

2 December 2019,

To: Mr Blaž Brodnjak, President of the Management Board, NLB d.d. info@nlb.si
Cc. Ms. Lidija Žigić, general manager, NLB Banka d.d, Sarajevo, info@nlb.ba

Dear Mr Brodnjak and Ms Žigić,

Re. Tuzla 7 coal plant, Bosnia-Herzegovina

It has recently been reported in the Bosnia-Herzegovina media¹ that NLB Banka is part of a consortium with Sberbank and Intesa Sanpaolo, which is ready to provide financing for 15 percent of the Tuzla 7 coal-fired thermal power plant.

As NGOs which have closely monitored the development of this project for several years, we are writing to warn you of the considerable risks of this project and to advise your bank not to participate in its financing.

Please find in Annex I a briefing on the legal and economic risks of Tuzla 7.

We kindly request you to confirm receipt of this letter, as well as to confirm whether NLB is indeed considering participation in the project.

We remain at your disposal should you need any further information,

Kind regards,

Ms Pippa Gallop, CEE
Bankwatch Network

Mr Denis Žisko, Centre for
Ecology and Energy, Tuzla,
Bosnia and Herzegovina

Ms Lidija Živčić, Focus
Association for Sustainable
Development.

¹ For example here: https://zurnal.info/novost/22581/vlada-fbih-uzela-120-miliona-elektroprivreda-se-zaduzuje?fbclid=IwAR2dUjGSwltDFPVxPXcshzFB_Pbw8wYxLTLCUrtvqUmlmnLjP-3_j8W7WQQ

Annex 1

Legal and economic issues affecting the Tuzla 7 coal power project

Ongoing State aid dispute settlement process under the Energy Community Treaty

In September 2018, CEE Bankwatch Network and the Aarhus Center Sarajevo submitted a formal complaint to the Energy Community Secretariat Dispute Settlement Mechanism regarding the Federation of Bosnia and Herzegovina's plan to provide a 100 percent guarantee for a loan from the China Exim Bank for the construction of Tuzla 7.

The Secretariat's preliminary analysis agreed with the Complainants that the planned guarantee almost certainly constitutes illegal State aid. Only in very limited circumstances are loan guarantees of more than 80 percent of the loan's value allowed, and in this case, the conditions were not met.

This analysis was also confirmed by independent legal consultants commissioned by the Energy Community Secretariat,² and in March 2019 the Secretariat opened an infringement case against Bosnia and Herzegovina.³ EU Commissioner for Enlargement, Johannes Hahn, also expressed concerns about the Federal Parliament's decision to approve the guarantee.⁴ At the request of Bosnia and Herzegovina, a mediation process was opened later in 2019⁵ and is still ongoing.

Below-cost coal and lack of realistic CO₂ price

The documents presented to members of the Federation of BiH Parliament to prove that the project is feasible contain serious flaws. A feasibility study was carried out in November 2016 by Delphos International. It is not clear whether it took into account the CO₂ price which Elektroprivreda BiH will have to pay when Bosnia and Herzegovina enters the EU Emissions Trading Scheme or the Energy Community adopts a carbon tax. A price of EUR 6.1 EUR/tonne is mentioned once in the study, but not elsewhere.

Another analysis, by the Banja Luka-based Institute for Construction,⁶ assumes that Tuzla 7 will have to start paying a **carbon price only in 2034 and that it will only be EUR 7.1 per tonne**, rising to EUR 12.12 per tonne in 2061. Considering the ETS price is currently around EUR 20 per tonne, this leads to a **serious underestimate of the plant's generation costs**.

The assessment assumes annual CO₂ costs of EUR 2.7 million in 2034, rising to EUR 31.4 million in 2061. Yet even at today's prices, the annual cost would be EUR 51.87 million.

Moreover, the projected price at which **coal** would be sold by Elektroprivreda BiH's mines to the Tuzla 7 plant is EUR 21.87/tonne. This is **lower than 2013-2016 production price** (see table in Annex 1). Additionally, in this period the **production price was higher than the sales price**, while the Government granted State aid to the mines to pay off unpaid social contributions.⁷ If the coal sales price covered the costs of production, it would have to increase.

