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Green Action comments on draft EBRD country strategy for Croatia April 2007

Green Action welcomes the opportunity to comment on the EBRD's strategy for Croatia and appreciates the useful overview the strategy provides of the Bank's thinking about its Croatian investments. These brief comments cover only those parts of the strategy with which Green Action is most familiar: public participation and citizen benefits from EBRD projects in Croatia, transport, municipal and environmental infrastructure and energy.

Public participation in decision-making in Croatia

While progress has undoubtedly been made in specific areas of legislation in Croatia, the horizontal issues of public participation in decision-making, access to justice and transparency remain issues of serious concern. The Croatian parliament only voted to ratify the Aarhus Convention in December 2006 and opportunities for public participation in decision-making processes remain limited, both on the legislative level and concerning individual infrastructure projects.

Access to information from Ministries appears to be improving, but other bodies such as state-owned and private enterprises regularly ignore information requests and sometimes refuse access to information. On the local level access to information is highly variable. In Zagreb, where Green Action has the most experience of working, it is often extremely difficult to obtain even basic environmental information. Letters on infrastructure projects and strategies are hardly ever answered and attempting to obtain information by telephone results in being directed to various personnel, whose answers often contradict one another, even on basic information such as dates of public consultations.

Concerning the actual decision-making processes, lack of timely information clearly impacts on the ability of civil society to play its role in decisions on new legislation, strategies and individual projects.

In addition the law does not adequately provide for stakeholder consultation on new laws, strategies or individual infrastructure projects. For example the Croatian Environmental Impact Assessment regulation (Official Gazette 59/2000) does not meet EU standards as it has no scoping procedure. It is also open to corner-cutting as it does not clearly set out what should happen when a study needs to be amended. The interpretation of civil society groups is that the EIA process should begin again from the start and include a new public consultation but this has not always happened in practice. An additional problem is that only a period for written public comments on an EIA is obligatory (not public meetings), and this is often poorly publicized. Strategic Environmental Assessment (SEA) legislation does not exist at all in Croatia yet.

The attitudes of many officials in Croatia towards public opinion have unfortunately not changed very rapidly and while lip service is paid to public participation, the reality rarely matches the rhetoric. In some cases antipathy towards public opinion is not even disguised - the Mayor of

Zagreb recently stated on national television that he will not talk to opponents of his projects and that if they want to do something differently then they should run for elections themselves.¹

Access to justice is extremely poor in Croatia and as the EBRD's strategy notes, the judicial system is slow and ineffective. Civil society groups and individuals often lack standing in court cases and bringing court cases usually does not have a suspensive effect, meaning that by the time a court case is complete, the damage is already done.

Green Action believes that increased stakeholder involvement would improve the quality of laws, strategies and projects and decrease the scope for corruption, and recommends that the EBRD as a subscriber to the principles of the Aarhus Convention should play a more pro-active role in ensuring that public participation policies and procedures are improved and adhered to by project promoters in Croatia. This must include but not be limited to access to information and must emphasise meaningful public consultation.

The EBRD should also promote improvement of the Croatian EIA legislation and adoption of a law on SEA.

We welcome the call for greater transparency by the EBRD on p. 5 of the Country Strategy and would recommend that improving public involvement in decision-making should be further specified as one of the key recommendations for the Croatian authorities.

Citizen and private sector benefits from EBRD-financed projects

The recommendation for the Croatian authorities to "promote private sector participation in infrastructure at national, regional and the local, municipal levels" on p.5 does not appear to be justified. Green Action believes that private sector participation must be assessed on a project-by-project basis and that there is no general justification for promoting the private sector over the public sector. The Country Strategy seems to back this up on p.16/17: "It is essential to weigh the costs and benefits to ensure that a PPP is the best approach for a given investment". ***Green Action emphasises that PPP arrangements must not include water supply services.*** There is growing evidence from around the world that private involvement in water supply has led to price rises and often decreases rather than increases in the quality of service. Increased public involvement in decision-making on water supply services (so-called Public-Public partnerships) have brought good results at lower costs and are beginning to attract more widespread recognition.

