the Agency are not regularly informed about fulfilment of liabilities defined by the licence and the agreement,

2. if the Ministry and the Agency are not immediately informed about the commercial discovery of hydrocarbon reserves and/or if, after the commercial discovery of the hydrocarbon reserves, the Investor does not carry out development activities, which are defined by the agreement, within a due time,

3. if the contractual sum of money is not detached to a special account, for the rehabilitation of the exploration area and/or exploitation field,

4. if the measurements of exploited hydrocarbon are not performed periodically, in specific time intervals defined by the agreement,

5. if the Ministry and the Agency are not submitted data in accordance with Article 50 of this Act,

6. if the Ministry and the Agency are not informed without delay about CO<sub>2</sub> leakage and other major irregularities representing a risk of CO<sub>2</sub> leakage.

(2) For violations referred to in paragraph 1 of this Article the liable person of the Investor will be fined in the amount of 5,000.00 to 25,000.00 HRK.

#### Article 61

For the violations referred to in Article 59, paragraph 1, items 1, 2 and 3 of this Act along with fines will be imposed the following:

- protective measure of depriving of objects, intended or used to commit violation or incurred by violation, regardless of whether they are owned by the offender,
- measure of seizing unlawfully acquired property, committed by violation.

#### Article 62

The regulations of The Mining Act, which are not contrary to this Act, shall apply to the inspection over performing the mining works.

## VI TRANSITIONAL AND FINAL PROVISIONS

## *National Company*

### Article 63

The Government of the Republic of Croatia will propose the establishment of a national company 100% owned by the Republic of Croatia.

## *Legislation Adoption*

### Article 64

(1) The Government of the Republic Croatia will submit to the Croatian Parliament a Bill to regulate the establishment of the Agency, not later than 12 months from the effective date of this Act.

(2) For the establishment of a national company referred to in Article 63 of this Act, the Government of the Republic of Croatia will submit to the Croatian Parliament a Bill regulating its establishment.

## *Subordinate Legislation Adoption*

### Article 65

The Government of the Republic of Croatia will adopt implementing regulations referred to in Article 30 paragraph 2 of this Act within four months from the effective date of this Act.

## *Completion of Initiated Proceedings and Vested Rights and Liabilities*

### Article 66

(1) Procedures for granting approval for exploration, approval for exploitation field, concessions for exploitation, which started before the Act become effective, will be completed in compliance with provisions of the Mining Act (Official Gazette 75/09 and 49/11) and other relevant regulations which were effective before this Act became effective.

(2) Effective date of this Act shall have no influence on vested rights and liabilities from issued exploration approvals, issued approval for exploitation fields, issued concessions for exploitation, which are vested in compliance with provisions of the Mining Act (Official Gazette 75/09 and 49/11).

(3) Holders of exploration approval, holders of approval for exploitation field, holders of the authorization for the mining works, obtained before this Act became effective, shall harmonize their approvals with provisions of this Act within two years.

*Effective Date of the Act*

Article 67

This Act shall become effective on the eighth day after its publication in the Official Gazette.

Class: 022-03/13-01/105

Zagreb, 15 July 2013

THE CROATIAN PARLIAMENT  
The President of the Croatian Parliament  
Josip Leko, m.p.

PROVISIONAL TRANSLATION