

# New legislation in the Slovak energy sector



## Since the 1<sup>st</sup> of September 2012, three new energy laws have come into effect: the New Energy Act, the New Act on the Regulation of Network Services and the New Act on Specific Levies from Business Activities Conducted in Regulated Industries.

The primary purposes of the new legislation is the harmonization of Slovak energy law with EU law, simplification of the business environment, imposition of new taxation and strengthening the position of the Regulatory Office for Network Industries (hereinafter only as "RONI").

### I. SIGNIFICANT CHANGES EU passport regime

Energy suppliers with their registered seats in the EEA that are authorized to supply energy under their member state's legislation, are authorized to supply energy in Slovakia as well. RONI shall only review the foreign energy license if the foreign energy supplier applies for Slovak authorization in order to supply gas/ electricity in Slovakia. Thus, once Slovak authorization has been issued, energy suppliers are no longer obliged to establish a company or branch in Slovakia. Loss of the foreign energy license automatically means the loss of Slovak authorization issued by RONI.

In our experience, up to this point in time, no entrepreneurs have filed an application for the revocation of a Slovak Energy License issued by RONI, then subsequently applied for the Slovak authorization on the basis of the foreign energy license. That said, there are foreign entities which have started conducting business in Slovakia as of late, and for this reason are applying directly for the EU passport regime on the basis of their foreign energy licenses.

In addition, the administrative fees for the issuance of the Slovak En-

ergy License have been increased to EUR 2,000. This also applies to issuance of the Slovak authorization on the basis of foreign energy licenses.

### Responsible representative

The former obligation of electricity and gas suppliers to appoint a responsible representative has been cancelled. In the meantime, RONI has initiated several administrative proceedings ex officio in which it has issued new licenses for conducting business in the energy sector without responsible representatives.

### Simplification of notification requirements

Certain changes also apply with respect to the notification obligations of license holders towards the relevant Slovak authorities. The main purpose is to simplify and limit the extent of these obligations, as well as to facilitate the modernization of the statistical system in this regard. However, the relevant decrees have not been issued yet.

### Imposition of new levies

The New Act on Specific Levies from Business Activities Conducted in Regulated Industries represents a reaction to the global financial and economic crisis. The reasons for the imposition of the new levies is that the Slovak Republic is obliged to decrease its public finance deficit to under 3% of GDP by the end of 2013. Thus the last fiscal period for which the new levy shall be paid is December 2013. The obligation to pay levies arises if the presumed financial result for the relevant

financial period is at least 3 million euros.

### Decrees of RONI

RONI has issued several decrees in order to fulfil the purpose of the new legislation more specifically. Particularly, we would like to attract the attention of entrepreneurs to RONI Decree No. 2/2013 Coll. on the establishment of procedures and measures regarding data storage, as well as the form and content of the stored data (hereinafter only as "Decree I"), which sets out rules for data storage and data protection with respect to data stored within business transactions by gas and/or electricity suppliers. Under the provisions of Decree I, gas and/or electricity suppliers are obliged to store data such as the identification data of the contracting parties, characteristics of the business transaction, type of the contract on supply of electricity/ gas and others. This data shall be stored in writing or by electronic means for five years following the year to which it relates. Stored data shall be marked as confidential and shall be stored in a secure area with limited and controlled access.

In addition, RONI also issued Decree No. 446/2012 Coll. on the establishment of rules for keeping records of data that are subject to accounting, methods of keeping records of costs, revenues, assets and liabilities and the form and timing of submission of the output from the records (hereinafter only as "Decree II"). Decree II stipulates the specific rules for keeping record of data which is subject

to accounting. The basis for this record keeping are the rules for allocation of assets and liabilities, costs and revenues as well as rules for depreciation, which are approved by RONI for each entrepreneur individually under Section 16 of the Energy Act.

Decree I became effective as of 15 January 2013 and Decree II as of 1 January 2013.

### II. CONCLUSION AND OUTLOOK

The aforementioned changes should simplify business activity within the energy sector in Slovakia. The introduction of the EU passport regime and the abolition of the obligation to appoint a responsible representative are of specific importance, since these changes eliminate the discriminatory provisions of the former legislation.

As a result, the new legislation introduces certain positive changes for energy sector entrepreneurs; however the new levies may be a decisive factor which could discourage potential foreign investors.

Despite the fact that the energy statistics regime should be simplified, it must also be stressed that the new decrees of RONI impose brand new obligations on energy suppliers with respect to data storage and record keeping. We are of the opinion that these additional obligations may unduly burden entrepreneurs in their daily business activities.



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