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## Coal and corruption – the case of the European Bank for Reconstruction and Development

2013 has been the year when the world finally started to wake up to the fact that if we want to address climate change, we will have to leave most fossil fuels in the ground, particularly coal. One after one, public and commercial lenders have come up with policies limiting their lending for coal projects, including the World Bank, the European Investment Bank and the US ExIm Bank. The EBRD, too, is about to approve a new energy strategy, yet it is unclear to what extent it will follow its peers in halting coal financing.

In this paper we step away from the discussions on climate issues to take a look at another reason why the EBRD should be wary of investing in coal projects: corruption.

No-one is suggesting that corruption is unique to coal, but considering that Bankwatch has carefully monitored three EBRD-approved coal projects in recent years – Sostanj unit 6 in Slovenia, Kolubara mining environmental improvement project in Serbia and the Turceni rehabilitation in Romania, it is alarming that all of them have been linked to corruption scandals.

Nor is anyone suggesting that the EBRD is wholly blind to the problem. The previous and current EBRD Presidents have regularly referred to corruption in their public speeches and Sir Suma Chakrabarti, the current President, has publicly stepped up the pressure, particularly on Ukraine, to tackle the problem. In instances where bank staff have been implicated in corruption cases there is no evidence to suggest that the bank failed to act promptly once the issues were discovered.

Unfortunately, in cases where corruption has been discovered in companies financed by the EBRD, but where no EBRD staff are directly implicated, the outcomes have not been so clear. The three projects presented below are such cases. The EBRD has started investigations connected with Sostanj and Kolubara, but there have been no clear outcomes. If the EBRD wants to convince a sceptical public that it is part of the solution and not of the problem, it is going to have to strengthen its anti-corruption policies and publicly prove that it has taken appropriate action.

### **The EBRD – promoting the private sector in a high-corruption region**

The European Bank for Reconstruction and Development is a London-based multilateral public bank which has worked since 1991 to promote transition to market-oriented economies in the countries of central and eastern Europe and Central Asia. Since the Arab Spring it has also extended its activities to Jordan, Egypt, Morocco and Tunisia. The EBRD currently has 66 shareholders (64 countries, the European Union and the European Investment Bank) and operates in 34 countries. It provides loans, equity investments and guarantees for private and public sector projects in the areas of finance, infrastructure, industry and commerce and in 2012 had a business volume of EUR 8.9 billion<sup>1</sup>.

Several of the EBRD's countries of operation are known for high levels of corruption. As the bank itself has recently pointed out, only a handful of its countries of operation perform well in Transparency International's 2013 Corruption Perceptions index.<sup>2</sup> Working in high-risk countries such as Russia, Azerbaijan, Albania or Ukraine, it is hardly surprising that cases of corruption

sometimes come to light in current or potential EBRD projects. But the questions are whether the policies that the EBRD promotes, including privatisations and public-private partnerships, contribute to an increase or a decrease in corruption, and whether, in its projects, the EBRD reacts sufficiently when it is notified of a possible corruption case. The first question is a complex one which requires more extensive research and will not be addressed here. Rather, this paper has the more modest aim of presenting three cases encountered by Bankwatch in its work on EBRD-financed coal projects and challenging the bank to react more visibly and decisively when instances of corruption arise in companies supported by the bank.

### **EBRD efforts to tackle corruption**

During 2013, the EBRD's new President, Sir Suma Chakrabarti has raised the public profile of the bank's efforts in tackling fraud and corruption. In a June 2013 speech he pointed out that:

*From an investor's perspective, corruption means less respect for contractual rights, and a constant diversion of human and capital resources from their most efficient use. Corruption squanders talent and precious resources. It means a much higher cost of doing business, and, at the same time, greater uncertainty as regards the outcome of the investment. It makes the assessment of the risk-reward ratio an extremely difficult exercise – and purely and simply scares most investors away.<sup>3</sup>*

He has also been vocal in attempting to improve the situation in Ukraine, making a series of public statements on the topic and preparing to sign a memorandum with the Ukrainian government. Although this did not succeed when the Ukrainian side turned out not to be ready 'for technical reasons' at the last minute<sup>4</sup>, it showed a welcome new public commitment to tackle the issue.

