

Covid – 19 update

EMRB's announcement on the treatment of Covid-19 as a force majeure event in the power generation sector

7 April 2020

Background

In our Covid – 19 update dated [2 April 2020](#), we have pointed out the force majeure provisions under the Electricity Market Licence Regulation (the **Licence Regulation**) and discussed the consequences of Covid – 19 on electricity market licence holders' obligations under the Electricity Market Law No. 6446 (the **Law**) and the Licence Regulation.

On the same date, the Energy Market Regulatory Board (**EMRB**) adopted the decision no. 9276 (the **Board Decision**) confirming that the Covid – 19 pandemic constitutes a force majeure event under Article 35 of the Licence Regulation and Article 19 of the Regulation on Unlicensed Power Generation in the Electricity Sector (the **Regulation on Unlicensed Power Generation**). The Board Decision was published in the Official Gazette on 4 April 2020.

Effects of force majeure on deadlines

The Board Decision grants a three-month time extension for each of the following terms and timeframes, which have expired on 10 March 2020 or will expire afterwards:

- (a) the terms of (i) preliminary licences; (ii) construction and pre-construction works performed by generation licence holders; and (iii) time extensions granted under Temporary Article 15 of the Licence Regulation;
- (b) the timeframes with respect to the necessary obligations to be performed within the scope of amendment of preliminary licences and licences;
- (c) the timeframes with respect to the necessary obligations to be performed within the scope of mergers and demerger transactions;
- (d) the timeframes with respect to the necessary obligations to be performed within the scope of the issuance of new generation licences replacing earlier generation licences;
- (e) the timeframes with respect to the submission of the necessary information and documents within the scope of preliminary licence and licence applications; and
- (f) the timeframes with respect to applications under Article 18(2) of the Licence Regulation in relation to amendment of preliminary licences.

The Board Decision also provides for a three-month time extension for the deadlines in relation to the execution of system connection agreements by unlicensed power generators operating under the Regulation on Unlicensed Power Generation, which have expired on 10 March 2020 or will expire thereafter.

Conclusion

The above-mentioned time extensions apply automatically and the licence holders are not required to make an application to EMRB. We expect to see further measures from EMRB specifically targeting the renewable energy sector. We also expect to see similar steps from EMRB in other sectors such as natural gas and petroleum markets in the near future.

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