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European Investment Bank
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Ljubljana, 28 February 2011

Complaint regarding the decision by the European Investment Bank to grant “TEŠ – Thermal Power Plant Šostanj” loan

1. The subject of the complaint

This complaint relates to a decision taken by the European Investment Bank to provide a loan for €550 million entitled “TEŠ – Thermal Power Plant Šostanj” (referred to below as ‘the loan’) which was signed by the European Investment Bank on 27/09/2007 (for €110 million) and 22/04/2010 (for €440 million).

In this complaint we would like to emphasize the following aspects:

- premature disbursement of funds
- failure to assess the project's compatibility with the 2050 climate targets
- misleading claims that TEŠ 6 is only a replacement and not an expansion
- missing clear governmental support to the project

We request the EIB to withdraw its approval for the project and recall the previously disbursed finance as in our opinion the EIB committed an instance of maladministration when approving the project.

2. Details of the complaint

Below we describe the legal and environmental conditions related to the project development. We have identified the following areas of concern where non-compliance with EU policy¹ as well as with the EIB Statement of Environmental and Social Principles and Standards, and the EIB's criteria for lending for coal power plants occurred:

- premature disbursement of funds
- failure to assess the project's compatibility with the 2050 climate targets
- misleading claims that TEŠ 6 is a replacement and not an expansion
- missing clear governmental support to the project

2.1. Premature disbursement of funds

According to the EIB's Statement of Environmental and Social Principles and Standards, paragraph 23, “In particular, the EIB requires that all projects comply with: Applicable national law;”.

This means that the loan can only be disbursed when a valid environmental permit is awarded for the project. However, in the case of the TEŠ loan, the first tranche of the loan was disbursed² on 16 February 2011 although the environmental permit has not legally entered into force. Namely, the environmental permit was awarded on 16 February and a 15 day deadline was given for possible complaints, which means that the permit cannot enter legally into force before this deadline expires and any complaints have

1 Council Conclusions on the EU position for the Copenhagen Climate Conference, 2968th ENVIRONMENT Council meeting Luxembourg, 21 October 2009,

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/110634.pdf

2 According to media reports: eg. <http://www.bloomberg.com/news/2011-02-17/slovenia-sostanj-plant-gets-first-eib-loan-tranche-finance-says.html>

been resolved. We therefore appeal that the EIB recalls the loan until the environmental permit enters into force.

2.2. Failure to assess the project's compatibility with the 2050 climate targets

The EIB's mandate is to assist with the implementation of EU policy. The bank is also obliged to comply with EU law.

On 21 October 2009 the 2968th Environment Council meeting recognized in its *Council Conclusions on the EU position for the Copenhagen Climate Conference* that '...developed countries as a group should reduce their GHG emissions below 1990 levels through domestic and complementary international efforts by 25 to 40% by 2020 and by 80 to 95% by 2050...' (p.2).

In addition, Slovenia is currently adopting a climate law, which is expected to demand at least 80 % reduction of GHG by 2050. This demand of the law is based on the *Declaration of the Parliament on the active role of Slovenia in the climate policy*, which was adopted by the parliament in November 2009 and calls upon the government to oblige to such a long-term climate objective.

The outstanding problem with the TEŠ 6 project is that it is not compatible with the EU's long-term climate targets as laid out in the Council Conclusions above. The EIA of the project does not assess what impact this project has on Slovenia's emission reduction targets. As stated in the EIA and the EIA Addendum, the absolute emissions of carbon dioxide will not be reduced and will stay at the same level (approximately 4 million tonnes of CO₂). If Slovenia is to reduce its emissions from the current level of roughly 20 million tonnes of CO₂ by 80 % by 2050, which it would need to do in order for the EU as a whole to reach its target, it reaches the level of 4 million tonnes. This means that the whole or almost the whole emission quota of the country will be covered by the functioning of one power plant – TEŠ 6, which is planned to operate until at least 2050. This means that all other sectors in Slovenia will have to reduce their emissions disproportionately more than the energy sector, which can reduce its emissions relatively easily in comparison to other sectors, such as transport.

This means that it is practically impossible for Unit 6 to contribute to achieving compliance with Slovenia's long-term climate and energy commitments. Lignite is one of the least efficient and most polluting energy sources which will extend Slovenia's dependency on fossil fuels and make the national renewable energy targets (25% by 2020)³ much more difficult to achieve. With TES 6 Slovenia will be locked into high carbon energy technologies for at least four more decades. TES 6 is therefore an expensive distraction from the major investment needed for a radical transition to a safe and sustainable low carbon future, based on more modest consumption, energy efficiency and conservation, and renewable and decentralised energy, a future in which we no longer have to rely on non-renewable and unsustainable fossil fuels, not only according to our assessment, but also according to the assessment of the Director of the Energy Directorate⁴.

