

17 November 2011

Project Complaint Mechanism  
Attn: PCM Officer  
European Bank for Reconstruction and Development  
One Exchange Square London  
EC2A 2JN Fax:  
+44 20 7338 7633  
E-mail: [pcm@ebrd.com](mailto:pcm@ebrd.com)

**Complaint to the EBRD's Project Complaint Mechanism regarding the  
Ombla hydropower project, Croatia**

**1. Name of the Person(s) or Organisation(s) filing the Complaint ("the Complainant").**

Zelena akcija/Friends of the Earth Croatia

**2. Contact information of the Complainant (please include email address and phone number if possible).**

Mr Enes Ćerimagić,  
Zelena akcija/Friends of the Earth Croatia  
Frankopanska 1 pp.952  
10 000 Zagreb  
Croatia  
[enes\(AT\)zelena-akcija.hr](mailto:enes(AT)zelena-akcija.hr)

**3. Is there a representative making this Complaint on behalf of the Complainant?**

No.

**4. Are you requesting that this Complaint be kept confidential?**

No.

**5. Please provide the name or a description of the EBRD Project at issue.**

Ombla HPP. The project is due to be approved on 22 November 2011.

**6. Please describe the harm that has been caused or might be caused by the Project**

The proposed project involves constructing an underground hydropower plant near Dubrovnik in Croatia. The Vilina cave system and the Ombla river spring at the site are part of a proposed **Natura 2000 site**, and the project's influence impact on flora and fauna in the local karst system is expected to be significant, due to disruptive construction works involving the use of explosives and changing water levels. Among the issues of concern are five species of protected bats and *Proteus anguinus*, the cave salamander, classed as 'vulnerable' on the IUCN Red List. (IUCN Red List (VU); FFH Directive: Annex II, IV; Bern Convention: Annex II ), *Troglocaris anophthalmus*, the cave shrimp, (IUCN Red List (VU)) and *Congerius kusceri*, the cave clam (FFH Directive: Annex II, IV). Among other cave species four taxa are found only in the Vilina Spilja - Ombla spring, and nowhere else in the world: *Horatia knorri*, *Lanzaia kusceri*, *Plagigeria nitida angelovi*, (all three are aquatic cave snails) and *Eukonenia pretneri*, the cave palpigrae. Proof that the cave is far from being fully explored is the fact that a new Genus of terrestrial isopod found in the cave in 2009.

It should be noted here that the Environmental Impact Assessment for the project dates from 1999 and is thus outdated and no longer legally valid (see section below on breaches of EBRD policies for more details).

Also, a biodiversity study equivalent to an Appropriate Assessment under the EU Habitats Directive has not yet been completed. The EBRD appears to accept that the completion of this study and adoption of mitigation measures will resolve outstanding issues. Apart from the fact that we are not convinced by this (see section on biodiversity assessment below), it is not clear why the bank is considering approving the project *before* such an assessment has been undertaken.

**7. If you are requesting the PCM's help through a Problem-solving Initiative, you must have made a genuine effort to contact the EBRD or Project Sponsor regarding the issues in this complaint.**

**a. Have you contacted the EBRD to try to resolve the harm caused or expected to be caused by the Project? Is the written record of this contact with the EBRD attached to your complaint?**

**b. Have you contacted the Project Sponsor to try to resolve the harm caused or expected to be caused by the Project? Is the written record of this contact with the Project Sponsor attached to your complaint?**

We are not requesting a Problem-solving Initiative. Nevertheless we have contacted the EBRD and the project sponsor, Hrvatska Elektroprivreda (HEP), regarding this project.

Communication with the EBRD about this project has been undertaken by several different groups such as, the Croatian Biospeleological Society, NGO Grad from Dubrovnik and CEE Bankwatch Network, but direct communication between Zelena akcija, the EBRD and the project sponsor has been as follows:

8 September 2011: As part of the commenting period in which the EBRD made available the Environmental Impact Assessment, Zelena akcija submitted comments<sup>1</sup> to EBRD staff and the Project Sponsor as follows:

Philip Lam, Operations Leader  
Olga Filippova, Civil Society Adviser,  
Alistair Clark, Corporate Director, Environment and Sustainability Department,  
Riccardo Puliti, Managing Director, Energy,  
Tomislav Pavis, HEP.

09 September 2011: A short holding response was received from Mr Puliti (see Annex 1).

10 October 2011: A meeting was held between the Project Sponsor, HEP, and NGOs. Mr. Jack Mzingo from the EBRD was also present at this meeting. Unfortunately the meeting did not resolve our concerns.

