

EPS: What does ‘restructuring’ mean?

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Serbia’s national electricity company (EPS) – despite its long-standing relationship with the EBRD, and despite Serbia’s obligation to align its legislation to the EU’s environmental, competition, human rights and climate policies – does not plan to reduce greenhouse gas emissions, to change the structure of its electricity mix in favour of renewables, or to respect human rights.

Quite the opposite: judging from EPS’s mining plans, it intends to increase GHG emissions through the increased production of lignite, which will result in continued and harsher than ever negative impacts on local communities, violating their rights to a safe and clean environment and the enjoyment of their properties. At the same time, EPS has systematically exercised its manipulative power over both the institutional and legal frameworks of Serbia to reduce its costs of operating by transferring the burden to all the citizens of Serbia and especially the local communities surrounding its mining operation.

In light of the ongoing impacts of EPS operations on local communities, its violation of the legal framework and permitting obligations in Serbia, and its violation of EU targets on climate change, BREF in the case of a new coal plant in Kostolac, and state aid obligations with regards to both mining and burning of coal, one must ask: what does ‘RESTRUCTURING’ mean to the EBRD and EPS?

EBRD supports increase of coal production and coal related emissions in Serbia up to 2060

As a long-term institutional partner of EPS since its first arrangement in the early 2000s,¹ the EBRD has invested roughly EUR 515 in different projects, including the reconstruction of thermal power plants, the construction of new coal mining equipment (for developing new fields in the Kolubara mining region), hydro power plant reconstruction, the introduction of new ash transport equipment in the Ćirikovac mine field in Kostolac and, electricity metering. Most recently the EBRD offered a EUR 200 million loan in an attempt to finally restructure EPS and prepare it for partial or complete privatisation.

During that period, thanks to the EBRD’s investment in new mining and transportation equipment for coal in the Kolubara mining region and an ash facility at the Kostolac thermal power plant, EPS has significantly increased production and its burning of coal.

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¹ Elektro privreda Srbije, EPS, <http://www.eps.rs/Eng/index.aspx>

The basis is now in place for the further increase of lignite production up to 48 metric tonnes, which is what EPS expects to achieve in 2018 to 2020 and continue till at least 2035. In the long-term, EPS plans that Kolubara will produce no less than 24mt of coal by 2050 or 2060² while the Kostolac mining region is expected to produce about 12mt of coal up to 2060³. **It is clear that Serbia will heavily rely on coal for electricity production long after 2050.**

This could be treated as acceptable corporate policy if only it would not be for: a) climate change and the global shift in policy making to phase out coal in electricity production, where the EU is one of the champions in reducing fossil fuel emissions; b) Serbia's efforts towards EU accession for the last 17 years; and c) the EBRD being one of the main creditors and long term partners of EPS as an institution that has itself decided to give up financing coal power and working to support its clients in decreasing GHG emissions.

It does not matter that EPS and the EBRD **may**⁴ have reduced emissions from electricity production by a fraction of overall emissions of EPS thanks to minimal improvements to the efficiency of coal excavating and transport equipment in the Kolubara mining region (as yet proven consequence of a 2011 project funded by the EBRD and KfW).⁵ The fact remains that a few hundred thousand tonnes cannot offset the more than 20 per cent expected increase of coal related emissions in Kostolac and similar amounts in Kolubara.

Historically coal production within the EPS mining basins has increased when EBRD investments were approved for the Tamnava west field. At the same time, from the spatial plans and mining projects of Kolubara, it is clear that EPS is planning to use equipment purchased with the EBRD/KfW loan⁶ signed in 2011.

For years we have argued that EBRD investments in the B and C fields of Kolubara will not provide machinery only for those fields (since those fields have very limited coal deposits) and so this equipment will be used for excavation of new fields. Namely, EPS plans to open up new fields directly and exclusively using machinery provided through EBRD loans at:

- the so-called field E that starts at Barosevac and includes at least 300mt;
- fields F with at least 600mt and field G that are directly underneath and next to Vreoci; and most importantly
- field "Radljevo" that will serve as the basis for the yet to be abandoned Kolubara B power plant.