The EBRD also has established infrastructure for screening projects and tackling corruption. This is mainly the task of the Office of the Chief Compliance Officer, guided by several policies in place to prevent fraud and define enforcement procedures. These include the:

- Guidelines and definitions for private sector operations
- Enforcement Policy and Procedures
- Uniform Framework for preventing fraud and corruption
- Agreement for Mutual Enforcement of Debarment Decisions
- Integrity Risks Policy.<sup>5</sup>

### **Instances of corruption inside the EBRD**

In recent years, there have nevertheless

been some corruption cases involving EBRD staff and Directors. Most notably, four EBRD officials including the former Executive Director representing Russia, Yelena Kotova, had their immunity lifted by the bank in January 2011 to allow investigations by UK and Russian police.<sup>6</sup> In 2013, Kotova was charged with soliciting more than USD 1.4 million while serving on the bank's board. According to the Financial Times, Kotova was accused of demanding payment from representatives of a Canadian oil company in exchange for helping it get a USD 95 million loan from the bank.<sup>7</sup> Later reports suggested that the company was CanBaikal Resources.<sup>8</sup>

Another case concerned a bank employee, Andrey Ryjenko,<sup>9</sup> from the Natural Resources Team. On 8 February 2010 the Bank's Office of the Chief Compliance Officer received a complaint alleging that he had received corrupt payments from a Mr. Dmitrij Harder in return for his support of Bank projects in which Mr. Dmitrij Harder or his company, Chestnut Consulting Inc., had been engaged. Payments had notably been deposited into bank accounts, so the complaint alleged, owned by Ms. Tatjana Sanderson, Ryjenko's sister.<sup>10</sup>

Connected to both cases was British gas and oil group Vostok Energy, for which the EBRD approved a financing package worth USD 100 million in 2009.<sup>11</sup> Vostok Energy was investigated by UK police in connection with allegations related to both Chestnut Consulting and Ms Kotlova, although no charges appear to have been brought against the company itself.<sup>12</sup>

It is not clear whether the criminal investigations in these cases have been concluded, but where the EBRD is concerned there is no evidence to suggest that the bank failed to act promptly or decisively.

Yet in the EBRD's projects, an increasing number of cases are becoming visible in which serious allegations of corruption do not seem to have had an impact on the EBRD's stance towards the project or the company leading the projects. The projects described below are all still going ahead, and the bank has not stated publicly what it is doing to tackle the corruption issues in these cases.

The projects are all connected to coal projects financed by the EBRD and involving state-owned companies. Of course this raises the question of whether there is something about the extractive industries or energy sectors that particularly provokes corruption? The existence of such initiatives as the Extractive Industries Transparency Initiative suggests that a problem has particularly been identified in this sector. And the Financial Transparency Coalition has also pointed that there are often correlations between extractive industries and corruption.<sup>13</sup> The fact that corruption scandals have arisen in all of the

three EBRD-approved coal projects we have closely monitored does not bode well for the sector either. Nevertheless the highlighting of three coal cases here is not meant to imply that there is not a corruption problem in other sectors. Rather, it is meant to highlight a problem here and now and to provide recommendations on how the EBRD needs to respond more publicly and decisively.

### **Corruption in EBRD-financed coal companies**

#### **Sostanj thermal power plant unit 6, Slovenia**

In January 2011, the EBRD signed a contract with the Slovenian state-owned company Termoelektrarna Sostanj (TES) for the construction of a 600 MW sixth unit at the lignite power plant in Sostanj, Slovenia. Out of the EUR 200 million loan assigned by the EBRD for the project, EUR 100 million was syndicated to five private banks. The EBRD's support followed a loan approved by the EIB in two tranches in 2007 and 2010, totalling EUR 550 million.

Since its inception, the project had been troubled with numerous controversies including allegations of corruption, its effects on the climate and its economic feasibility.

