

Subject: Zagreb incinerator project - EIB webpage

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Conversation: Zagreb incinerator project - EIB webpage

Dear Sir/Madam,

As we understand from the EIB's webpage[1] that the bank may still be interested in financing the Zagreb municipal waste incinerator project, we are writing to update you on the issues surrounding the project, and to re-iterate our request for the bank to withdraw its even smallest interest in financing the project.

1) Court Case on Environmental Impact Assessment procedure

The court case launched by Green Action in November 2006 aimed at cancelling the approval for the Environmental Impact Assessment (EIA) is still pending. The EIA approval took place without the public being consulted on the final version of the EIA, contrary to Croatian law and the EU EIA Directive (85/337/EEC as amended by 97/11/EC and 2003/35/EC). More than two and a half years has passed since Green Action submitted its complaint to the Administrative Court, with no news on whether the case is even admissible. This year a procedure was initiated to try to speed up the case, but we were told that this could not be done.

According to Croatian law, while the court case is pending there is no legal obligation for the authorities to halt the project. However the Ministry of Environmental Protection, Spatial Planning and Construction has in a recent communication with the European Commission stated that it is no longer willing to discuss the project while the court case is pending.[2] We therefore consider that the project is de facto on hold until the court case is completed.

2) Corruption situation in the City of Zagreb

Zagreb City Council has long had a reputation for lack of transparency and for corruption. Recently however discussion of this issue has intensified and it has come to light that over 200 complaints have been filed to the state anti-corruption office "USKOK" against the Zagreb Mayor, Milan Bandic, and that many of these have resulted in ongoing investigations. Also General Director of Zagreb Holding, Slobodan Ljubcic, had to resign in August 2008 because of corruption scandal and beatings of director of one Zagreb Holding company who reported corruption in Zagreb Holding to USKOK.

We would therefore recommend to the EIB not to finance any project involving the Zagreb Holding municipal company until these investigations have been concluded.

3) New requirements in revised Waste Framework Directive

As the Waste Framework Directive has recently been revised, any new waste sector investments in Croatia should enable the country to comply with the new recycling targets. No detailed analysis of this has yet been done for the Zagreb incinerator, but we believe that the project would make high recycling levels difficult for the following reasons:

a) The City of Zagreb has allocated EUR 161.4 million for the incinerator but only EUR 4.5 million for recycling, indicating that the incinerator is planned as a substitute for recycling rather than as a last resort.

b) While the City of Zagreb claims it is planning to increase recycling, if an incinerator is built, this is unlikely not only because of being financially crowded out but because incineration requires a constant quantity of waste. The planned incinerator is very large - 385 000 tonnes per year - and it is based on burning almost all of Zagreb's waste rather than just the residual fraction. It is also based on a prediction that Zagreb's waste will grow by 80 percent between 2005 and 2020. As explained in the annex to this letter this is extremely unlikely - more likely is that the quantity of waste will grow slowly or stabilise and that the operator would have difficulty to fill the incinerator, either leading to importing of waste or burning of large quantities of recyclable materials.

4) Claims by the Ministry of the Environment regarding the EIA procedure

We would like to clarify some issues surrounding the EIA procedure, as we have become aware that the Croatian Ministry of Environmental Protection, Spatial Planning and Construction has made some misleading claims regarding the process to the EC, and perhaps also to the EIB.

On 28.01.2008 Mr Nikola Ruzinski, State Secretary for the Environment, sent a letter to the European Commission claiming that the 2005 EIA process was abandoned as the result of a request from the developer. This would imply that the process in 2006 that led to the approval of the EIA was a continuation of the 2005 process, and would therefore not require another public consultation. The State Secretary also claimed that the deficiencies in the 2005 EIA were covered by the amendments in the 2006 version. Both of these claims are false, and we explain why in the annex to this letter.

We are now expecting a new waste management plan to be subject to public consultation during the next few months and will be advocating for waste prevention, recycling, composting and mechanical-biological treatment, with landfilling only of MBT-treated materials. With the low level of recycling in Zagreb and lack of proper up-to-date analysis of the quantity and type of waste that Zagreb is producing, we do not see any place for an incinerator in the city's waste management strategy. In view of the above we would re-iterate our recommendation to the EIB to withdraw its interest in financing the project and to publicly indicate that it has done so.

[1] <http://www.eib.org/projects/regions/enlargement/croatia/index.htm>

[2] Letter from Nenad Mikulic, Ministry of Environmental Protection, Spatial Planning

and Construction, to Françoise Delcuellerie, EC Desk Officer for Croatia, 24 July 2008

In the attachment you can also find annex to this letter – called **Explanation of the deficiencies in the EIA process for the Zagreb incinerator, to remind you once again about the case deficiencies.**

We look forward to hearing from you,

Yours faithfully,

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Annex: Explanation of the deficiencies in the EIA process for the Zagreb incinerator

In 2005, after the EIA commission for the project had already rejected a first version of the EIA had asked for amendments, a second version of the EIA was made available for public consultation. After the public consultation, during which a number of deficiencies were identified in the EIA, the Ministry of Environmental Protection, Spatial Planning and Construction issued Resolution on 6th September 2005 (ref. 531-08-3-STZ-05-10), which rejected the study. It states that *"The EIA for the "Thermal Waste Treatment Plant of the City of Zagreb" project does not satisfy, either formally or satisfactorily, the requirements of Article 7. of the Regulation on Environmental Impact Assessment (Official Gazette 59/00) under the framework of which it was initiated and carried out."*³

The Resolution gave several reasons for rejecting the study, which are laid out below.

We later found out from a report prepared at the request of Zagreb City Council on 28.09.2006 that:

- After the resolution rejecting the EIA, the City of Zagreb submitted a complaint to the Administrative Court of the Republic of Croatia on 25.10.2005 requesting the cancellation of the resolution of 6th September 2005.
- In the meantime representatives of the City Office of the Economy and Elektroprojekt, project promoters, held several meetings with representatives of the Ministry of Environmental Protection, Spatial Planning and Construction in order to resolve problems and undertake the necessary work to remove the deficiencies in the EIA. The conclusion of this was that it was in the interest of the City of Zagreb to withdraw the complaint to the Administrative Court, which it did on 15.02.2006.
- As a consequence of these meetings, joint minutes between the Ministry, City of Zagreb and Elektroprojekt were signed on 21.03.2006 with the conclusions on the changes needed to the Environmental Impact Assessment.

The above clearly shows that the EIA was rejected, and not withdrawn at the request of the developer.

In its January 2008 letter to the EC, the Ministry also claims that *"the Environmental Impact Study was revised in accordance with the comments expressed during public consultations as well as in accordance with the comments made by the Commission, the Ministry of Environmental Protection, Physical Planning and Construction."* This is simply untrue.

After the rejection of the study by the EIA Commission in 2005, a new Commission was appointed to review the 2006 version of the EIA.

However, the only revisions agreed in the abovementioned minutes from the meeting between the Ministry, the City of Zagreb and Elektroprojekt on 21.03.2006 were:

- 1) To add that the location for the incinerator had been incorporated in the General Urban Plan
- 2) That the ash would be disposed of at Jakusevac landfill in Zagreb until Zagreb City constructs another landfill
- 3) That the toxic ash would be exported
- 4) That the waste data would be copied from the city waste management programme
- 5) That information on the current state of the incinerator location would be included
- 6) That the incinerator may be expanded in a second phase for the waste coming from Zagreb County.

³ Our translation

⁴ Unknown author: Izvješće o dosad poduzetim radnjama na realizaciji projekta gradnje PTOO u Gradu Zagrebu (requested by Zagreb City council 28.09.2006)