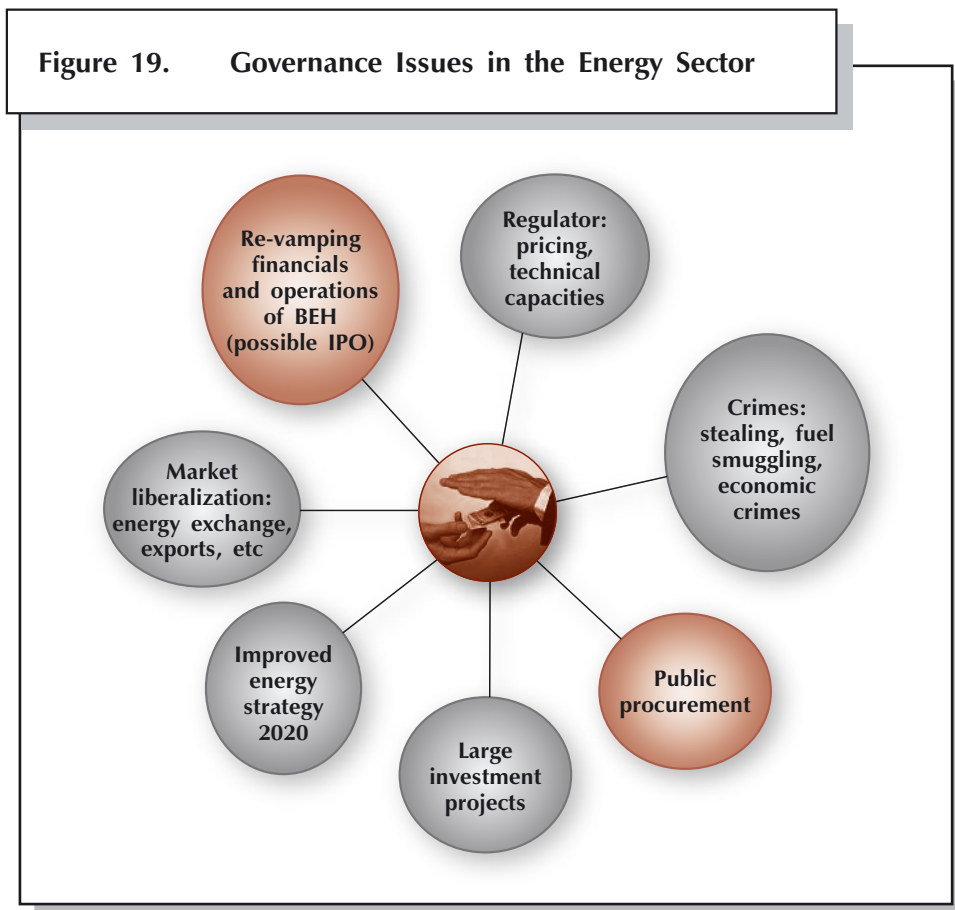


CONCLUSION: TOWARDS BETTER GOVERNANCE OF THE BULGARIAN ENERGY SECTOR

The governance of the energy sector in Bulgaria faces a number of problems of a technical, legal, and institutional nature. Resolving these issues is a major challenge for the Bulgarian government in the context of the 2008 – 2009 economic crisis and taking into account the complexities of the international environment.



Source: Center for the Study of Democracy.

An analysis of the management of key energy projects, such as Belene NPP, the Tzankov Kamak HPP, Maritsa Iztok 2 TPP, Toplofikacia Sofia, etc. has revealed **complete disregard for even basic rules of good governance**, leading to skyrocketing project costs at the expense of taxpayers and consumers. The absence of good governance practices has resulted in poor accountability, has threatened the financial stability of state-owned enterprises, increasing the risk of losing state control over them (i.e. hidden privatization), and has jeopardized

the energy security of the country. This has exposed the **failure of the entire monitoring, regulatory and compliance control system**, including its political leadership, the internal control units of state-owned companies operating in the sector, as well as the independent regulator.