These current plans lock Serbia into coal far beyond 2060. Thus the EBRD directly supports not a reduction but a significant increase in GHG emissions.

The EBRD's involvement from 2011 and 2015 is the basis for EPS optimism that it will be able to significantly increase its coal production up to 2020 and beyond. Meanwhile EPS's mining plans quoted in the spatial plan for Kolubara and Kostolac mining regions directly conflict with the EU's climate policy agenda and the EBRD's energy policy commitment to finance a transition away from coal in its countries of operation.

In 2015 the EBRD provided a restructuring loan to EPS that had among its objectives the development of a mid-term investment plan. Looking at the mining and development plans of EPS it is clear that the EBRD attempted restructuring does not at all affect EPS plans to increase its exposure to and reliance on coal. As an institutional partner of EPS and as provider of a corporate-level loan, the EBRD carries responsibility for the overall operations of EPS in both the Kolubara and Kostolac regions.

2 Spatial plan of special mining region Kolubara, 2017

3 EIA for Kostolac B3 TPP, 2017

4 Looking at the statistics of production, knowing that ratio of GHG emissions per ton of coal is same we highly suspect that emissions are not actually reduced even with th EBRD massive investment in „environmental improvement“

5 <http://www.ebrd.com/work-with-us/projects/psd/eps-kolubara-environmental-improvement.html>

6 <http://www.ebrd.com/work-with-us/projects/psd/eps-kolubara-environmental-improvement.html>

Table 1 and 2: Production of coal in Kolubara (yellow) and Kostolac (orange) mining regions in mt/a⁷

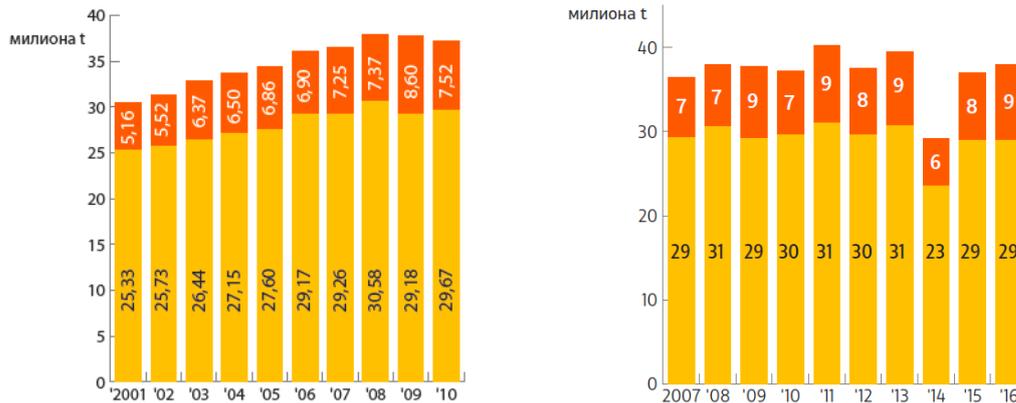


Table 3: Expected annual production in the Kolubara mining region up to 2020 (the names of columns are mine fields). The EBRD-supported Tamnava West field is the most prominent and among the biggest producers up to 2040.⁸

Година	Поље „Б“	Поље „Д“	„Там. исток“	„Там. запад“	„Велики Црљени“	Поље „Д“ (проширене границе)	Поље „Е“	„Јужно поље“	„Радљево“	КОЛУБАРА
2007	1,0	14,3	5,0	9,0	/	/	/	/	/	29,3
2008	2,2	14,0	5,0	9,0	/	/	/	/	/	30,2
2009	2,5	14,0	2,0	9,0	2,5	/	/	/	/	30,0
2010	2,5	14,3	/	12,0	2,5	/	/	/	/	31,3
2011	2,5	/	/	12,0	3,0	12,50	/	/	/	30,0
2012	2,5	/	/	12,0	3,2	12,0	/	/	/	29,7
2013	3,0	/	/	12,0	5,0	12,5	/	/	/	32,5
2014	3,0	/	/	12,0	5,0	12,0	/	/	3,0	35,0
2015	0,7	/	/	12,0	5,0	12,0	3,0	/	3,3	36,0
2016	/	/	/	12,0	4,8	4,0	5,2	4,0	6,0	36,0
2017	/	/	/	12,0	/	/	11,0	6,0	7,0	36,0
2018	/	/	/	11,0	/	/	12,0	6,0	7,0	36,0
2019	/	/	/	11,0	/	/	12,0	6,0	7,0	36,0
2020	/	/	/	11,0	/	/	12,0	6,0	7,0	36,0
	19,9	56,6	12,0	156,0	31,0	65,0	55,2	28,0	40,3	464,0

