

REPORT FROM THE UPES'S CONFERENCE

NOVELTIES IN THE LEGAL FRAMEWORK AND EFFECTS OF ENERGY LAW IMPLEMENTATION

At the very beginning of the Conference the president of UPES Mrs. dr. Branislava Lepotić Kovačević gave her address to the participants and then expressed her gratitude to all participants for their presence at the Conference and especially to those, who came from the whole Balkans region. She emphasized her pleasure because this is the second year for the UPES to organize an international conference and gave prominence to the importance of the conference as one of the many ways to accomplish the goals of UPES.

The president of the European Federation of Energy Law associations (EFELA), Mr. Vicente Lopez – Ibor Mayor expressed his pleasure because again, in this year, he can address the participants of UPES conference. He congratulated the members of UPES the Association's first birthday and expressed his wishes that UPES shall continue to develop successfully and realize its goals in the field of Energy Law and energy in general. For that cause, EFELA will always provide UPES with its full support and backing.

In her introductory address, the State Secretary of the Ministry of Mining and Energy of the Republic of Serbia, Mrs. Mirjana Filipović, drew the attention on the current activities and goals of the Ministry in the field of Energy. She brought attention to the long term cooperation between the Ministry and Energy Community and stressed that the Ministry will put the necessary effort to include the UPES, as a professional association specialized in the field of Energy Law, into the further activities of the Ministry, including drafting of the laws and bylaws.

I panel - The Principles of Energy Law, Clean Energy Package: Clean Energy for all Europeans and New Forms of Energy

Moderator: Mr. Milos Laković, Partner at the law office Moravčević Vojnović and Partners AOD in cooperation with *Schoenherr*

The introductory lecture for this panel was held by the professor of Global Energy Law & Suitability at CEPMLP of the Dundee University and Member of the Scientific Committee of the EFELA Mr. dr. Raphael Heffron, who emphasized the way in which the Energy Law develops in the world with the impending climate changes and the current transition in the energy sector, and the need of respect of the principles of Environmental Protection Law and Climate Law. He stressed that EFELA, together with other institutions, actively works on developing the principles of Energy Law with systemic approach towards development of Energy Law. During the before mentioned process, one must have the notion that the time framework extends to several decades and bulk of investments are needed for achieving the energy transition goals.

Mrs. dr. Rozeta Karova, the Senior Legal Expert for Energy at the Energy Community Secretariat gave an outline of the elementary conclusions of the Energy Community study about the direct and hidden subsidies for production of electric energy from coal within the Contracting Parties of the Energy Community. Mrs. Karova then proceeded with an outline of the Clean Energy Package, highlighted the challenges which the Energy Sector faces and stressed the goals that the Clean Energy Package needs to achieve. Then she asked the question if and how the Contracting Parties of the Energy Community can follow the newest

changes to the regulatory framework, having in mind the fact that the most of these states have not achieved the full implementation of the Third Energy Package.

The Legal Expert of the Energy Department of ACER, Mr. Dimitrios Lelovitis, spoke about the consequences of implementing the Clean Energy Package and about new sources of energy. The subject of his speech was especially the role of gas in the decarbonized energy sector. Also, he spoke about the influence of CO₂ from natural gas on the glasshouse gas emissions in the EU.

After that the Head of the Knowledge Center at the International Energy Charter Mrs. dr. Gokce Mete gave a presentation about merging of the energy sector (*sector coupling*) and the possible role of gases with low carbon content (*low carbon gases*) and renewable gasses in such process. She highlighted that the question which is posed in front of the new technologies is the question about the possibility of the broad application of such technologies and the importance of regulations concerning these technologies as the possible answer of such question. She underlined that it is expected that decarbonization energy package shall be brought until 2021. It should especially address the question about renewable and decarbonized gases. She gave a quick overview of the development of the industry of renewable gas H₂ and legal questions which may arise during such development.