The Zagreb Wastewater Treatment Plant shows that investments involving the private sector are not immune from cost over-runs and delays in implementation. A January 2007 article in the Poslovni Dnevnik pointed out that official statements about the cost increases for the project do not add up and that the cost appears to have risen by EUR 50 million overall². The same article suggests that the construction of the biological part of the plant is running two years late, and it has recently been reported in several media sources that the late-running Domovinski Bridge will be further delayed because its surface is not properly aligned with those of the access roads.

Perhaps more importantly in the long run, concerns have been raised about the level of profit for the private concessionaires compared to the degree of risk transfer. While the construction and availability risks are borne by the concessionaire,³ the demand risk is borne by the public - although they do not have a choice whether to use the facility or not, taxpayers have had to cover the costs of some larger companies refusing to pay their fees for the plant on the grounds that they have already had to invest in their own wastewater treatment systems and do not benefit from the

¹ Milan Bandić, Nedjeljom u dva, 28.01.2007

² Ivan Pandžić, "Milijuni eura izgubljeni u čistijoj vodi", Poslovni Dnevnik, 15.01.2007
<http://www.poslovni.hr/31139.aspx>

³ Vladimir Šimić, Pravni aspekti koncesije pročišćavanja otpadnih voda u Zagrebu, 16.03.2001

facility. The plant provides an almost guaranteed income for the concessionaire for 28 years, and according to the Poslovni Dnevnik article mentioned above, the concessionaire will have been paid EUR 294 million by 2010 - more than the total investment costs (not taking into account any penalties for the late completion of the project).

Another concern is the risk connected to the sludge from the plant, and it is unclear exactly whose responsibility this is. While the concessionaire is constructing an anaerobic digestion plant for the sludge, according to Ante Pavić of ZOV, the concessionaire, this will not be sufficient to treat all of the sludge and therefore it is imperative to build an incinerator to burn the remaining sludge. There does not appear to be any reason for failing to treat all of the sludge by anaerobic digestion and this appears merely to be an attempt to justify the construction of a large waste incinerator.

It is not known whether a thorough public sector comparator analysis was ever made for this project, and is therefore impossible to know whether the project offers value for money. However, it seems likely that it could have been carried out less expensively.

Particular attention should be paid to transparency, not only in tender procedures but also in project development. The concerns stated above which limit the benefits to citizens from some infrastructure projects apply equally to public and private projects and require horizontal measures to improve transparency and public involvement in decision-making processes. Legislation must be put in place to ensure public participation in the preparation of PPP projects, with provision for full access to value-for-money and public sector comparator analyses, and information on affordability for citizens.

Concerning direct loans to private companies, the public benefits of loans to large companies whether Croatian or not, are not always clear. Such companies should have ample access to commercial financing, and it is not clear why they should be privileged with limited public development financing. The Country Strategy lays out the EBRD's intention to "continue to develop its good relations with leading Croatian companies, in particular clients in the retail and agribusiness sector, by facilitating their access to capital markets and supporting their expansion and consolidation as regional players." (p.27) ***If such loans are to be made, increased attention needs to be paid to monitoring labour standards with direct involvement of the trade unions and other interested stakeholders and substantial social impacts assessments need to be made to ensure that new retail outlets do not negatively impact on local economies or increase traffic problems.***

Transport

National and regional transport

Croatia's national transport strategy was written in 1999⁴ and needs to be updated. It does not promote the principles of addressing transport demand, modal shift, or fair pricing and concentrates on road-building and developing Croatia as a transit country - a status which countries such as Austria and Switzerland consider to be a curse rather than a goal.

Resources have been poured into motorway construction, with varying levels of economic and environmental justification. From publicly available figures Green Action has calculated that on the national level in 2005-2008 68.5 per cent of national transport investments have been for roads, with only 21 per cent for rail.⁵ Consequently road transport has grown enormously whilst the potential of rail transport has not been realised.