26 October 2011: Having received no response to the substance of our concerns from the EBRD, and seeing that the EBRD's website indicates the bank's intention to proceed with the project approval on 08 November 2011, Zelena akcija, supported by 33 other Croatian and international organisations, sent an open letter to the EBRD's staff and Board of Directors, with a copy to the Project Sponsor.<sup>2</sup>

31 October 2011: A short response was received from Mr Philip Lam of the EBRD (see Annex 2). The response promised more information in due course but did not address our concerns as it mentioned only discussing the issues with the project sponsor, and minimising and mitigating them. This is not sufficient, as the Environmental Impact Assessment for the project does not meet current EU and Croatian legal requirements – an issue that requires more than discussions with

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<sup>1</sup> The comments are available at: [http://zelena-akcija.hr/uploads/zelena\\_akcija/document\\_translations/000/000/768/Ombla\\_HPP\\_Comments\\_ZA\\_FoE.pdf?1319638049](http://zelena-akcija.hr/uploads/zelena_akcija/document_translations/000/000/768/Ombla_HPP_Comments_ZA_FoE.pdf?1319638049)

<sup>2</sup> The letter is available at: [http://zelena-akcija.hr/uploads/zelena\\_akcija/document\\_translations/000/000/766/OpenLetterOmblaFINAL.pdf?1319639090](http://zelena-akcija.hr/uploads/zelena_akcija/document_translations/000/000/766/OpenLetterOmblaFINAL.pdf?1319639090)

the project sponsor to address.

08 November 2011: A full response was received from Ms Biljana Radonjic Ker-Lindsay in table format.<sup>3</sup> The table laid out a summary of comments submitted to the EBRD and to HEP during recent months and provided responses. While the explanations were useful they did not resolve our most serious concerns, as explained below.

**If you have not contacted the EBRD and/or Project Sponsor to try to resolve the harm or expected harm, please explain why.**

N/A

**If you believe the EBRD may have failed to comply with its own policies, please describe which EBRD policies.**

Primarily we would argue that the EBRD has failed to comply with its Environmental and Social Policy 2008. We lay out here the Performance Requirements that we believe have been breached, with a short explanation of our reasoning.

### **Outdated and illegal Environmental Impact Assessment**

Ombla HPP project is based on an EIA which dates from 1999. Since this time major changes in Croatian legislation and the social, environmental and political situation have occurred. This means that the EIA contravenes several clauses of the EBRD's 2008 Environmental and Social Policy:

- *PR 1.5. The appraisal process will be based on recent information [...].*
- *PR 1.9 The Environmental Impact Assessment (EIA)/Social Impact Assessment (SIA) shall meet PR 10 and any applicable requirements of national EIA law and other relevant laws.*
- *PR 6.15. Areas may be designated by government agencies as protected for a variety of purposes, including to meet country obligations under international conventions. Within defined criteria, legislation may permit development in or adjacent to protected areas. In addition to the applicable requirements of paragraph 14, the client will: [...]*
  - *demonstrate that any proposed development in such areas is legally permitted and that due process leading to such permission has been complied with by the host country, if applicable, and the client; and that the development follows the mitigation hierarchy (avoid, minimise, mitigate, offset) appropriately; [...]*

The EIA procedure in Croatia is governed by two pieces of legislation: the Environmental Protection Act (EPA) and Governmental Directive on Environmental Impact Assessment (GDEIA). The former provides the rationale and basic requirements for an EIA procedure and the latter provides detailed instructions for the successful execution of the EIA. At the time of conducting the 1999 EIA the Acts applicable were the 1994 EPA (Official Gazette # 82/94 and #128/99) and 1997 GDEIA (Official Gazette # 34/97 and #37/97). In the case of the Ombla HPP project HEP is operating under the assumption that the 1999 EIA is still valid. The reason for this wrong assumption could be the fact that neither the 1994 EPA nor 1997 GDEIA have provisions about the temporal validity of the EIA whereas the new 2007 EPA prescribes that the EIA is valid only if the project commences within two years of the finishing of the EIA process.

However, there are at least two legal arguments that old EIAs cannot be used:

1. The Ordinance on Environmental Impact Assessment (Official Gazette # 59/00, # 136/041 and # 85/06) which has superseded the 1997 GDEIA (under which the Ombla HPP EIA was conducted) clearly states in Article 25. paragraph 2. that **"An EIA study conducted in compliance with the GDEIA (Official Gazette # 34/97 and # 37/97) rules can be used as an expert document for the Environmental Impact Assessment for three months upon the entry into force of this Ordinance"**. (i.e. until 12th September 2000.)