The closing addresses of this panel were given by Mr. Dragoljub Cibulić, Partner at the law office BDK Attorneys at Law, who efficiently summarised the presentations which were conducted in this panel and he kindly thanked all the panel members for the useful information they have presented.

II panel - The “Precedents” in the Energy Law of the European Union

Moderator: Mrs. Iva Đinđić Ćosić, Head of the Energy Law Department, EMS a.d.

The introductory lecture for this panel was held by the Deputy Director, Legal Consultant of the Energy Community Secretariat Mr. Prof. dr. Dirk Buschle, who stressed the importance of precedents and their position in the judicial practice of certain EU Member States. Furthermore, he compared the structure of judicial decisions in Germany and France, then explained the structure of judicial decisions of the European Court of Justice and also the structure of the decisions of the Energy Community. At the very end, he spoke about the key principles which European Court of Justice apply, and shall apply, while taking the decisions.

Mr. Cedric Belwald, the Partner at the law office Moyse Bleser in Luxembourg and the president of the Association for Energy Law in Luxembourg, showed in his presentation the development of the precedents of the European Court of justice, as well as the way of forming certain principles through taking of decisions of the European Court of Justice, such as principles of direct effect and the right to be forgotten. After that, he introduced the main functions of the European Court of Justice, out of which he emphasized the sanctioning function. Then he proceeded with his vision of the further development of the principle of energy solidarity which was established in so called Opal decision.

Partner at the law office Schoenherr Rechtsanwälte GmbH from Vienna Mr. Bernd Rajal presented the key decisions of the European Court of Justice which are important for the energy prices. As referential decision in that field, he presented the so called *Federutility* case, which established the test which is used for energy prices formation, where certain prerequisites need to be met, such as: justification in the general economic interest, compliance with the principle of proportionality, clearly defined, transparent, non – discriminatory and verifiable, and guarantee to equal access of EU gas companies to the consumers. Then he

presented the other key cases of the European Court of Justice which are of great importance for the energy price formation and underlined that the new Directive of European Parliament 2019/944 implemented the principles of the *Federutility* test.

Mrs. Mira Todorović Simeonides, Partner at the law office Rokas from Athens presented certain aspects of the decisions of the European Court of Justice regarding State Aid in the field of renewables. She gave a short presentation of the relevant Articles of the TFEU, and the conditions which should be met, so that the EU member state's intervention shall be acknowledged as State Aid. Then she illustratively presented several important cases of the European Court of Justice in the field of State Aid and pointed out the decision No C-405/16 Germany vs. Commission together with the important conclusions which came out from such case regarding the investigation of the decisive factors which are used in case by case, in order to to emphasize if State Aid was provided or nor.

The closing addresses of this panel were given by Mr. Miloš Kuzman, Upstream Legal Advisor, NIS j.s.c. Novi Sad, who shortly summarized the key messages of the presentations which were given in this panel and pointed out the importance of the EU Energy Law Precedents for the states in the region which are still not EU member states.

Round table - The importance of Energy Law in the region and possibilities of linking with other Energy Law Associations

Moderators: the President of UPES Mrs. dr. Branislava Lepotić Kovačević and the Partner at the law office Rokas Belgrade Mr. Vuk Stanković.

The introductory lecture of the round table was held by the general secretary of EFELA Mrs. Marinella de Focatiis. She brought attention to the importance of Energy Law on the European continent and linking of the lawyers on the European continent which practice the Energy Law. She gave an example of UPES as a good example of the regional practice of linking of the energy lawyers. She advised the participants who practice Energy Law from the Republic of North Macedonia, Republic of Montenegro and the Federal Republic of Bosnia and Hercegovina to follow the example of the UPES. At the same time, she noted that Republic of Austria, following the example of UPES, will possibly establish the local association and become an observer in EFELA.

Following the introductory lection, the energy lawyers from the Republic of Serbia and the Balkans region exchanged their opinions about the future cooperation and also their opinions of the possible ways of development of Energy Law in the whole Balkans region.