⁴ Republic of Croatia, Ministry of Maritime Affairs, Transport and Communications: Transport Development Strategy of the Republic of Croatia, Zagreb, November 1999

⁵ National Transport Priorities for Croatia: Green Action Position Paper, December 2005

Maintenance of existing roads has also suffered due to the emphasis on motorway construction. Approximately 56 per cent of expenditures on roads between 2005-8 are for motorways, leaving local and state roads in a generally poor condition. A 2004 World Bank Project Performance Assessment Report mission obtained data which indicated that the percentage of roads in good condition ranged between 18 and 30 percent, depending on the measurement criteria.⁶

The economic development of disadvantaged areas which has frequently been promised by those promoting large transport infrastructure projects in Croatia has not been adequately assessed, but anecdotal evidence suggests that there is no inherent link between building transport infrastructure and economic development and that outcomes are strongly locally-specific. Indeed rural communities in Croatia have sometimes found themselves more isolated than before when toll motorways have replaced free roads or intercity trains with fewer stops have replaced local trains. The finding that infrastructure does not necessarily cause prosperity is supported by studies from other countries, most notably the 1999 UK government SACTRA report.⁷ It is therefore worrying to see that the EBRD recommends the Croatian government should “enhance regional trade and development by investing in regional transport infrastructure” (p.5, also p.15).

Although some regional infrastructure investment may be necessary, such as improving the railway link between Sarajevo and Ploce, the EBRD’s broad statement too readily supports Croatia’s excessive concentration on transit transport and in particular large infrastructure such as the planned motorway on the northern section of the Corridor Vc, which appears to be unjustified in terms of demand and threatens to harm the Drava Wetlands to the north-west of Osijek. **Greater weighting needs to be given to non-infrastructure regional transport issues such as traffic management systems and agreements to speed up procedures on rail border crossings.**

Green Action considers that a new national transport strategy, inclusive of the aims of the 2001 EU White Paper on transport, and with full public consultation, should be among the recommendations to the Croatian government made by the EBRD on p.5 of its country strategy. Transport infrastructure’s relationship with regional trade should only be mentioned if specific examples of deficiencies in this area or evidence of clear benefits from new infrastructure projects can be given.

Local transport

Green Action would like to see information about the EBRD’s plans concerning local transport in its Country Strategy. This is an area with potential for useful investments, however many of the current plans being put forward by local authorities, particularly in Zagreb, are oversized prestige projects which are not likely to improve urban transport and do not deserve EBRD support.

On the local level in Zagreb, where nearly a quarter of the country’s population lives, transport policy follows the same car-centred predict-and provide strategy. Zagreb’s neighbourhoods are inconsistently connected to the public transport network; bicycle paths are few and far between and often blocked by parked cars, pedestrians, dustbins or street furniture; pavements are likewise often blocked by parked cars and pedestrian zones cover only a small area of the city centre.

Transport projects in the last few years have made little impact on the city’s congestion problems - the widening of the Ljubljanska Avenija has created a little more space for cars, while the effectiveness of the fleet of new trams has been hampered by the failure of the authorities to

⁶ World Bank: Project Performance Assessment Report Croatia, Highway Sector Project (Loan 3869-CR), Report No.: 28381, March 30, 2004, Sector and Thematic Evaluation Group Operations Evaluation Department p.7

⁷ SACTRA (Standing advisory committee on trunk road assessment) Report: “Transport and the economy” UK Government, 1999, p.3

physically separate tram lanes from car lanes, meaning that tram lanes are frequently congested with cars. A current penchant for building large underground garages near the centre of the city also threatens to induce more traffic.

The City Council's main guiding document is a transport study⁸ that has never been subject to public consultation and fails to take into account EU transport policies.