In late 2009, well before the EBRD's board approved the project in July 2010, the Slovene State Commission for the Prevention of Corruption began investigating the project. Slovenian media were extensively reporting on corruption allegations already in December 2009 and January 2010, well before the EBRD board's decision.<sup>14</sup> The allegations were publicised even further when the then Minister of the Economy published a highly critical report about the project on 14 April 2011.<sup>15</sup>

In February 2012, after more than two years of investigation, the State Commission for the Prevention of Corruption in Slovenia published a report<sup>16</sup> documenting numerous irregularities in the Sostanj project. The Commission notes that both the technical commission implementing the public procurement for Sostanj 6 and the group negotiating the contract included employees of CEE Inženiring za energetiko in ekologijo d.o.o., which has close business links with Alstom. As a consequence, "conditions for corruption" were created, as Alstom "could have had access to complete information about the offer of the competitive supplier". The main competitor possibly disadvantaged by these circumstances was German company Siemens.

Additionally, the report states, Slovenian lobbying regulations have been breached as the authors of the proposed law on state guarantee for an EIB loan for Sostanj 6 are members of HSE, the owners of the Sostanj energy complex. A state guarantee law needed to be passed by the Slovenian

parliament in order for Sostanj to receive the EUR 440 million loan tranche from the EIB.

### **Ongoing investigations**

Investigations into the possible unlawful acts at Sostanj were opened by the National Investigations Office and by the police in the town of Celje. In June 2012 the European Anti-Fraud Office also opened an investigation,<sup>17</sup> which is still ongoing.

The allegations of corruption as well as concerns about the economic viability of the project led to long delays and heated debate in the Slovene parliament approving the state guarantee law. In our opinion it is fair to say that it was only passed in July 2012 because the plant was already under construction and many parliamentarians found it difficult to stop the project. Several conditions were set, including keeping project costs below EUR 1.3 billion; completing Sostanj Unit 6 construction by 15 February 2016; keeping carbon emissions under a certain level and the maximum price of lignite at EUR 2.25/GJ, and ensuring that the project has an internal rate of return of at least nine percent. Most of the conditions are expected to be impossible to meet and on 24 May 2013 the company's management informed the relevant Ministries that the final price of the project could amount to EUR 1.44 billion. The management also assessed that Sostanj 6 will not obtain the operating permit by 15 February 2016.<sup>18</sup>

From 2010 onwards NGOs have been in regular contact with the EBRD about the Sostanj 6 project and in April 2012 two letters were received from the EBRD stating that the loan was frozen although not formally so. In May 2012 at a meeting between Bankwatch and the EBRD's Chief Compliance Officer it was clarified that it would be 'very unlikely' that the bank would disburse before completing its corruption investigation. Yet less than a year later, in spite of the ongoing OLAF investigation and the uncertainties around whether the state guarantee conditions would actually be met, in March 2013 the EBRD and EIB went ahead with the disbursement of the loans.<sup>19</sup>

Due to the advanced stage of the project construction, it seems unlikely that the government will now take decisive action against the project. On 29 November 2013, the Slovene Commission for Prevention of Corruption resigned as an act of protest against inaction in the field of corruption and integrity. Among the reasons for their resignation they specifically named Sostanj 6 as an example of lacking political will to address the issue of systemic corruption.<sup>20</sup>

Although it cannot yet be decisively concluded in this case whether there was corruption in the project development or not, the point is that the EBRD did not wait to find out before disbursing its

loan, thus sending a message that it does not take the issue seriously.

#### Kolubara mine, Serbia

Since 2001 the EBRD has approved no fewer than five projects supporting EPS. The projects of most relevance here are the following:

- EPS Power II<sup>21</sup>, approved by the EBRD's Board of Directors on 15 July 2003, consisting of EUR 35 million for the modernisation of equipment at the Tamnava West Field at the Kolubara lignite mine and EUR 15 million for improving EPS' communications network.
- EPS Kolubara Environmental Improvement<sup>22</sup>, approved in 26 July 2011, consisting of the purchase of (1) a coal excavator, conveyor and spreader system for Field C of the Kolubara mining basin, (2) a spreader system for the Tamnava West field and (3) a coal management system for the whole of the Kolubara mining operations, with the goal of increasing the uniformity of the coal delivered to the nearby power plant.

EPS Power II, approved by the EBRD in 2003, appears to have been implemented during the years when the alleged corruption was taking place in Kolubara. Indeed one of the accused in the machinery leasing case is Milutin Bobi, director of Tamnava West field, one of the mines that has been financed through both of the EBRD projects mentioned above.