The failure of the checks and balances system, together with the mushrooming of project costs, raise **legitimate concerns of corrupt practices at all levels in the energy sector**, including the political leadership. Ultimately, the lawlessness and lack of controls in the implementation of energy projects provide significant grounds for **questioning the state's ability to manage large infrastructure projects worth over EUR 500 million**. This, in turn, raises doubts as to the benefit from developing such large projects at all.

Improving the functioning and management of state-owned energy companies entails, as a minimum, the implementation of the following actions requiring significant funding and at least 2 to 3 years to materialize:

- **The political leadership should reduce their direct involvement in the operational management of energy enterprises and instead focus on policy development**, the provision of public information, and control functions. The compliance with EU priorities and directives, and with the precepts of the *Concept for Energy Strategy of Bulgaria until 2020*, necessitates a shift in national energy policy away from its excessive focus on adding generating capacities towards ensuring the stability and security of energy supply (including from RES), reducing energy poverty, and improving energy efficiency. **The model of excess electricity production (large capital investments and centralized administration) creates strong incentives for wasteful investments and corruption at the expense of taxpayers and end users**. At the same time, such a model obstructs the establishment of market mechanisms and the introduction of new technologies;
- The Ministry of Economy, Energy and Tourism, the Ministry of Environment and Water, and the Ministry of Finance should **develop and launch a publicly available website and online database** containing as a minimum: i) up-to-date information on the country's energy strategy, as well as energy and climate change policies; ii) systematic quarterly data on the financial performance of state-owned energy enterprises in an analyzable format, as well as semi-annual assessments of their condition and the risks to the financial stability of individual enterprises and the industry as a whole; iii) information on all upcoming, current, and completed public procurement procedures; and iv) information from the independent regulator concerning energy prices, market players, etc. To be comprehensive, the database should meet the following criteria:
 - ◇ It should contain data from all relevant agencies, ministries, state-owned and private enterprises (e.g., the Public Procurement Agency, the Ministry of Economy, Energy and Tourism, the National Electric Company, etc.);
 - ◇ It should be regularly and frequently updated;
 - ◇ It should provide a non-conditional-on-registration access to the database free of charge;

- ◇ It should allow for quick and easy access and download of data in a usable format (e.g., Excel spreadsheets);
- ◇ It should provide tools for easy-to-use graphic analysis;
- ◇ It should be in compliance with established accounting, auditing and other relevant standards;
- ◇ It should provide access to contracts, environmental impact assessments, and other documents of public importance;
- The Bulgarian government should **develop a system for monitoring and control of energy sector governance**, including through the use of and membership in international organizations such as the Extractive Industries Transparency Initiative.¹¹⁶ Membership in such initiatives would ensure higher levels of protection for consumers' and taxpayers' interests from monopolies, private interests, and non-transparent governance mechanisms. Such membership would serve as a guarantee for transparency and accountability. In addition, other instruments for the inclusion of stakeholders in the energy-related decision-making process should be utilized (e.g., enhanced civil society representation, public forums, etc.);
- A **system for financial control of the energy sector** should be developed and utilized. The internal control units of state-owned enterprises should fall under the authority of and report to the relevant minister who exercises the state's property rights in the companies. The operation of the control system of the energy sector should be reviewed by the Public Financial Inspection Agency at least once every two years, and by the National Audit Office every four years. The resulting recommendations should have a binding effect for the participants in the sector. Along with the implementation of a system of controls, there is a need to **audit the current financial situation of state-owned energy enterprises**, including as it relates to government guarantees, financial commitments under investment projects, inter-company debt and existing mortgages. Financial audits should be reconciled with quantitative audits. The audits should be supplemented by a four-way comparison between electricity generation, billing, revenues, and expenditures, based on accurate and frequent measurements of generation and transmission, and of transmission and distribution.¹¹⁷ **A registry of public procurement contracts involving state-owned enterprises** should complete the financial control system. The registry should allow for online monitoring of the date each contract was signed, the dates of any changes to the contract, detailed information regarding the commitments undertaken, project end dates, financial documentation, etc. The registry's aggregated data by industry and sector should be publically available;
- **The extraneous expenses of state-owned enterprises should be limited** in order to optimize their finances. A number of irrelevant and redundant activities are typical for state-owned enterprises. For example, the maintenance of vacation homes and recreation facilities is suboptimal and fragmented. NEK