2 <https://www.energy-community.org/news/Energy-Community-News/2019/03/04.html>

3 <https://www.energy-community.org/legal/cases/2018/case1018BH.html>

4 <https://www.reuters.com/article/us-bosnia-eu-energy/eu-official-criticizes-bosnias-backing-of-chinese-power-loan-idUSKBN1QU1JD>

5 <https://www.energy-community.org/aboutus/disputeresolution/ongoing.html>

6 Ocjena kritičnih varijabli studije izvodljivosti bloka 7, TE Tuzla, Institut za građevinarstvo „IG“, d.o.o, Banja Luka, 2018. - *Assessment of the Critical Variables of the Feasibility Study for Unit 7 of the Tuzla power plant*

7 See https://bankwatch.org/wp-content/uploads/2015/06/EnCom-state-aid-cases-08Jun2015_0.pdf for more details.

Both of these issues would significantly increase the cost of generation from the projected EUR 42.45/MWh. This raises the risk of the plant becoming a **stranded asset**, especially as it will not be eligible for capacity payments under the new EU electricity market design rules.

Breaches of Espoo Convention and Environmental Impact Assessment (EIA) Directive

The EIA study for Tuzla 7 was written in 2009. The environmental consent was originally issued in 2010, and after its expiry on 22.11.2015, Elektroprivreda BiH applied for an extension in December 2015. On 31.12.2015 a new public consultation was announced but the EIA study had not been updated. As well as procedural breaches, key issues missing in the study and the environmental consent issued on 18.07.2016 include:

- **The environmental consent does not include any ash landfill**, yet the plant cannot function without it. No location has so far been confirmed.
- The Energy Community rules on emissions to air changed in 2013 and the plant now needs to comply with the Industrial Emissions Directive.⁸ The environmental consent was later amended to include this requirement, but the EIA study never examined how this would be achieved. Tuzla 7's expected emissions to air are **not in line with the 2017 EU Large Combustion Plants BAT Conclusions**. Although this standard is not yet obligatory in the Energy Community, its application is necessary to avoid expensive retrofits in a few years, and to protect public health.
- **Transboundary impacts** were not assessed.
- The **cumulative impacts** on air and water usage of the Tuzla plant together with the planned Banovići plant less than 30 km away were not assessed.

In September 2016, the NGO Ekotim submitted a case against the environmental consent to **Sarajevo Cantonal Court**. In November 2019 this was followed by a request to the **FBIH Supreme Court** to review the Cantonal Court's spurious decision not to allow a Sarajevo-based organisation to bring a case related to a coal power plant in Tuzla.⁹ These cases will, if necessary, be followed up with the Aarhus Convention and Energy Community.

A **complaint to the Espoo Convention Implementation Committee** is also currently being examined for BiH's failure to assess the transboundary impacts of the project,¹⁰ and Croatia has expressed its interest in being consulted.

Additional, not only replacement capacity

Finally, Tuzla 7 would constitute additional capacity. Bosnia's politicians often claim it would replace units 3, 4 and 5, but in fact unit 5 is planned to continue working beyond 2030.¹¹ The need to avoid "the lights going out" is often used as an excuse to push Tuzla 7 irrespective of its legal and economic risks. Yet Bosnia and Herzegovina has made very little use of its potential for energy efficiency and renewable energy, thus rendering such claims unfounded

⁸ Chapter III and Annex V part 2.

⁹ <https://www.6yka.com/novosti/upucen-zahtjev-za-vanredno-preispitivanje-sudske-odluke-vrhovnom-sudu-federacije-bih-u-vezi-okolinske-dozvole-za-blok-7-te-tuzla>

¹⁰ https://www.unece.org/fileadmin/DAM/env/eia/documents/ImplementationCommittee/45th_Session/Documents/1918449E.pdf

¹¹ BiH's [National Emissions Reduction Plan \(NERP\)](#) shows units 4 and 5 operating until at least 2027, while Elektroprivreda BiH's [Long-Term Plan](#) (p.231, variant 2) shows unit 4 operating only until 2021, but unit 5 still operating beyond 2030. This means that rather than replacing 500 MW of installed capacity with 450 MW, Tuzla 7 would replace 300 MW with 450 MW.