In April 2011 the EBRD published a notification<sup>23</sup> that it was considering another loan for Kolubara, the so-called EPS Kolubara Environmental Improvement project. By then the alleged corruption at Kolubara had been known to the public for some time. At least one article in a well-known national daily newspaper had been published on the subject already in April 2010<sup>24</sup>, a series of documentaries exposing the nature, extent and financial and political repercussions of misuse of financial, material and other resources at Kolubara complex was aired on national TV channel B92 in January 2011.<sup>25</sup>

In February 2011 it was announced that the police had opened an investigation into the case<sup>26</sup>, and an internal audit in EPS revealed that serious irregularities committed by the company management led to unjustified increases in EPS expenditures to the benefit of private companies.<sup>27</sup>

CEE Bankwatch Network communicated the information about the ongoing investigations and allegations of corruption to the EBRD in June 2011.<sup>28</sup>

On 3 October 2011, Dragan Tomic, who had between 2004 and 2007 been General Director

of the Kolubara lignite mine - and was until 01.08.2009 also Deputy General Director of EPS and from 2008 also a member of the Kolubara Assembly - was arrested along with 16 other people from the Kolubara mining company and private companies which re-sold lignite or leased machinery to Kolubara.

They were accused of running up fraudulent costs of around USD 11 million for the leasing of machinery to Kolubara between 2006 and 2007. Tomic allegedly paid private companies for unnecessary mining equipment and services. Kolubara was overcharged for the number of hours put in by the private companies, and Kolubara executives did not follow appropriate public procurement procedures. Some of the companies undertaking the leasing belonged to high level management from Kolubara including Radoslav Savatijevic, former member of the EPS management board.

In all, 28 people were finally charged in connection with the case. At the time of writing in early December 2013, the court case has not yet been concluded.

In a separate case known as „Little Kolubara”, Dragan Tomic and five others were charged with abuse of power and of damaging the Kolubara budget between 2004 and 2008. They were alleged to have signed a series of contracts with Inos sirovine Lazarevac through which Inos purchased 5.8 million kilograms of scrap metal from Kolubara at prices ranging from 30 percent to 56.25 percent of actual market price, causing around USD 650 000 damage to Kolubara's finances. On 3 December 2013 it was reported by Serbian media that they had been found not guilty due to the inability of the prosecution to prove that they actually knew the real market price of the materials.<sup>29</sup> In other words, as is often the case it was hard to prove whether it was corruption or incompetence that was at work.

On 9 September 2013 Serbian media reported that police had arrested several individuals connected to the EPS-owned and EBRD-financed Kolubara lignite mine.

Among the arrestees are former director of the Kolubara Mining Basin Nebojša Ceran, General Manager of Kolubara Mining company from 2008 to 2012 and directly responsible for resettlements related to EBRD-financed projects in the Kolubara region, former financial director Ljubisa Nekić and the aforementioned former EPS board member Radoslav Savatijevic. They are suspected of fraud in land expropriation proceedings around the Kolubara mine. Radoslav Savatijevic, member of the Managing Board of EPS at the time, was given EUR 1.2 million by the board as compensation for his house in the village of Vreoci, that was to be

expropriated as room was being made for a new strip mine. The value of the house was appraised at an astonishingly high EUR 3.4 million.

The advance payment was allegedly made based on the EPS board's decision, without a decision on expropriation, and based on a directive written by then Director General of the Mining Basin Kolubara Nebojša Ceran. Savatijevic's house was in fact located far from the second priority zone, and that it would not be up for demolition for at least the next seven years, if ever, and that Savatijevic did not have the house registered as his address of residence, and thus should not be eligible for expropriation compensation. The case has not yet been concluded.

Given that during the period 2004-2008 the EBRD was supporting the EPS Power II project, it is of great concern that it failed to notice large scale fraud being committed. Even more worrying is that even after the allegations had been made public, the bank went ahead with new support for the same company in the Kolubara Mining Environmental Improvement Project in 2011. It is hard to tell to what extent the bank management properly informed the board about the corruption issues at the time of the approval because the version of the board document released to Bankwatch has only 11 pages and does not mention integrity issues at all. It is not clear whether the EBRD is still looking into the case at all, whether it has reached any conclusions, and whether it is taking any remedial measures.