Table 4: Expected coal production in the Kolubara mining region up to 2060 (columns are the names of mine fields)⁹

Година	ТАМНАВА ЗАПАД	ПОЉЕ Е	ЈУЖНО ПОЉЕ	РАДЉЕВО	КОЛУБАРА
2021 - 2025	55	50	40	40	185
2026 - 2030	55	50	40	40	185
2031 - 2035	55	50	40	40	185
2036 - 2040	33	50	40	40	163
2041 - 2045		50	40	40	130
2046 - 2050		50	40	22	112
2051 - 2055			40		40
2056 - 2060			40		40
	198	300	320	222	1 040

In this regard we would like to ask the EBRD why the bank uses tax payers money to increase global GHG emissions?

7 Table 1,2 are copies of coal balances of EPS from its technically reports <http://www.eps.rs/Lat/FolderDocs.aspx?list=Tehnicki%20Izvestaji>
 8 Dynamical plan for Kolubara mining region up to 2020, spatial plan for Kolubara mining region, 2017
 9 Spatial plan for Kolubara mining region, 2017

What is the EBRD's contribution to the EU's climate action objectives, if the EBRD so massively supports increasing coal production and consumption in one future EU member state?

How does the EBRD plan to offset about 0.9bt of CO2 that will be produced by burning coal excavated using EBRD provided machinery to Kolubara?

Persisting human rights, social and environmental impacts of EPS operations

Looking at how the environmental and social standards of the EBRD have evolved over the years (in 2003, 2008 and 2014)¹⁰ and also at the long-term involvement of the EBRD in EPS operations, one would expect EPS's corporate performance to match the EBRD's expectation. Significant improvements in EPS's behaviour would have been expected towards local communities and individuals affected by its operation, civil society and other interested public, towards the climate, environment, and social and health standards. In reality such a positive impact of the EBRD's involvement is not visible.

According to the 2008 spatial plan for the area of special use of the Kolubara mining region, EPS was obliged to establish a 300 metre protective zone in the direction of inhabited communities and a 200 metre zone in the direction of non-inhabited areas. That obligation was not followed, and as a consequence, a number of communities have suffered serious damages to their houses and property, and seriously deteriorated health.

In all of its mining operations EPS is not interested in protecting the lives and health of inhabitants. It seems that the company's only objective is to enable more mining and to reduce the price of mined coal by forcing people to live and die less than 300 metres from its mines.

The following examples help elaborate:

Within the Kolubara mining region:

Baroševac : Despite the legal obligation to provide a 300 metre protective zone, more than 100 families are still living on the mine's edge. Repeated attempts by CSOs and inhabitants have led to minor changes in the spatial plan to resettle 25 families in Baroševac, but not those living closest to the mines. Local inhabitants demand further and fair resettlements.

Veliki Crljeni: The Tamnava West and Veliki Crljeni fields have approached within 100 metres of this community. In addition the village is surrounded by the Kolubara A thermal power plant and its ash deposit at less than 500 metres and the railway supply route for coal to the Nikola Tesla TPPs in Obrenovac, where at least 20 trains daily cause at least 90–100 decibels of noise.