¹¹⁶ For more information about this initiative, see Annex 4.

¹¹⁷ Gulati, Mohinder and Rao, M.Y. *Corruption in the Electricity Sector: A Pervasive Scourge, in The Many Faces of Corruption: Tackling Vulnerabilities at the Sector Level* Washington, The World Bank, 2007, p. 36.

funds and issues a magazine on energy – an activity more suitable for the relevant ministry;

- The National Assembly should **carry out an annual energy policy review**. As a minimum, this annual review should include the following: i) an assessment of energy policy performance vis-a-vis the stated priorities for the year, the programming budget, and the strategic goals; ii) an evaluation of the financial state of state-owned energy enterprises and an identification of the risks to the sector's development, including required state guarantees and risks of hidden privatization; iii) an outline of the priority areas of development of the energy policy for the next year. The Ministry of Economy, Energy and Tourism, together with the Ministry of Finance and the independent regulator, could prepare the review in question and submit it to the National Assembly for approval. The review could be supplemented by regular surveys of consumers and businesses conducted by independent agencies, serving as a feedback regarding the quality of governance in the energy sector;
- **Decisions on key investment projects in the energy sector should be finalized** based on thorough, reliable, and transparent financial, economic, and environmental analysis and in line with national and European strategic priorities. The longer the delay of these decisions, the larger the sunk costs and the corruption, and the stronger the political pressure on the decision makers. It is therefore necessary that future large-scale energy projects be preceded not only by environmental and socio-economic impact assessments, but also by the enforcement of detailed **ethical standards for the operation of companies involved in such projects**.

Accomplishing the suggested strategic, legal, and structural reforms is not possible without **prosecuting and bringing to justice those responsible for abusing their positions and for the mismanagement of large energy projects and state-owned enterprises**. The absence of administrative and/or criminal proceedings, especially at senior management level in the energy sector, in spite of publicized information about unprecedented and unwarranted increases in project costs, mismanagement, and a variety of other types of bad practices, creates an environment of impunity and non-transparency. These circumstances, along with the problems that Bulgaria has in fighting corruption and organized crime, create preconditions for **the penetration of the energy sector by national and international criminal groups**. According to Europol, organized crime groups are already involved in the energy supply to EU Member States. Therefore, good governance in the energy sector has become a key element of the national security of EU Member States, as well as of the security of the Union as a whole.¹¹⁸

The following approaches represent global best practices, which implementation can ease the resolution of problematic issues in Bulgaria's energy sector governance:

- **Prioritizing** the issues, which resolution would be most beneficial in the medium term compared to the efforts involved (financial and managerial). Prioritization should be placed within the context of long-term sustainability;

¹¹⁸ Organized Crime and Energy Supply: Scenarios to 2020, Europol, August 2010.

- **Using up-to-date and reliable data** to support informed decision-making, based on sound financial and economic analysis;
- **Utilizing cost-benefit analysis** and **sensitivity analysis** in developing multiple scenarios; careful consideration of the probability and feasibility of these scenarios in light of the latest global political and economic events;
- **Employing leading experts** and consulting services, if necessary from abroad, for critically important analyses;
- Achieving **resolve and efficiency** in implementing timely measures to save taxpayers' money;
- **Ensuring governance transparency** without compromising the ultimate goals of energy policies;
- Striving towards **full awareness of the environmental and social consequences** of strategic actions.