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<sup>3</sup> Available at: <http://bankwatch.org/documents/EBRDresponse-OmblaHPP-07Nov2011.pdf>

2. The fact that the 1994 EPA has no provisions on the temporal validity of an EIA does not allow for the interpretation that EIAs conducted in compliance with the 1994 EPA are without expiry. This would lead to unacceptable consequences where theoretically a 30 year-old EIA conducted in 1981 would be valid but a 3 year-old EIA conducted in 2008, after the passing of the 2007 EPA, would not. That this should not be interpreted in such a manner follows not only from plain logic but also from the 'final and transitional provisions' of the 2007 EPA. In Article 228. paragraph 3. it is stated that **legislation passed in compliance with the old 1994 EPA can be used until new legislation in compliance with the new 2007 EPA is passed only if it does not collide with the provisions of the new 2007 EPA.** An interpretation that EIAs are without expiry would be in direct contradiction with the provision of Article 80 of the 2007 EPA which states that EIAs are valid for two years and can only be extended once for another two years.

In 2008 a similar case of the 1986 EIA for the HPP Kosinj was overturned by the Ministry of Environmental Protection, Spatial Planning and Construction, noting that such an old EIA is no longer valid and that a new EIA process compliant with current legislation should be prepared. We intend to challenge the EIA process for Ombla in court if HEP proceeds with the project.

While the EBRD has clearly made efforts to ensure that additional studies will be carried out, these cannot be a substitute for a legally valid EIA.

In response to this point, the EBRD/HEP has pointed out that:

*“HEP recognizes that conditions are different at present than at the time of the original EIA. However, it is important to note that the Ministry of Environment, Spatial Planning, and Construction found the EIA met then-current requirements and has stated that the permits issued as a result of the 1999 EIA and further required studies remain valid. This Ministry and the Ministry of Culture have also reported there is no legal basis under Croatian law to require further studies or assessments.”* (Response 07 November 2011)

We do not find this sufficient and if HEP moves ahead with the project we intend to challenge the validity of the EIA in a court of law. It is not beyond the realm of possibility that the Ministries are mistaken in their assessment of the requirements of Croatian EIA legislation, particularly given that a state-owned company is involved, for which it is surely in the government's interest that the procedures run as smoothly as possible.

### **Failure to hold meaningful public consultation**

Croatia is a party to the Aarhus Convention, which is reflected in the Croatian Law on Environmental Protection (Official Gazette No. 110/07). However as a result of the EIA process being carried out in 1999 and the piecemeal approach to updating environmental information being undertaken for the project, the public has not been sufficiently included in decision-making. As well as violating the Aarhus Convention, this means that the project contravenes several clauses of the EBRD's 2008 Environmental and Social Policy:

- *PR 1.5. The appraisal process will be based on recent information, including an accurate description and delineation of the client's business or the project, and social and environmental baseline data at an appropriate level of detail.*
- *PR 1.9 The Environmental Impact Assessment (EIA)/Social Impact Assessment (SIA) shall meet PR 10 and any applicable requirements of national EIA law and other relevant laws.*
- *PR 10.10. In the case of Category A projects the client will engage in a scoping process with identified stakeholders to ensure identification of all key issues to be investigated as part of the Environmental and Social Impact Assessment (ESIA) process. The scoping process will also facilitate development of a Stakeholder Engagement Plan for the project. As part of the scoping process, stakeholders should be able to provide comments and recommendations on the draft Stakeholder Engagement Plan and any other scoping documents.*
- *PR 10.15 Meaningful consultation:*
  - *should be based on the disclosure of relevant and adequate information including,*

- *where appropriate and relevant, draft documents and plans, prior to decisions being taken when options are still open*
- *should begin early in the environmental and social appraisal process*

As we have seen above, the EIA is not compliant with current EIA legislation due to its age. Although the EBRD and HEP have tried to make up for this by publishing the EIA for a commenting period and by holding presentations of the project, none of these steps fulfil the definition of 'meaningful consultation' or comply with the Aarhus Convention.

