

Werner Hoyer
President of the European Investment Bank

100 Bd Konrad Adenauer
L-2950 Luxembourg
Luxembourg

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Distinguished Mr President,

In 2007, the EIB signed a contract with the Slovenian state-owned company Termoelektrarna Šoštanj (TEŠ) for the construction of a sixth block at the lignite power plant in Šoštanj, Slovenia. In 2010, the initial loan of EUR 350 million was extended to EUR 550 million. The majority of EIB funds have not yet been disbursed, and the same applies to the EUR 100 million loan approved by the European Bank for Reconstruction and Development (EBRD). Since its inception, the project has been marred by numerous controversies related to allegations of corruption, its negative effects on the environment and its doubtful economic feasibility.

We call upon you to withhold the disbursement of EIB funds for TES6. We are aware that, with the approval of the Slovenian State guarantee on 21 December 2012, all formal conditions for disbursement are met. However, the project is currently being investigated by OLAF because of the corruption allegations. Additionally, the European Commission is assessing it under its infringement procedure in connection to the breach of the EU CCS Directive, while the EBRD and the EIB Internal Complaint Mechanisms are also investigating the case.

These investigations make it clear that there are serious reasons to believe the project can have a significant negative impact on the European and Slovenian economies and on the environment. For this reason, disbursing European public funds to this project before the listed processes are closed comes with enormous risks and should not be allowed to happen.

In February 2012, after more than two years of investigation, the State Commission for the Prevention of Corruption in Slovenia published a report¹ documenting numerous irregularities in the TEŠ project. The report says that corruption could have influenced the awarding of the contract for the construction of the sixth block to the French company ALSTOM. The Commission concludes that “the project is designed and implemented in a non-transparent manner, lacks supervision and is burdened with political and lobbying influences, and as a result there has been (and still is) a high risk of corruption and conflict of interest.”

Because by issuing the report on the project the mandate of the State Commission for the Prevention of Corruption in Slovenia is exhausted, investigations into the possible unlawful acts at TEŠ have been opened by the National Investigations Office and by the police in the town of Celje.

In June 2012, OLAF too confirmed opening an investigation into TEŠ6.

In its turn, the European Commission is currently examining whether Slovenia has breached the EU Carbon Capture and Storage Directive² in the case of this EIB-funded project.

TES did not act in accordance with public procurement rules in any of the tenders published so far. At the moment, the Slovene State Commission for Public Procurement is deciding on the status of TES, whether it should be considered a public entity for which the public procurement rules apply. TES has claimed in the past that it is not bound by public procurement rules because it is operating on a competitive market,

¹ The commission report can be downloaded (in Slovenian) at: http://www.kpk-rs.si/download/t_datoteke/2724. An unofficial English translation is available at: <http://bankwatch.org/si/TEŠ/default/files/StateCommissionReport-corruption-TEŠ6-23Feb2012.pdf>
The Commission for the Prevention of Corruption of the Republic of Slovenia is an independent state body, like the human rights Ombudsman, with a broad mandate in the field of preventing and investigating corruption, breaches of ethics and integrity of public office. The current CPC fulfils the requirements of an independent anti-corruption body as required by the UN Convention against Corruption (UNCAC) that Slovenia ratified.

² The complaint submitted by Environmental Law Service on 3 October, 2011. Registration number: CHAP(2011)3041).

despite being a state actor. Yet, in September 2012, the Competition Protection Office –acting upon the request of the Ministry of Finance – issued an opinion stating that there is no sufficient competition on the Slovenian energy market, dealing a severe blow to the TES arguments.

Just a few days ago, on 22 January 2013, the Project Complaint Mechanism (PCM) Eligibility Assessors of the EBRD established that a complaint filed by three civil society organizations -- alleging shortcomings in the process of assessing environmental and social risks of the Project, as required by loan eligibility criteria - satisfies the PCM criteria for a Compliance Review of the Project³ and hence should be investigated further by the EBRD.

The EIB's own Inspector General is currently investigating possible irregularities in activities connected to the project and the integrity of the client.

Importantly, the doubts over the economic feasibility of the project coming from various sources should remain a high concern for the EIB. Several of the conditions related to the economic feasibility of the project set by the Slovenian government have not been fulfilled by the investor – that the State Guarantee has been offered by the Slovenian authorities may give the impression these demands points have been met but this is not the case.

According to a recent expert analysis⁴, even in the revised investment program (AIP5), projections on the project's profitability do not come anywhere near the 9 % demanded of the Slovenian government. If the calculation had taken into account the minimum discount rate of 9 % required by the Sectoral policy for the development of the energy industry in the Republic of Slovenia for investments in facilities for the production of electric power from fossil fuels, the net present value would actually become negative, and the project unacceptable. Even more, the actual financing cost of the project throughout its service life can be significantly higher than predicted due to the historically low levels of the 6m Euribor and due to distinctly long-term financing with floating interest rates. The sensitivity analysis shows that the project is less sensitive to the price of coal; yet the net present value becomes negative when the price of coal increases by 20 %. Concerns about the assumptions regarding the prices of coal in AIP5 should be noted, since the price of coal today (2.56 EUR/GJ) is already 13.78 % higher than the price demanded by the government conditions (2.25 EUR/GJ). If we consider a 10 % increase of the price of coal and the 9 % discount rate stipulated in the sectoral policy for the energy industry, the project becomes unacceptable.

Due to the high level of uncertainty regarding the future movement of the price of emission credits, an additional sensitivity analysis of the TEŠ6 project to emission credit prices was performed. The fluctuation of CO2 emission credit prices in the future had been summarized according to a European Commission report, based on five scenarios that comply with the EU's long-term goals for the reduction of greenhouse gas emissions. In both cases, with a 7 % as well as a 9 % discount rate, the net present value is strongly negative.

The above listed reasons represent sufficient grounds for withholding the disbursement of the TEŠ6 loan. It is not acceptable that the EU's house bank should transfer funds for a project which is being actively investigated at all levels for corruption and noncompliance with EU law, from national to European, and whose economic feasibility is under such serious doubts.

Kind regards,

Mr Claude Turmes

Member of the European Parliament (Luxembourg, Vice President of the Green Group)

Mr Alojz Peterle

Member of the European Parliament, Former PM of Slovenia (Slovenia, Group of the European People's Party)

Ms Kathleen van Brempt

Member of the European Parliament (Belgium, Group of the Progressive Alliance of Socialists and Democrats)

³ http://www.ebrd.com/downloads/integrity/ear_sostanj_final.pdf

⁴ http://www.focus.si/files/programi/energija/2012/BRIEF_EXPLANATORY_NOTES.pdf