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**Subject: proposed Zagreb incinerator project**

Dear Sir/Madam,

We would firstly like to thank the EBRD for the constructive consultation meeting that was held in Zagreb last week. It was a valuable opportunity to meet and discuss important issues concerning the EBRD's work in Croatia.

Following on from the meeting, we would like to take the opportunity to send you our comments on the Zagreb incinerator project, which was briefly discussed during the discussions. We understand that the project is at an early stage of consideration within the EBRD, however **we believe that the problems with the project are such that it should not go any further in the project appraisal process.**

The attached paper outlines our concerns about the *content* of the project, which we believe is premature, poorly thought out, and potentially dangerous. However, of equal or perhaps even greater concern has been the project development *process*, which we believe has violated Croatian law and therefore the EBRD's policies on the environment and public participation.

After the previous rejections of the 1<sup>st</sup> and 2<sup>nd</sup> versions of the EIA in 2004 and 2005, in June 2006 Green Action heard unofficially that a 3<sup>rd</sup> version of the EIA was ready. Repeated attempts to find out by telephone when the legally stipulated public consultation period would take place produced conflicting answers. An official information request was sent to the Ministry of the Environment on 26<sup>th</sup> July, which was left unanswered for over a month, thus **breaking the Freedom of Information Act (Official Gazette No. 172/03)** requiring an answer within 15 working days.

On 29<sup>th</sup> August a media report stated that the EIA had been approved, and Green Action telephoned the Ministry of the Environment to find out whether it was true. The Ministry finally replied to the information request on 5<sup>th</sup> September, saying that the EIA had been approved, with no information on when or whether there had been a public consultation.

On 13<sup>th</sup> September Green Action sent a request for the approval document for the EIA to the Ministry. **The Ministry again broke the Freedom of Information Act** by failing to provide the information within 15 working days, and only provided it after an official complaint had been made. The document revealed that:

- The 3<sup>rd</sup> version of the EIA was completed in April 2006 and amended in July 2006
- In April 2006 a new EIA review commission was formed
- The EIA was approved on 21<sup>st</sup> July 2006
- **The public consultation cited in the approval was that from 2005, even though the rest of the EIA process, including the selection of a review commission, was started from the beginning in 2006.**
- Many of the points outlined in the approval conditions show that key concerns regarding the plant have not been adequately dealt with, particularly regarding the ash resulting from the incinerator. Indeed **several of the grounds for rejecting the 2005 EIA have not been addressed**, yet it has not been explained they are no longer grounds for rejection.

- Public meetings about the incinerator, as well as other 'information' activities, are merely added into the approval as activities that must be done before the incinerator begins its operations. **These have no value as a public consultation whatsoever** as there is no mechanism by which opinions expressed during this period could be taken into account.

In late 2006 **Green Action initiated a court case against the Ministry of the Environment** to try to reverse the approval decision, however the outcome of the case is still unknown.

Concerning the EBRD's Environmental Policy, there are a number of points that have not been complied with:

### **1. Inadequacy of public consultations**

**EBRD EP: "At a minimum, project sponsors must ensure that all [...] national requirements for public consultation, and that the EBRD requirements, are met."**

The Croatian Regulation on Environmental Impact Assessment (Official Gazette 59/2000), Articles 18 and 19 stipulate that a public inspection period of between 14 and 21 days must take place. This did not happen. Nor, as stated above, was there any public notification that the EIA process was to begin, nor any scoping process, since it is not laid down in the Regulation.

### **2. EIA non-disclosure**

**EBRD EP: "Project sponsors must make the EIA publicly available for comment, in strategic locations including at or near the project site, and where relevant, in the capital or other major cities. EIA documents, including the executive summary, must be made available in a language which is accessible to the majority of people affected by the proposed project."**  
Also **"The EBRD strongly encourages project sponsors to place EIAs on Web sites to improve public accessibility to the documents."**

This did not happen.

### **3. Withholding information on EIA commenting results**

**EBRD EP: "Following the completion of the public comment period, the project sponsor will need to provide information to those commenting and the affected public on how comments were taken into account."**

It follows that since there was no commenting period, there was also no information available to the public afterwards. **However, most significantly, the EIA was approved on 21<sup>st</sup> July 2006, and the approval document stated that any appeals against this decision must be made within 30 days. However the first media report which we have been able to find was not published until 29<sup>th</sup> August, and there was no press release at all relating to the matter on the Ministry of the Environment's website.** This would appear to indicate that the Ministry purposefully withheld the information with the aim of hindering appeals.

At the very minimum we are asking for a **full new EIA process, inclusive of a public consultation, which complies with Croatian law and the EBRD's environmental policy. We also request the EBRD to decline to finance the incinerator project**, as we believe that neither Zagreb City Council nor the Ministry of the Environment has shown themselves to be sufficiently responsible to implement and adequately monitor such a potentially dangerous project, and thus far we have not seen evidence that the EBRD's involvement is succeeding in raising the standard of the project development process to a satisfactory level of transparency.

Yours faithfully,

Mr Marijan Galovic  
Bankwatch Programme Co-ordinator  
Green Action