After a furious reaction by affected inhabitants and signatures demanding urgent and fair resettlement, nothing has changed. Despite repeated attempts at dialogue with EPS and despite a visit of the EBRD country office director to the village, EPS refuses to consider resettlement of the hardest hit 250 families. Damages to houses are increasing due to underground erosion, and pollution from dust and emissions is impacting the health of villagers and their children. After the reaction of CEKOR and an NGO established by local inhabitants on the occasion of the public hearings on the environmental impact assessment for the extension of the Veliki Crljeni field, **EPS admitted that they have abandoned the idea to extend that field**. Even so, irreparable damage has been done to the properties and environment in the Veliki Crljeni village, and so villagers demand fair resettlement.

¹⁰ <http://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html>

Vreoci: EPS continues the excavation of coal near the elementary school and has not resettled nearby households, despite an official request by the mining inspectorate to resettle those homes. As of writing a number of families with unresolved resettlement processes are living less than 50 metres from excavators that are digging nearby.

Medoševac: Despite an obviously unbearable situation living less than 20 metres from conveyor belts and a pond of dirty water from mining operation, more than 15 households are not considered for resettlement.

Junkovac: This is where the notorious land-slide occurred when the overburden dump site from fields financed directly by the EBRD collapsed towards the village, destroying about 15 houses. The village is still facing land-slides that are advancing and producing cracks in soil, endangering at least 50 households. At the same time water drained from the overburden is endangering the integrity of the village, especially during rainy periods. EPS plans to resettle about 20 houses, but much more should be done due to the serious safety risk to people. EPS did not want to get involve in dialogue with these citizens despite repeated attempts.

Within the Kostolac mining region

Drmno village: The village is surrounded by the Kostolac B TPP, the Drmno mine field, all the mining operations and industrial activities that prepare coal for burning, the transport of coal ash, the dump site of overburden, a new ash deposit and a newly planned railway for supplying coal and necessary construction materials for the new block at Kostolac B3. A geological study conducted by independent experts has shown a direct correlation in a serious of cracks on houses (more than 160 registered in the study). An environmental and health census conducted by CEKOR in cooperation with an independent expert has shown that serious occurrences of chronic diseases and the deteriorating health conditions can be related to the damaged environment. Drmno villagers have collected signatures in a petition demanding resettlement and dialogue with EPS, but the company is avoiding and even harassing citizens and CSOs that work to protect the human rights of inhabitants.

Stari Kostolac: The village is situated next to a malfunctioning ash deposit, thus directly exposed to extreme pollution. At one point people demanded resettlement, but after harassment from EPS a number of villagers reduced their demand to improved environmental conditions. Currently villagers are initiating a renewed process of demands due to the unchanged situation.

Klenovnik: This village is directly next to the exhausted mine field of Ćirikovac, which was converted into an ash deposit with EUR 25 million from the EBRD (and EUR 10 million from EPS). As we have recently learned this project will need serious redesign due to either poor design or implementation of the project financed by the EBRD. The protective zone for the ash deposit was not developed even after ten years of construction. The local community demands environmental protection measures.

EPS did not prepare its Corporate Resettlement Framework with a transparent, democratic and inclusive process that included the participation of citizens from affected communities and human rights and environmental defenders. The **criteria for resettlement** should have been consulted with households, communities and villages that are within the area directly impacted by EPS's mining operations (including excavation, transport, processing, overburden production and depositing) and also with communities that will likely be impacted by the mid- and long-term development plans of EPS.

Conclusions

a) Despite the close watch of EBRD, CSOs and local communities, EPS did not develop protective zones and did not comply with the obligation to provide a distance of 300 metres in any of its mining operations. EPS and authorities in Serbia should revise all the spatial plans for all the mining operations and include an obligation to establish a protective distance of at least 300 metres from EPS mining operations.

- b) EPS uses informal methods of harassment against CSOs and local communities that are demanding protections.
- c) EPS did not consult anyone about its Corporate Resettlement Framework.
- d) Environmental monitoring is done only in a few places and is not obligatory in all communities living less than one kilometre from mining operations. CEKOR and partners have measured air quality in Drmno, which shows drastic violations of air quality standards.¹¹
- e) A number of villages are exposed to irreversible geological changes that are leading to cracks in soil and houses (Drmno, Junkovac, Veliki Crljeni, Baroševac). They demand a reaction from both the EBRD and authorities in Serbia.