In our opinion the EIB failed to properly assess TES6's compliance with the EU's 2050 emissions reduction targets. These had been confirmed at EU level by the time the EIA study was published and they had been confirmed well before the first tranche of the loan was disbursed and before the second tranche of the loan was signed. Therefore the EIB in our opinion had a duty to assess the project's compatibility with the EU 2050 climate targets before disbursing the money.

The EIB's Environmental and Social Practices handbook emphasizes the EIB's wish to contribute to the EU's policy goals:

"162. The EIB is committed to support the EU leadership role in combating climate change and recognises the need for an appropriate response. Measurement of the carbon footprint of the projects it finances is part of the Bank's commitment towards this objective. A carbon footprint assessment to systematically measure the absolute and relative carbon emission of all new single scheme investment loans is being developed and tested."

However the procedures outlined in the Handbook are not sufficient to ensure that the bank's projects contribute to achieving the EU's long-term climate objectives in all cases. The handbook outlines the need

³ Directive [2009/28/EC](#) of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

⁴ As presented at the meeting of the Parliamentary Committee for European Affairs at <http://tvslo.si/#ava2.97947229>;

to identify projects which may result in a large increase or decrease of relative or absolute greenhouse gas emissions (para. 163). However, while “there will be no net increase in CO₂ emissions” and there will be a relative decrease of 28 percent per unit of electricity produced compared to the current situation⁵ as a result of the project, there is a need for at least 80% *absolute emissions reductions* by 2050, and due to the small size of Slovenia this cannot be easily delivered by other sectors. Therefore it was necessary for the EIB to not only quantify reductions, but to assess their compatibility with EU climate policy goals.

In the EIB's Management Proposal on the project, it argues: “*From an EU policy perspective, the project's negative impact on climate change from relatively high CO₂ emissions compared to alternative gas-fired generation is counterbalanced by its positive contribution to security of supply from locally produced lignite.*” However we do not find this argument valid, as EU climate targets are valid irrespective of the source of the fuel used.

The Management Proposal also claims that: “*In the long run, the plant can accommodate carbon capture and sequestration, which would lead to a significant reduction of CO₂ emissions.*” However we do not find this a convincing argument to address the issue of the clash with the 2050 greenhouse gas reduction target as CCS is so far an unproven technology.

2.3. Misleading claims that TEŠ 6 is a replacement and not an expansion

One of the EIB criteria for awarding the loan to TEŠ 6 was that the project is a substitution for the old blocks and does not represent expansion: In order to avoid a shift towards carbon intensive electricity generation, new plants should replace existing coal/lignite power stations while providing a decrease of at least 20 % in the carbon intensity.⁶ Although the EIB management proposal to the board on the project claims a 28% decrease in the carbon intensity of the new block compared to the current ones, the suggested environmental permit clearly states that block 6 can run together with block 5, which is clearly an expansion and not just substitution.

2.4. Missing clear governmental support to the project

According to Mr. Maystadt's explanation⁷, another criteria for awarding of the TEŠ 6 grant is governmental support of the project. The currently valid Energy Program of Slovenia⁸ does not list TEŠ 6 as a priority project for Slovenia and neither does the project enjoy the full support of the current government. The government is at the moment conducting studies, on which it will base its conclusion on whether to support the project or not⁹. Although the project does appear on the list of national development projects (together with an artificial island and entertainment park), as adopted by the former government, this list – which cannot be regarded as any kind of strategy – has never been coordinated with the National Energy Program and has never received support of the Slovene Parliament.

3. Conclusion

In relation to this loan, the complainants ask the Bank to:

- withdraw its approval for the project
- recall the prematurely disbursed finance
- develop clear procedures for ensuring project compliance with the 2050 climate targets, without relying on tentative and unproven solutions such as CCS.

We thank you for examining this complaint and look forward to your response.

Yours sincerely,

Lidija Živčič, senior expert

5 EIB Management Proposal: TEŠ – Thermal Power Plant Šostanj (SLOVENIA), p.1-2

6 http://www.eib.org/attachments/clean_energy_for_europe.pdf

7 http://www.energetika.net/novice/clanki/francozi-nacrtujejo-izgradnjo-jedrskoelektarne-pod-morjem_2?utm_source=en.novice

8 http://zakonodaja.gov.si/rpsi/r05/predpis_NACP45.html

9 Recent reference to government's insecurity about the project and the requested studies can be found at <http://www.mg.gov.si/si/splosno/cns/novica/article/2186/7694/7cba4c2ac3/>