#### Turceni lignite power plant, Romania

Turceni is the largest coal power plant in Romania (now part of the Energy Complex Oltenia, together with the Rovinari, Craiova and Isalnita power plants and lignite mining operations), with an installed capacity of 1,980 MW (330 MW x 6 units<sup>30</sup> - the figure includes unit 6, which has been offline since 2006). The plant uses local lignite and it was the second most polluting industrial facility in Europe<sup>31</sup> in 2009, after the Maritsa Iztok 2 thermal power plant (TPP) in Bulgaria.

In 2008, the EBRD approved a EUR 150 million loan for the rehabilitation of units 3 and 6 at the Turceni TPP<sup>32</sup>. The project was modified in 2009 while the procurement process was cancelled and then re-launched<sup>33</sup> to rehabilitate and modernise unit 6 only. The project was never completed because of procurement issues.

In 2013, the EBRD decided to restructure and re-finance the EUR 150 million A/B loan arranged in 2009 for the Turceni project<sup>34</sup>. The 2013 syndicated loan (EUR 200 million loan, total project cost approximately EUR 266 million) is meant to improve energy efficiency, reduce CO2 emissions by 300,000 tonnes per year, increase availability

and reliability, reduce pollution and implement a modern automation and control system<sup>35</sup>. Following the due diligence and environmental and social analyses, the bank's project summary document (PSD) was updated, so that the CO2 emission reduction stands at 160,000 tonnes per year.

Currently<sup>36</sup>, Romania has an installed electricity capacity of 19,681 MW<sup>37</sup>, of which 5,405 MW in coal power plants, 4,020 MW in oil and gas power plants, 1,413 MW of nuclear capacity, 6,148 MW hydro power plants, 2,430 MW of wind power and 263 MW of photovoltaics. Electricity consumption (including exports) currently requires the operation of 7-8,000 MW of the installed capacities. The difference is quite large, which indicates that in the short and medium term Romania has the flexibility to plan what its electricity production sector can look like so that it takes a low carbon path.

The Romanian auditing authority ran checks at the Turceni Energy Complex in 2011. In its report, it found unjustified payments for investments and tax worth RON 594,000 (approx. EUR 133,000), an unjustified bonus payment to the general manager worth RON 21,000 (approx. EUR 4,700), and an unjustified increase in exploitation costs worth RON 6.504 million (approx. EUR 1.458 million). The report concluded that the administration of the Turceni complex is not in line with the aim, objectives and scope of the company in all aspects and does not fully observe the principles of legality and sound accounting practices.

The recommendations of the auditing authority were to:

- extend verifications over all all investments works done, in order to identify other cases and establish the extent of the damage as a consequence of unjustified payments
- extend verifications regarding payments of buildings tax
- take measures to comply with regulations regarding payments for excavation works done in the period 2007-2011
- do an inventory of all assets and take measures according to findings.<sup>38</sup>

In May 2013, the Prime-Minister's auditing body published a report<sup>39</sup> on checks it had made at the Oltenia Energy Complex covering the period 2010-2012. The report found that the Oltenia complex had entered 76 sponsorship contracts<sup>40</sup>, totalling RON 19 million (EUR 4.26 million) and 19 legal assistance contracts worth RON 1.17 million (EUR 262,000). The check also found illegal increases of public acquisition contracts, by more than 20%, large numbers of contracts with a few companies, that no preventive financial checks had been done on a number of contracts and a number of other public acquisition and contracting flaws. The



auditing body concluded that it would notify the anti-corruption department to launch a criminal investigation at the Oltenia Energy Complex.

In July 2013, it was reported<sup>41</sup> that a verification of the national audit authority had found a series of unjustified payments, worth millions of euro, at the Oltenia Energy Complex. The Turceni Complex had contracted a EUR 150 million loan to refurbish Turceni unit no. 6 but it didn't sign any execution contract; it had to pay EUR 12 million in fees to the EBRD and the Black Sea Trade and Development Bank, EUR 8 million of which for not having used the loan.