Kostolac B3 Thermal Power Plant

The Serbian government is planning a new 350 MW lignite plant at Kostolac in the country's northeast. In spite of high-level support and Chinese financing, the project is plagued by concerns over pollution, state-aid and legal challenges.

Following an investigation at the Espoo Convention Implementation Committee for failing to conduct a transboundary EIA, Kostolac B3 is now undergoing an EIA procedure that had to be restarted. Among the outstanding flaws in the EIA report for Kostolac B3 are:

Although the 2016 final draft BREF, recently voted on by the EU Council, is mentioned in the EIA, the emission limit values for SO₂, NO_x and dust are not in line with it. It would be extremely unwise to build a power plant that is not in line with these values. Values for HCl, HF and mercury – regulated by the new BREF for large combustion plants – are missing.

The feasibility study on which the EIA report is based states that *"The costs of purchasing the rights to CO₂ emissions are not included in the costs in the basic variant of the calculation, as it is assumed that the state will take on any potential obligations to pay these costs."*

The assumption that the state will cover this cost is astonishing, and there is almost no chance that it would be allowed within the EU ETS, as it would distort competition on the electricity market.

The sensitivity analysis shows that no matter what CO₂ price is used, even a price of EUR 5.79 per tonne renders the Kostolac B3 investment unfeasible.

Recommendations

- a) EPS and the EBRD should revise the resettlement framework in line with clear criteria to protect the lives and properties of inhabitants living less than 300 metres from mines and mining operations of EPS.
- b) The EBRD should condition its further involvement with EPS on clear compliance with EU climate goals. Here we specially refer to EPS's Kostolac B3 projects and mining plans to produce more than 25mt coal annually long after 2050.
- c) EPS should initiate urgent resettlement procedures in all the villages listed above.
- d) The EBRD should demand a revision of all the EIAs for all the fields and auxiliary mining operations.

¹¹ <http://bankwatch.org/campaign/coal/airpollution>

e) The EBRD should demand that EPS prepares and requests IPPC permits for all of its plants, mines and other industrial capacities which will lead to a serious revision of integrity of the facilities and their urgent reconstruction or, if impossible, their urgent closure.

f) The EBRD should demand that EPS and the Serbian government disclose its National Emissions Reduction Plan, and involve the interested public in its consultation and the initiation of SEA procedures in line with the EU and Energy Community obligations of Serbia.

Turkey and the Trans Anatolian Pipeline

The referendum in Turkey on 16 April won a narrow victory and will result in significantly expanding the control of the president to be elected in 2019 by granting them new powers to dissolve parliament, issue executive decrees, impose states of emergency, and appoint vice-presidents, ministers, high-level officials, and senior judges. Although President Recep Tayyip Erdogan called the poll 'the most democratic elections, not seen anywhere in the West', the Organization for Security and Cooperation in Europe (OSCE) said that: 'the referendum did not live up to Council of Europe standards. The legal framework was inadequate for the holding of a genuinely democratic process' as a 'lack of equal opportunities, one-sided media coverage, and limitations on fundamental freedoms' had created an 'unlevel playing field' in Turkey's vote.

This follows the deterioration of the rule of law and protections for civil society, freedom of speech and independence of the media especially after the attempted coup in July 2016. Turkey remains under continued martial law, and the arbitrary arrests of journalists, academics and human rights activists are frequent. In November 2016 the Council of the EU expressed its grave concern over those developments.¹² Under these circumstances, it has been impossible for civil society to engage in genuine public participation around this 1800 kilometre pipeline. Proper due diligence on TANAP is therefore impossible for the EBRD at this stage. As far as we are aware, TANAP project documents do not include any analysis of the impact of Turkey's imposition of martial law and do not reflect the current and rapidly evolving conditions in Turkey.

The problematic situation in TAP transit countries

The Trans Adriatic Pipeline will pass through **Greece**, Albania and reach Italy after crossing the Adriatic Sea. In all three countries the construction has been met with resistance. In **Greece's** Kavala municipality, the land of individual farmers and public property of the municipality of Doxato was destroyed by bulldozers of TAP subcontractors without the affected people and local institutions being informed or consulted beforehand.