In the future, the city council has five main projects planned⁹:

- A 6.6 km tunnel through the Medvednice mountain to the north of the city which would connect Zagreb with the sparsely populated Zagorje area, plus a ring road within the city which would have 30 per cent of its route on viaducts and tunnels.
- A bypass running to the north of Zagreb. Since there is almost no flat land in this area the road would run 60 per cent of its route on viaducts and through tunnels.
- The elevation of the existing railway by 5-7 metres in order to make more space for building commercial premises and car parks.
- A light rail system, which would be partly underground. Three lines are planned to run east-west and one north-south, with the three east-west lines having the same route for more than 50 per cent of their length and running parallel to the existing railway.
- The expansion of Zagreb airport, which the EBRD's draft strategy expresses interest in supporting (p.16)

The light railway network may contribute to improving the sustainability of urban transport in Zagreb, although it is at too early a stage to be sure whether the plans are justified in their present form. Croatian Railways are planning to take transit trains around Zagreb and therefore to speed up passenger trains in the city and this will need to be taken into account when assessing whether three new light rail lines running parallel to the existing railway are necessary.

The other projects outlined above are unlikely to contribute to improving the sustainability of transport in Zagreb as they do not tackle the underlying problem of transport demand. The first three projects entail excessive costs for very questionable benefits. For example it is predicted that in 2030 only 11 700 vehicles per day will pass through the Medvednica tunnel - a very low level of traffic particularly compared to the estimated construction costs of the tunnel and bypass of EUR 836 920 000. In addition, Medvednica mountain is a protected natural area with the status of Nature Park so the first two projects would have a negative impact on biodiversity.

Green Action is concerned about the EBRD's interest in supporting the expansion of Zagreb airport. Plans for the airport seem to be based on a predict-and-provide strategy, which contradicts the 2001 EU White Paper's call for controlling the growth of aviation. The new terminal would facilitate the massive growth of air transport to Zagreb, and would allow a significant expansion of low-cost airlines operating from Zagreb airport. Aviation is the most climate-damaging mode of transport per passenger kilometre, but is heavily subsidised, not having to pay fuel tax or VAT on tickets. **Therefore Green Action does not believe that aviation expansion should be eligible for public loans.**

Access to the airport is also a matter of great concern as the new railway link is not expected to be completed for several years after the new terminal opens, meaning that a large growth in road traffic associated with the new terminal can also be expected.

To give an idea of transport projects Green Action considers necessary, a study has recently been carried out in co-operation with UNEP on urban transport in Zagreb and identified ten measures needing to be taken by the authorities (see attached document).

⁸ City of Zagreb website,

<http://www.zagreb.hr/dokument.nsf/VPD/09A8300639DEDD0EC1256A0D0051F0F5?OpenDocument&12>

⁹ Information Management Policies Assessment for City Transport Systems (IMPACTS) webpage, <http://www.impact.org/cities/zagreb.html>

Municipal and environmental infrastructure

Many of the most important issues in the Country Strategy relating to MEI relate to financing structures and have been covered above.

Wastewater treatment: Whilst Green Action generally supports investment into wastewater treatment facilities, the value for money and effectiveness of the projects must be transparently calculated and projects must not entail excessive costs for users. Concerns have been raised about both the Zagreb and Pula projects and we hope that lessons will be learnt from these projects. Clarification would be appreciated on the statement on p.24 “with EBRD taking part in financing Pula, Karlovac and Sisak municipal wastewater management projects”, as we understood that financing was no longer being requested from the EBRD for the Pula wastewater project.

Municipal solid waste management: Green Action sees a great need for investments into the rehabilitation of unlicensed waste landfills in Croatia, however, lessons need to be learnt from the Zagreb example in which large quantities of toxic waste were recovered from the landfill with no provision within the project itself for their further treatment and disposal. This led to the construction of a disastrous hazardous waste incinerator, PUTO, which appears to have regularly exceeded emissions limits and finally incinerated itself in 2002 after a fire broke out in a storage area. In future projects, proper provisions need to be made for the further treatment of all kinds of waste arising from the rehabilitation of landfill sites.

In its strategy the EBRD states that it is currently considering taking part in financing the Primorsko-Goranska regional and Istria regional waste management programmes. We hope that the Bank will use its leverage to ensure that the waste hierarchy is maximised in these programmes. In Istria, we are concerned that the Holcim cement factory in Koromacno has been given permission to burn Refuse-Derived-Fuel (RDF) even though the Istrian waste management plan has not yet been completed and there is no facility for producing RDF in Istria. The easy availability of an incineration facility may lead to competition between recycling and incineration for those materials which are both recyclable and combustible, and is likely to prejudice the development of the waste management plan to privilege incineration rather than fully exploring other waste treatment options.