This is for two reasons:

**1) Public participation has been not been undertaken *prior to decisions being taken when options are still open***

Project presentations took place in September 2011, on the Environmental and Social Action Plan; Stakeholder Engagement Plan<sup>4</sup> and Non-Technical Summary of the EIA. Yet the EIA has already been approved on the national level, and there is therefore no legal process in place which would ensure the incorporation of comments received or explanation as to why they have not been included. To provide for public participation in such circumstances cannot be compatible with the Aarhus Convention because by then public participation is neither early nor effective and major options are no longer open. The EBRD has denied that this is the case:

*“As noted in responses to other comments, a further biodiversity study will be undertaken, in part because the site has now been proposed for protection under Natura 2000. This study will include a comprehensive evaluation of data in order to determine if further mitigation is needed, whether specific mitigation measures can reduce or control impacts to an acceptable level, and/or whether compensation should be provided for unavoidable impacts. This process will allow any number of options to be considered, so it cannot be said that options are no longer open.”* (Response 07 November 2011)

Clearly there are still options for mitigation measures, however it is very unlikely that the zero option ie. the project not going ahead, will be seriously considered at so late a stage, after some environmental permits have already been obtained, and after the EBRD has approved financing. It is unclear how the Natura 2000 study could impact on the permits that have already been issued. Thus we do not agree that major options are still open.

**2) Public participation has not been based on *disclosure of relevant and adequate information* and appraisal cannot have been based on *environmental baseline data at an appropriate level of detail*.**

Much of the *relevant information* and *environmental baseline data at an appropriate level of detail* is simply missing because the Natura 2000 study and other baseline studies have not been undertaken yet. The Environmental and Social Action Plan acknowledges this by stipulating that HEP must, before construction: *“Undertake pre-construction ecological surveys to establish a robust baseline (note: EIA includes an equivalent requirement). Include surveys of:*

- *Terrestrial ecosystems*
- *Aquatic ecosystems*
- *Protected bat species*
- *additional surveys of the locations and extent of species populations in the caves affected by the Ombla HPP - Protected Proteus anguinus (Cave salamander).*
- *Birds*
- *Undertake additional analysis on whether the measures that have already been identified to mitigate impacts on flora and fauna are sufficient to avoid potential effects upon the Natura 2000 site. Based on results, prepare plan required by item 6.2.”*

<sup>4</sup> The Environmental and Social Policy mentions commenting on the Stakeholder Engagement Plan as part of the scoping process. However here there appears to have been no scoping process – not surprising considering that the EIA process was already finished over a decade ago – and the Stakeholder Engagement Plan was published at the same time as the EIA and the Environmental and Social Action Plan.

Such studies should have been prepared **before** public consultations on the EIA, and consultations should have taken place **before** an environmental permit was issued for the project. Trying to correct the situation with piecemeal studies and consultations cannot be a substitute for a properly carried out EIA process. An example from a previous hydroelectric project, the Lešće HPP on the River Dobra – also involving HEP - illustrates this point: In spite of a 2007 recommendation from the Bern Convention not to go ahead with the HPP construction, HEP went ahead. The company agreed to undertake a new biodiversity study, however when asked by a representative of Zelena akcija (Green Action) whether it would wait for the results before continuing with the construction, the answer was “No, of course not”. It is insufficient to rely on a series of piecemeal studies and consultations that take place after the EIA process is completed. There is no way to correct this situation in a legally acceptable manner except by starting the Environmental Impact Assessment procedure from the start.

### **Incomplete biodiversity assessment**

The fact that the biodiversity assessment is incomplete is evidenced by the Environmental and Social Action Plan, which stipulates that HEP must, before construction: “*Undertake pre-construction ecological surveys to establish a robust baseline (note: EIA includes an equivalent requirement). Include surveys of:*

- *Terrestrial ecosystems*
- *Aquatic ecosystems*
- *Protected bat species*
- *additional surveys of the locations and extent of species populations in the caves affected by the Ombla HPP - Protected Proteus anguinus (Cave salamander).*
- *Birds*
- *Undertake additional analysis on whether the measures that have already been identified to mitigate impacts on flora and fauna are sufficient to avoid potential effects upon the Natura 2000 site. Based on results, prepare plan required by item 6.2.”*

This means that the EIA has been approved on the national level and the EBRD is about to approve the project in the absence of detailed, comprehensive and up-to-date information.

