

Hungary-Balkans: What if the contract between INA and MOL be nulled and voided? The whole Europe is concerned, but not the Bosnian Government

Categories : [SEE Energy News](#)

Date : August 28, 2014

The arbitration proceeding between the Croatian government and the Hungarian MOL was initiated at the request of the Croatian government a few days ago on the Arbitration panel of the International Chamber of Commerce in Paris, in which Croatia seeks to null and void contract with MOL on management rights in INA oil company, signed in 2009th, because MOL came unlawfully or by criminal activity to management rights in INA.

In Bosnia, and thru INA, MOL also owns bosnian oil distributor company Energopetrol. What would be the consequences on the Energopetrol recapitalization, which was also declared harmful. In Bosnia an opinion on this issue was given by Ahmed Zilic, which was an advocate in the process of Energopetrol recapitalization to Hungarian-Croatian consortium MOL-INA in 2006th.

Possible repercussions

- If a contract between INA and MOL is nulled and voided, it would certainly have legal repercussions on the agreement on Energopetrol recapitalization or ownership structure and Energopetrol management in which INA-MOL has a control stake package of 67 percent. To clarify, in this control package within the consortium, the relationship between INA and MOL is 50:50. Since MOL participates with 50 percent in INA ownership structure, it follows that within the consortium there is a convoluted ownership structure; 67 percent of its stake in Energopetrol de facto amounts to 75 percent of Mol and 25 percent of Ina. In fact, on the basis of a Energopetrol recapitalization, MOL and INA arranged the joint participation in a transaction at a ratio of 50:50, as well as a shared responsibility to the FBiH Government. The question is how the capital market in FBiH and FBiH Securities Commission will react in the case of declaring the contract between MOL and INA nulled and voided. Will the nullity of the contract between MOL and INA get the arbitration repercussions or the counterparty INA and MOL will otherwise get out of the mutual contractual relationship - remains to be seen, said Zilic.

Sanader case and its repercussions on the INA management, in which MOL has a 50 percent of ownership and a little more management rights, seriously strain relations between Hungary and Croatia. On the other hand, as Zilic said, Mol is intended, and there are serious negotiations at the highest level, to introduce the ambitious Russian capital into their ownership structure, by which it would acquire the management rights within INA, but also within Energopetrol over 67 percent in consortium.

- The recent events in Ukraine have made things even more complicated, which led to an unprecedented post-Cold War tensions of relations between Russia and NATO, or the United

States that do not allow the entry of Russian capital in the MOL and INA ownership structure. Within NATO there is a different approach of the United States, on the one hand and disunited Europe where Germany is economically dominant, on the other hand. They are all concerned about the possible repercussions, except the Government of the Federation, the owner of equity of 22 percent in Energopetrol, added Zilic.

Strategy

Zilic considers that question whether FBiH Government has any strategy is a good question for the Prime Minister Niksic, the Privatization Agency, and its Commission, which oversaw the implementation of recapitalization agreement in whose corridors, he adds, that such legal nonsenses were specifically launched in order to protect certain interests, according to which the contract for Energopetrol recapitalization is irrevocable.

- Each contract can be terminated if the contractors agree about it, which refers to the consortium, on one hand, and the FBiH Government, on the other hand (or, better said, if the FBiH Government is ready to pay the money invested in Energopetrol to consortium MOL-INA), or if the competent court or arbitration decide on the contract termination, as it is regulated in all jurisdictions. In the case of equity and control turbulence in Energopetrol, caused by the eventual contract nullification between INA and MOL, I do not know whether the FBiH Government does have some spare or exit plan. Whether in this case, it prepares for the arbitration process - I do not believe, because the FBiH Government should initiated arbitration proceedings against the consortium MOL-INA in Switzerland in accordance with the rules on arbitration of the International Chamber of Commerce. I do not know whether these bodies of Energopetrol corporate management deal with this issue, said the lawyer.

On the question how did poor relationship between INA and MOL reflect the Energopetrol business, Zilic corresponds that Ina increasingly operates through its daughter companies in FBiH, avoiding the profit division in the ratio of 25:75, which would happen if it operates through Energopetrol on the FBiH oil market.

- In business relationships such egoism is legitimate because it is difficult to expect adherence of business ethics and fair play to the level of today's serious misunderstandings and relations between Hungary (MOL) and Croatia (INA).