HiQSTEP Project

Results of a Study on Analysis of Licenses and Fiscal Frameworks for Concession Agreements in the Energy Sector in the EaP Countries

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HiQSTEP

High Quality Studies for the Eastern Partnership

An EU-funded Project

Objectives of the study

Support to rationalising and streamlining PPP frameworks and concessions for energy,

1. Assessment of the legal framework in EaP for concessions/PPPs, desk stud, questionnaires, interviews

2. Identification of PPP Units, tasks and mandate. Comparison with EPEC and EaP (questionnaire), interviews

3. Standard procedures for award of concessions/PPPs - a manual/guidelines

4. Online portal for the project – **www.hiqstep.eu**

EU Directives

- Directive on Concessions 2014/23/EU
- Directive on Public Procurement 2014/24 EU
- Directive on Conditions for Granting and Using Authorisations for the Prospection, Exploration and Production of Hydrocarbons 94/22/EC – (EaP mostly rely on PSC)

+ Cases from EU Countries: oil/gas, el distribution, wind farms

Complex directives to cover almost all situations.

Key words: Transparency, equal treatment, non discrimination, competition, public announcement, reasonable time frames, IT processing, known criteria for winning, risks.

Some challenges in deciding if a project is covered by the Concession Directive or Public Procurement Directive

EaP Status 2017

After independence, difficult legal framework and improvisations

	PPP Law	Concession Law	PPP Unit
Armenia	June 2017	Incl. In PPP	Planned at MoEcon/CSI
Azerbaijan	Planned for 2020	Could be included into PPP law - PSC	No, but some functions could come in 2020
Belarus	2015 in redrafting	2013	Yes
Georgia	New PPP law adopted incl. Concessions 4.May 2018	Incl. In PPP Old law unworkable	Planned for 1st July 2018 MoEcon – Risk management unit. PPA blocked now
Moldova	Yes 2008	Yes in redrafting	Yes
Ukraine	Yes, in redrafting	Yes, in redrafting, last reading	Yes

Typical Energy PPP Projects in EaP

- Oil/gas exploration and production, production sharing in EaP
- Hydro Power plants
- Solar PV
- A few wind projects
- Distribution/(transmission) el/gas/heat
- IPP

Typical PPP projects in other sectors: Roads, healthcare, schools/kindergartens, elderly services, water, waste water, parking, postage.

Status August 2017

- Principles of transparency, non-discrimination should be applied according to the Law in: Armenia, Georgia (in PPP Policy), Moldova, Ukraine;
- A minimum period is specified for the preparation of bids not shorter than 30 days should be included in: Armenia, Belarus (PPP), Moldova and Ukraine;
- Public procurement notice should be announced in: Armenia, Belarus, Moldova, Ukraine;
- Clarification on bidding documents should be open: Armenia, Moldova;
- Draft contracts should be introduced: Armenia, Belarus, Moldova (PPP), Ukraine;
- Publication of award notice: Armenia, Belarus, Moldova (PPP), and Ukraine.
- As regards Azerbaijan there is no information available on timeframes for notification of tenders. But it could be developed according the Government's program for improving the regulatory framework related to PPP.

EaP Assessment

- Good progress overall in the 6 Countries;
- Most countries have their legal frameworks in place; others are developing or revising their laws;
- PPP Units are – or are being - established in 5 countries;
- Support from EU, EBRD,WB, UNDP, EIB (EPEC)
- Capacity building needed for PPP Units, legal support
- Complex legislation with by-laws, guidelines, rulebooks

Energy data

	TPES ktoe	% own production	Own resources	Own Hydro carbons		
Armenia	2959	29%	Nuc, Hydro	0		
Azerbaijan	14332	410%	Oil, N.Gas	A lot!		
Belarus	27746	13%	Some oil Biofuels	Little		
Georgia	3222	41%	Hydro, large pot. Bio fuels	Almost 0		
Moldova	3301	10%	Bio fuels	Almost 0		
Ukraine	105684	73%?	Coal?, N.gas, Nuc. Bio fuels	Coal, gas, some oil		