In our opinion this is in breach of the EBRD's Environmental and Social Policy 2008:

- *PR 6.6. Through the environmental and appraisal process, the client will identify and characterise the potential impacts on biodiversity likely to be caused by the project. The extent of due diligence should be sufficient to fully characterise the risks and impacts, consistent with a precautionary approach and reflecting the concerns of relevant stakeholders.*

The EBRD believes that this will be addressed as follows: “*At the same time, the ESAP to which HEP has agreed, and which will be part of the legal financing agreement with EBRD, will not allow construction that will affect the areas proposed for protection as Natura areas until a biodiversity study equivalent to an Appropriate Assessment under the EU Habitats Directive is completed and there is adequate mitigation to the integrity and the conservation objectives of the sites, or compensation to ensure overall coherence of the Nature 2000 network is protected.*” (Response 07 November 2011)

Again the emphasis is on mitigation measures and does not address the question of what will happen if the study finds that the project is too harmful to the Natura 2000 site to proceed with. It also does not address the point raised above about how this study would legally be able to impact on those environmental permits already issued.

### **Damage to habitat without adequate justification**

The EBRD Environmental and Social Policy 2008 distinguishes between *natural habitats, protected areas, and critical habitats*. The Vilina Cave - Ombla Spring, as a planned Natura 2000

area and the only known habitat globally for the aquatic cave snails *Horatia knorri*, *Lanzaia kusceri*, *Plagigeria nitida angelovi*, and *Eukonenia pretneri*, the cave palpi-grade, fits all of these categories.

The EBRD and HEP argue that “No activities will be undertaken in Vilina Cave; in addition, Croatian authorities are requiring steps to be taken to ensure that water levels cannot rise to the level of this Cave, and also to ensure that no construction takes place near the cave when bats are active.” This will be impossible to independently monitor. The EBRD and HEP do admit that: *There will be some level of effects on the karst cave system. For example, the water level is expected to rise up to 100 meters upgradient of the grout curtain “dam”, and the transition zone that is currently flooded part of the time will move upward. In addition, the portion of the karst downgradient of the grout curtain “dam” will become dry for more of the year than is presently the case.*” They also point to the Natura 2000 study that should be carried out before going ahead with the construction.

We have already argued in the section on the *Outdated and illegal Environmental Impact Assessment* that the illegality of the EIA means that **the EBRD’s provisions on protected areas are being breached.**

In addition, we believe that the Vilina Cave – Ombla Spring area fits the EBRD’s criteria on critical habitats as follows:

- *PR 6.13. Irrespective of whether it is natural or modified, some habitat may be considered to be critical by virtue of (i) its high biodiversity value; (ii) its importance to the survival of endangered or critically endangered species; (iii) **its importance to endemic or geographically restricted species and sub-species**; (iv) its importance to migratory or congregatory species; (v) its role in supporting assemblages of species associated with key evolutionary processes; (vi) its role in supporting biodiversity of significant social, economical or cultural importance to local communities; or (vii) its importance to species that are vital to the ecosystem as a whole (keystone species).*

If so:

- *PR 6.14. Critical habitat must not be converted or degraded. Consequently, in areas of critical habitat, the client will not implement any project activities unless the following conditions are met:*
  - *Compliance with any due process required under international obligations or domestic law that is a prerequisite to a country granting approval for project activities in or adjacent to a critical habitat has been complied with.*
  - *There are no measurable adverse impacts, or likelihood of such, on the critical habitat which could impair its ability to function in the way(s) outlined in paragraph 13.*
  - *Taking a precautionary perspective, the project is not anticipated to lead to a reduction in the population of any endangered or critically endangered species or a loss in area of the habitat concerned such that the persistence of a viable and representative host ecosystem be compromised.*
  - *Notwithstanding the above, all other impacts are mitigated in accordance with the mitigation hierarchy.*

As outlined in detail above and below on the sections on EIA and SEA, *compliance with due process* has not been complied with in this case.

There is too little information available to give a definitive opinion on *all* the adverse impacts on the Vilina Cave – Ombla Spring habitat from the Ombla HPP project, however it seems reasonable to argue that there are likely to be serious changes in the habitat due to changes in water levels and seriously disruptive construction work. This may lead to a reduction in the population of the endemic species *Horatia knorri*, *Lanzaia kusceri*, *Plagigeria nitida angelovi*, (aquatic cave snails) and *Eukonenia pretneri*, the cave palpi-grade, as well as the new Genus of terrestrial isopod found in the cave in 2009.