In **Albania** TAP will impact approximately 80 communities whose livelihoods are based to a large extent on agriculture. While people depend on the land, the TAP consortium has not properly consulted them. Affected households were told that they have to give up their land for the pipeline construction and that they will be compensated, albeit without mentioning that they have the right to negotiate the amount or disagree. In addition, people who are opposed to giving away their land have been threatened with expropriation. So far eight complaints regarding resettlement issues have reached the European Investment Bank's Complaints Mechanism.

In **Italy** the protests against TAP stretch across the Lecce region where various public authorities, including local mayors, oppose the pipeline. Indeed, several environmental conditions for starting the construction works have not been fulfilled, despite the fact that they are conditions for the project's environmental permit becoming valid. Additionally, there are several appeals pending in administrative courts. In April 2017, the court accepted a request by the regional government of Apulia to suspend permits allowing the removal of olive trees. Various parties filed a request for a formal investigation into TAP, and they now await a decision by a judge on a preliminary investigation in Lecce. As in the case of Albania and Greece, local citizens also filed a complaint to the EIB Complaints Mechanism. For the time being, the strong resistance of local administrations and inhabitants has stalled the project.

Dubious economic viability

Gas demand in Europe has been declining in recent years. This questions the need for building additional gas infrastructure, a finding that has been underlined by the study "Energy Union Choices: A Perspective on Infrastructure and Energy Security in the Transition" published in July 2016. The study's first finding underlines this:

¹² http://www.consilium.europa.eu/press-releases-pdf/2016/11/47244649919_en.pdf

*“Europe’s current gas infrastructure is largely resilient to a wide range of demand futures and extreme supply disruption cases, with the exception of some countries mostly in South Eastern Europe under specific circumstances. Under normal market conditions, Europe does not need any new import capacities into Europe or cross-border gas infrastructure between Member States to secure supplies.”*¹³ Investing billions of euros into a pipeline that might not be necessary and therefore not be used to full capacity is not the best use of public money.

Energy diversification and Russian gas

One important argument for promoting the Southern Gas Corridor has always been that it helps diversify Europe’s gas supply away from Russia. However this argument is questionable. A study from the Oxford Institute for Energy Studies from July 2016 found that the gas reserves of Azerbaijan are not sufficient to feed the pipeline for its lifetime and more gas will have to be imported from other countries.¹⁴

Ironically, one of these countries likely to make up this shortfall would be Russia: Turkey and Greece have both signed bilateral agreements that allow Gazprom gas to be transported through the Southern Gas Corridor. In addition, a deal signed in October 2016 between Turkey and Russia on the Turkish Stream shows that one section of Turkish Stream will be in a position to connect to the planned junction at Ipsala–Kipoi of TANAP and TAP. Moreover, in March ENI and Gazprom signed a memorandum of understanding expressing the parties’ interest in analysing the prospects for cooperation in developing a southern corridor for gas supplies from Russia to European countries. Ultimately this would mean that the Southern Gas Corridor might be built with strong public support to diversify gas supply away from Russian gas, only to allow Russian gas into the pipeline once it is built.

New gas pipelines are not in line with Paris Agreement

Gas is portrayed as the cleanest of fossil fuels and thus a transition fuel. However, revised estimates of the global warming potential of methane, methane leaks along pipelines and the risk of fossil fuel lock-in for decades to come contradict the Paris Agreement. As a promoter of climate change mitigation, the EBRD should therefore refrain from investing in the Southern Gas Corridor.

The Southern Gas Corridor raises a number of issues about human rights violations, support for authoritarian regimes, the diversification of gas supplies, the economic viability of the project and as well the question of whether after the Paris Agreement new fossil fuel projects should be supported at all by public institutions. For these reasons we believe the EBRD should not support the project.

¹³ http://www.energyunionchoices.eu/wp-content/uploads/2016/07/EUC_Report_Web.pdf, p.11

¹⁴ “Azerbaijan’s gas supply squeeze and the consequences for the Southern Corridor”, The Oxford Institute for Energy Studies, July 2016



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