PPP Units in EaP 1

CLIENTS

	AM	AZ	BY	GE	MD	UA	DK
Government / President	Planned	No info	Yes	Planned	Yes	Yes	Yes
Ministries	Planned	No info	Yes	Planned	Yes	Yes	Yes
Regions	Planned	No info	No	Planned	Yes	Yes	Yes
Municipalities / Cities	Planned	No info	No	Planned	Yes	Yes	Yes
Public Institutions	Planned	No info	No	Planned	Yes	Yes	Yes

MANDATE

	AM	AZ	BY	GE	MD	UA	DK
Advice	Planned	Unclear	Yes	Planned	Yes	Yes	Yes
Checking legal compliance and procedures	Unclear / Planned	Unclear	Yes	Planned	Yes	Yes	Yes
Reviewing projects and feasibility studies	Planned	Unclear	Yes	Planned	Yes	Yes	Yes
Approving or rejecting projects	No / Planned	Unclear	Yes	Planned	No	Yes	No
Participation in tender committee	No	Unclear	No	Planned	Yes	Yes	No info

PPP Units in EaP 2

FUNCTIONS

	AM	AZ	BY	GE	MD	UA	DK
Input for legislation and strategies	Planned	No info	Yes	Unclear	Yes	Yes	Yes
Providing standard contracts	Planned	No info	Yes	Planned	No	Planned	Some
Promotion of PPP and awareness raising	Planned	No info	Yes	Planned	Yes	Yes	Yes
Input on prioritisations of PPP projects	Planned	No info	Yes	Planned	No	Planned	Yes
PPP market analysis	Planned	No info	Yes	Planned	Yes	Yes	Some
Capacity building, training, seminars	No	No info	Yes	Planned	Yes	Yes	No

PROJECT DELIVERY SUPPORT

	AM	AZ	BY	GE	MD	UA	DK
Legal/ procedural screening	Unclear	No info	No	Planned	Yes	Yes	Partly
Advice on project implementation	Planned	No info	No	Planned	Yes	Planned	Partly
Assistance in preparing procurement and contracts	Unclear	No info	No	Planned	Yes	Yes	No
Prioritising projects	Unclear	No info	No	Planned	No	Planned	Partly
Risk assessment	Planned	No info	Yes	No	Yes	Yes	Partly
Direct assistance on procurement	No	No info	No	No info	Yes	Planned	Partly
Reviewing feasibility studies	Planned	No info	Yes	Planned	Yes	Yes	Partly
Economic assessment	Planned	No info	Yes	Planned	Yes	Yes	Partly
Technical evaluation of feasibility studies	Planned	No info	Yes	No	Yes	Yes	Partly

PPP units in EaP 3

Quality, control, monitoring

	AM	AZ	BY	GE	MD	UA	DK
Legal quality of project and/or contract	Unclear/ Planned	No info	No	Planned	No	Planned	No
Economic and/or financial evaluation	Planned	No info	Yes	Planned	No	Planned	No
Technical evaluation	No	No info	Yes	No	No	Planned	No
Mandate to recommend or reject projects	Unclear/ To be decided	No info	Yes	Planned	No	Planned	No
Keeping databases on PPP projects	Planned	No info	Yes	Planned	Yes	Yes	No
Follow up and monitoring of PPP projects	Unclear	No info	Yes	Planned	Yes	Yes	No

Typical EPEC PPP units*

- **Policy functions and support**, capacity building, market monitoring: 12-17 units out of 18.
- **Project delivery activities:**
  - support to procuring authorities, 18 out of 18 units,
  - feasibility studies: 10 out of 18 units,
  - support to procuring authorities during project preparation stage: 5-8 out of 18,
  - support to procuring authorities during the procurement stage: 1-6 out of 18.
- **Approval and quality control functions,** approval of procedures and contracting: 4-6 out of 18.

*according to 2014 survey

Standardised procurement procedures and contracts

- Include recommendations and manual for the procurement activities based on the concession directives and the public procurement directive.
- Model contracts for:
  - Oil/natural gas exploration and extraction
  - Electricity distribution network operators
  - Power generation facilities (IPPs)

Thank you

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https://europa.eu/capacity4dev/hiqstep
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