## **Lack of Strategic Environmental Assessment on the Croatian Energy Strategy and local spatial planning documents.**

The EBRD in its Country Strategy for Croatia recognizes that “*efforts to implement the SEA need to be stepped up*” but by financing the energy sector boosts breaches of EU and Croatian SEA legislation. The 2008 Croatian Energy Strategy – one of the most important state programmes with the most significant environmental impacts - still has not been subject to a Strategic Environmental Assessment procedure and therefore none of the projects which arise from that strategy, are fully compliant with the EU *acquis communautaire*. Neither has an SEA been prepared for the current spatial planning documents that allow the construction of the HPP in that area.

In our opinion this is in breach of the following Performance Requirement (our emphasis):

- *PR 6.15. Areas may be designated by government agencies as protected for a variety of purposes, including to meet country obligations under international conventions. Within defined criteria, legislation may permit development in or adjacent to protected areas. In addition to the applicable requirements of paragraph 14, the client will: [.....]*
  - **demonstrate that any proposed development in such areas is legally permitted and that due process leading to such permission has been complied with by the host country, if applicable, and the client; and that the development follows the mitigation hierarchy (avoid, minimise, mitigate, offset) appropriately; [...]**

The EBRD and HEP responded to the lack of SEA as follows:

*“Under the Environmental Protection Act (OG 110/07), the Government of the Republic of Croatia in June 2008 adopted the Regulation on strategic environmental assessment of plans and programmes (OG 64/08), the Regulation on information and participation of the public and public concerned in environmental matters (OG 64/08) and the Ordinance on the Committee for Strategic Assessment (OG 70/08), with which the provisions of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment were fully transposed into Croatian legislation.*

*EBRD acknowledges the importance and benefits of Strategic Environmental Assessment (SEA) as a key tool for sustainable development and for assessing the cumulative impacts of plans and programmes on the environment, including SEAs prepared according to EU SEA Directive or the Protocol on Strategic Environmental Assessment (Kiev, 2003) to the Convention on Environmental Impact Assessment (EIA) in a Transboundary Context. Whereas the Bank does not have ownership of such plans and programmes, it will liaise with governments, regional bodies and those multilateral institutions most appropriately placed to use SEAs as a government decision making tool and will structure its projects in accordance with the conclusions of relevant SEAs, where available.*

*Considering the Ombla HPP project itself is not subject to an SEA and that it has valid permits based on the 1999 EIA approval, the completion of the SEA on the Croatian Energy Strategy is not deemed to be a legal requirement for the implementation of the project.”*

We would not agree with this conclusion. As the Croatian National Energy Strategy was approved in October 2009, well after the relevant legislation on SEA was adopted, it was a legal requirement to carry out this process on the Strategy. Thus any projects which stem from it cannot be regarded as having been subjected to proper legal assessment if the whole strategy was not subject to SEA.

**Please describe any other complaints you may have made to try to address the issue(s) at question (for example, court cases or complaints to other bodies).**

None at present. We are currently considering further options.

**Are you seeking a Compliance Review where the PCM would determine whether the EBRD has failed to comply with its Relevant Policies?**

Yes

**Are you seeking a Problem-solving Initiative where the PCM would help you to resolve a dispute or problem with the Project?**

No

**What results do you hope to achieve by submitting this Complaint to the PCM?**

It is our hope that by mobilising the PCM to examine these issues in detail, that it will become clear that the EBRD cannot finance the project in its current form and be in compliance with its own policies. As a result we expect that the EBRD will not finance the project, at the very least until a new Environmental Impact Assessment has been carried out.

## **Annex 1**

----- Original Message -----

Subject: RE: Comments on Ombla HPP, Croatia  
Date: Fri, 9 Sep 2011 07:11:23 +0100  
From: "Puliti, Riccardo"  
To: "Enes Cerimagic"

Dear Mr. Cerimagic,

Thank you for your kind message and the comments you provided us. I am forwarding this to Ms Radonjic who will provide you with the answers in due time.

Best regards,

Riccardo Puliti

## **Annex 2**

----- Original Message -----

Subject: RE: Open letter on the planned Ombla hydroelectric plant (HPP)  
Date: Mon, 31 Oct 2011 09:48:13 -0000  
From: Lam, Philip

Dear CSO representatives,

Thank you for your interest in the Ombla HPP project which is under consideration by the EBRD and submitting your comments. Please note that all the comments we receive will be summarised along with the results of due diligence for the Board of Directors to take into account as part of their decision-making process.

In addition, we are discussing the concerns raised with HEP, the Borrower, and the most appropriate ways of minimising or mitigating the issues raised as well as how the agreed action plan will be monitored. We will work to provide additional information regarding such issues in due course.

Regards