

EXTREMELY URGENT

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Honorable Jean Lemierre
President
The European Bank for Reconstruction and Development
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**Re: Triggering of Article 7.01(a) (xii) of EBRD's
Standard Terms and Conditions on the Vlora Thermal
Power Generation Project# 33833.**

Honorable Mr. President,

I am writing to you on behalf of the Civic Alliance for the Protection of the Bay of Vlora. My letter is in reference to Vlorë Thermal Power Generation Project, Project # 33833 [Hereinafter the Project]. The people of Vlora firmly and actively oppose this project. We are fully determined to protect our lives and the future of our children and stop the Project through all legal means available under Albanian and international law, through civil disobedience, and other means as appropriate, including actions under Article 46 of the Agreement Establishing the EBRD.

We believe this is the first and the only time where international development banks are funding a project, which will permanently destroy a Mediterranean beach. Several legal and administrative actions - including criminal proceedings - are currently being put into motion by our organization against the Borrower, administrative agencies and government officials who have illegally promoted this project. In June 2007 a criminal complaint was filed against a former government minister soon after the World Bank management inadvertently revealed an internal official letter of 18 September 2002 requesting the exemption of the planned site from the protected area of Narta Lagoon [see below].

Despite these major and obvious violations, we learned with dismay that the EBRD disbursed the first loan installment in mid-August 2007 and the work at Treport Beach, i.e. cutting of the trees and the destruction of sand dunes - started on 27 August

2007. According to an official statement of the Borrower, on the first day of work at least two hundred and forty seven pine trees were cut¹ ...

Moreover, on 29 August 2007, Mr. Daniel Berg, the new EBRD Resident Representative in Albania, confirmed to Albania's Prime Minister the full disbursement of the EBRD's share in such syndicated loan²!

Please note that on 31 July 2007 the Aarhus Convention Compliance Committee found that Albania - and by implication the EBRD - were in violation of Article 6 of the Aarhus Convention with regard to the Vlora Thermo Power Plant. This important finding indicates very clearly that the above-referred project violates EBRD's own Environmental Policy, which states:

"in pursuit of its mandate set forth in Article 1 of the Agreement Establishing the EBRD, the EBRD will also support the spirit, purpose and ultimate goals of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters...". [Subparagraph 11 of the Environmental Policy].

In plain English, this means that the EBRD is funding a project, which is in violation of international law and EBRD's own rules, by-laws and policies.

Most importantly, the Project is based upon a material misrepresentation of the site. According to the official documents presented before EBRD's Executive Board at its approval meeting at date unknown:

"The selected site at Vlore is a six hectare green field site adjacent to the offshore oil tanker terminal located on the Adriatic coast north of the Port of Vlorë... The site is situated on a relatively barren coastal area with little vegetation or wildlife..."³

In fact, the site is a Mediterranean beach, with a thick forest of pine trees, with sand dunes, with very delicate and endangered habitat, within the de facto protected area of Narta Lagoon and adjacent to a fishing harbor.

This is made abundantly clear in the above referenced internal official letter of 18 September 2002, whereby the government minister in charge describes the area as "virgin". He further requests from his colleague, the Minister of Environment that:

¹ Rilindja Demokratike, 4 September 2007.

² www.keshilliministrave.al. News of that date.

³ <http://ebrd.org/projects/eias/33833.htm> All procedures leading to the site-selection and Environmental Impact Assessment were conducted by Habib Jabali and Mark Zebeli, two American consultants, under a grant funded by the US Trade and Development Agency (TDA). TDA has been asked to fully investigate such matter with possible remedies to include sanctioning of the above consultants and grant reimbursement.

"being this site ... near the Narta Lagoon requires that it should be excluded from such protected zone..." and again that "this area should not be included in the protected zone, which would help in quickly taking the decision to select this site for the construction of the thermo power plant⁴".

This was made even further clear through a decision of Albania's Council of Ministers of 5 September 2007 for the transfer of public land to the ownership of the Borrower (attached for your consideration). As you can once again notice, the site is not *"barren, greenfield... with little vegetation and wildlife"* but an area composed of 96,575 square meters of forests and 39,600 square meters of sand dunes. Therefore, there is no question in our view, that in reference to the Project, the Board of Directors has been misled on a material respect.

We understand that the relevant Loan Agreement between the EBRD and the Borrower, i.e. KESH (Albanian Energy Corporation), signed on 9 July 2004, is governed and incorporates with full force and effects EBRD's Standard Terms and Conditions.

We therefore urge you to provide notice to the Board of Directors that new facts related to the Project trigger a duty for the Bank under Article 7.01(a) (xii) of the Standard Terms and Conditions to immediately and wholly suspend the right of the ,575Borrower to make Drawdowns under the Loan because:

"a representation made by the Borrower... in connection with the Loan Agreement, the relevant Project Agreement or the Guarantee Agreement [has] been incorrect or misleading in any material respect".

With all due respect to the Board of Directors, we very much hope that they will take prompt action in this matter in accordance with the above provision, in full compliance with the Bank's policies and guidelines, with due regard to its important mission and reputation, as well as with appropriate consideration to the concerns of the local community.

We also urge the Board of Directors to approve an emergency grant of one million Euros payable to our organization for restoring the site to its pre-existing conditions, as it was prior to the environmental crime just committed.

Very truly yours,

Gani Mezini

Chairman

Encl. Albania's Government Decision of September 5th, 2007

⁴ Letter by Mr. Viktor Doda, Minister of Industry and Energy of Albania to Mr. Lufter Xhuveli, Minister of Environment, dated 18.09.2002, Prot. No. 6689.