#### Procurement practice

In July 2013, local media reported<sup>42</sup> that the Turceni and Rovinari energy complexes practiced in 2007-2008 what has been somewhat a standard in corrupt practices in Romania, in this case with the procurement of legal assistance – setting a certain contract price and subsequently increasing contract value by means of annexes to the contract. As an example, the media report indicates that the Turceni energy complex signed a contract for legal assistance worth RON 280,000 (EUR 62,000) in March 2007; the contract value was increased to RON 480,000 (EUR 107,000) in September 2007 and then twice in December 2007, to RON 1,191,240 (EUR 267,000) and then RON 1,501,240 (EUR 336,000) and it was extended by one year, as it expired on December 31st 2007.

#### Procurement – money laundering

A clearer case of corrupt practices that the local media reported on<sup>43</sup> is one where jail time was finally distributed<sup>44</sup> in autumn 2013 for money laundering; the court decision has been appealed. A former member of the Romanian Parliament<sup>45</sup>, previously a prefect of the lignite mining county (Gorj), was convicted to seven years in prison alongside the administrator of a private company<sup>46</sup> and three former directors at the Turceni energy complex<sup>47</sup> over the acquisition at the complex of an old and broken piece of machinery, causing RON 800,000 (EUR 179,000) of damage to the company. The former member of parliament Surupaceanu agreed with the complex's general manager to purchase the machinery at 4 times the import price, from a local company. Part of the corrupted deal money ended up at a company controlled by the former MP, disguised as a transaction involving a piece of wood processing machinery.

In autumn 2012, the MP quit the Romanian Parliament so that the court case would be moved from the capital city to his home county but still the case ended up with jail sentences. The general manager of the Turceni complex, Dumitru Cristea, received his bribe for the deal in the form of a car worth approximately RON 100,000 (EUR 22,400)

which was sold to him for RON 17,800 (EUR 4,000); the deal was run through a company where Cristea was a shareholder, the vehicle was bought from Surupaceanu's company.

According to a media report<sup>48</sup>, the three directors were still working for the Turceni complex (Oltenia complex now) in February 2013, though they were under criminal investigation, having worked against the interests of their employer. While it is normal to work along the presumption of innocence, one might have considered other positions for the three, while under the criminal investigation that started in 2008, than leading positions in strategy and development (Cristea), quality management (Viorel) and acquisitions (Boiangiu).

In the meantime, the EBRD's due diligence indicates that "The company is broadly in compliance with the local health, safety and socio-economic laws in that there is not a history of prosecution associated with the company."<sup>49</sup>

#### Missing assets

In November 2013, local media reported<sup>50</sup> that the Oltenia Energy Complex filed a criminal complaint to unveil those guilty for a missing quantity of diesel fuel (200 tonnes). Earlier this year, 100,000 tonnes of lignite were discovered to be missing at the Isalnita power plant, where the investigations are still ongoing. An unconfirmed explanation<sup>51</sup> for the large quantity of missing lignite is that the Isalnita power plant reported lower fuel consumption in order to show lower electricity production costs and thus make it to the market instead of the Rovinari or Turceni plants within the Oltenia Complex. The local media reported<sup>52</sup> that the Isalnita power plant has production costs RON 50/ MWh higher than the Rovinari plant. It has to be noted that the Rovinari power plant is very close to its lignite mines, while lignite is shipped by rail to the Isalnita power plant.

While there is so far no evidence that the EBRD should have known in 2008 that the Turceni complex was implicated in corrupt practices, by the time it approved the project again in July 2013, the problem had been already known to varying extents to the national authorities and in the media since at least 2011. The EBRD due diligence claim that "there is not a history of prosecution associated with the company" borders on the misleading as it was clear that there had been investigations with critical findings even if the first prison sentence was not dealt until autumn 2013.

#### Conclusions and recommendations

In all three cases the EBRD had various possibilities to learn about possible corruption issues before the projects were approved, but chose to go

ahead with approving the projects. From the point of view of the EBRD's reputation and public image, the bank has not done itself any favours by proceeding with projects in which the national authorities and even OLAF in one case were undertaking corruption investigations. By doing so, it has sent a message to the public and affected companies that integrity is negotiable.