The EBRD should state in its Country Strategy how its investments in the waste sector will prioritise the preferred management methods according to the waste hierarchy, ie. reduction of waste, re-use, recycling, and composting.

Energy

The EBRD's intentions to finance renewable energy sources and energy efficiency in Croatia are welcome and Green Action hopes that the recent adoption of secondary legislation on renewable energy installations will enable the more rapid implementation of sustainable energy generation in Croatia. Some remaining barriers to the widespread adoption of renewable energy sources also need to be overcome, for example the city of Zagreb's unhelpful bylaw banning the installation of solar heating and photovoltaic panels in positions which are visible from the street.

Whilst welcoming investment in renewable energy sources we must emphasise that Waste-to-Energy and burning waste in cement kilns cannot be regarded as renewable energy as it burns recyclable resources and causes new materials to have to be extracted and processed.

Green Action also believes that hydropower must be approached with great caution and that hydropower plants, whether small or large, must not be situated in protected areas or areas which have been identified as potential future protected sites.

Whilst wind power has been explicitly mentioned in the Country Strategy, we believe that several other renewable energy sources also have a significant role to play in Croatia, including small biomass combined heat and power plants burning wood waste from the forestry industry, solar thermal for home water heating and the tourist industry, and to some extent photovoltaics - particularly on the islands and in remote areas.

It is to be hoped that given the stated commitment to renewable energy and energy efficiency above, the EBRD will refrain from financing infrastructure leading to an increase in the transport and consumption of fossil fuels. We are particularly concerned about oil transit pipelines designed to accommodate the EU's increasing oil consumption. Transport is the fastest-growing emitter of greenhouse gases in the EU and the construction of more oil pipelines which would predominantly supply fuel for road vehicles would hinder the EU's ability to meet its greenhouse gas reduction commitments as well as putting the environment in south east Europe at risk from oil spills and safety problems. While the safety of energy infrastructure and transportation needs to be maintained and increased, it is only acceptable to transfer transportation of oil from the Turkish Straits to overland pipelines if this does not result in an increase in oil transportation on the ecologically delicate Black and Adriatic Seas and if the quantity of oil passing the Straits actually decreases rather than leading to an overall increase in the quantity of oil being transported to western Europe.

We would welcome more clarity on the EBRD's financing intentions to ensure 'security and diversity of energy supply' as it is unclear which energy sources this refers to. We welcome the fact that the EBRD does not finance the development of nuclear energy generation and we believe that under no circumstances should the EBRD support coal-fired energy generation. Whilst gas has a role to play in the short term we believe that investments into increasing the use of gas crowd out investments into renewable energy and energy efficiency, and increase dependence on outside sources of energy, and should not be privileged by public banks such as the EBRD.

Green Action welcomes the EBRD's plans to increase investments into energy efficiency and would like to see energy efficiency requirements being mainstreamed into all EBRD-financed projects, including less often used energy-efficiency methods such as passive solar architecture, sustainable and local building materials, and re-use and recycling of materials. Investments into thermal efficiency need to ensure that the solutions used are sustainable and that insulation materials can be harmlessly disposed of after use, for example encouraging the use of insulation materials derived from sheep's wool, which is currently burnt in many areas of Croatia today because of the lack of market for it.

Tourism

Concern has been expressed by Green Istria, an environmental NGO active in the Istrian peninsula, about the tourism development plans for the Brijuni Islands National Park. Both the project development process and the project's content are a matter of concern, as the local public does not appear to have been consulted at all. Green Istria and Green Action believe that golf courses, polo tournaments and housing capacity are unsuitable developments for a National Park and that such large-scale developments cannot ensure the preservation of the islands' natural value.

Any further developments on the island must take place in consultation with the local population and in accordance with EU legislation on strategic environmental impact assessment and international norms for National Parks.