Without full insight into the EBRD's internal communication it is impossible to say what the bank did or didn't know and how it came to the conclusions it came to. Nevertheless it appears that the bank's due diligence does not take sufficient account of the fact that some companies are very difficult to hold accountable through national legal systems where the systems themselves are subject to political influence, which creates an environment that enables corruption. One warning sign of such issues can be the existence of legal cases or investigations against companies that are either not concluded for a very long time or are concluded with dubiously based conclusions. These need not necessarily be directly on corruption but can be on environmental violations or expropriation issues for example. Likewise, companies which have received preferential treatment through subsidies and other incentives can be de facto above the law, whether they are well-connected domestic companies or preferentially treated foreign investors. Of course this it is not easy to make clear rules or criteria on such issues but it can be a warning sign that requires enhanced due diligence.

## **Recommendations**

- EBRD due diligence needs to be enhanced in cases where certain well-connected companies have proved difficult in practice to hold accountable through national level court systems or which have privileged relations with state bodies through receipt of various incentives and subsidies. Information about ongoing court cases against the company should be included in the Project Summary Document.
- EBRD due diligence must, as a matter of standard practice, include contacting national anti-corruption agencies if it does not already.
- Loan contracts should stipulate that loans will not be disbursed if OLAF or national anti-corruption investigations are going on until the investigations are concluded and the suspects are cleared.
- The EBRD needs to clearly report to the public what it has done and why to address integrity issues in projects which are in its pipeline or already approved. The current annual reports of the Office of the Chief Compliance Officer give only aggregated information which does not show which investigations have made it onto the office's radar and why, and for which ongoing EBRD projects investigations have been concluded. Although there can be confidentiality concerns, for example for individuals, or for companies which are at an early stage of EBRD appraisal processes, there is little purpose in avoiding naming companies whose name is already all over the media in their home countries and whose name has already been associated with the EBRD.

# End notes

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30. Units 1 (commissioned in 1978), 3 (1980), 4 (1981), 5 (1983), 7 (1987) still operational. Unit 6 (1985) to be



overhauled. Unit 2 (1979) is permanently offline, being decommissioned. Unit 8 was never completed. The complex includes a 10 MW hydro power plant on the river Jiu.

31. HEAL, 'The unpaid bill, how coal power plants make us sick', <http://bit.ly/1eMB0m7>
32. <https://www.devex.com/en/projects/turceni-rehabilitation-and-modernization-project-in-romania>
33. <http://www.publictenders.net/tender/547991>
34. <http://www.ebrd.com/english/pages/project/psd/2013/37696.shtml>
35. [http://www.ebrd.com/pages/project/psd/2013/local\\_translations/44732.pdf](http://www.ebrd.com/pages/project/psd/2013/local_translations/44732.pdf)
36. Data as of December 1st 2013. Source: Transelectrica, <http://bit.ly/1hwnHdl>
37. Gross installed capacity. Net installed capacity (excludes own consumption of capacities) is 18,142 MW.
38. România curtea de conturi, Raportul public pe anul 2011, <http://bit.ly/1bGZijl>
39. The reports is available at <http://bit.ly/18B3CA4>
40. The Turceni complex had entered 32 sponsorship contracts, the Craiova complex – 10, the Rovinari complex – 34.
41. <http://bit.ly/18knge7>
42. This particular case was revealed after MEP Monica Macovei won a court case then lost the appeal and continued the case at the European Court of Justice. <http://bit.ly/1be0l8x>
43. <http://bit.ly/1avOkqz>
44. Court case number: 15068/95/2012, <http://bit.ly/1ck5A6F>; appeal: <http://bit.ly/1gCxawT>
45. Mugurel Surupaceanu
46. Sorin Busan Cocora, the administrator of a company that bought the machinery and then sold it to the Turceni energy complex.
47. General Manager Dumitru Cristea (6 years in prison), Vasile Viorel (commercial department, 4 years sentence, suspended with a probation period of 6 years) and Silvica Boianciu (investments department, 4 years sentence, suspended with a probation period of 6 years).
48. <http://bit.ly/18YUZNU>
49. Oltenia-Turceni Rehabilitation, Non-Technical Summary, 4 July 2013, S.C. Energy Complex Oltenia S.A, Romania
50. <http://bit.ly/19fsJ68>
51. <http://bit.ly/188rxGB>
52. <http://bit.ly/1dOdicz>