



EUROPEAN COAL
FINANCE CAMPAIGN



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FROM:

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TO:

Mr. Grzegorz Zieliński
Operations Leader
European Bank for
Reconstruction and
Development

Bulgaria:

Centre for Environmental
Information and Education
(CEIE)

Za Zemiata, For the Earth

Croatia:

Green Action

Czech Republic:

Centrum pro dopravu a
energetiku (CDE)

Hnutí DUHA

Estonia:

Estonian Green Movement–FoE

Georgia:

Green Alternative

Hungary:

National Society of
Conservationists – Friends of
the Earth Hungary (MTVSZ)

Latvia

Latvian Green Movement

Lithuania:

Atgaja

Macedonia:

Eko–svest

Poland:

Polish Green Network (PGN)

Russia:

Sakhalin Environmental Watch

Serbia:

Center for Ecology and
Sustainable Development
(CEKOR)

Slovakia:

Friends of the Earth – Center
for Environmental Public
Advocacy (FoE–CEPA)

Ukraine:

National Ecological Centre of
Ukraine (NECU)

CEE Bankwatch Network's
mission is to prevent
environmentally and socially
harmful impacts of
international development
finance, and to promote
alternative solutions and public
participation.

Dear Mr Zielinski,

The EBRD has completed a concept review for a loan to ENEA Operator, a fully owned subsidiary of ENEA S.A., the majority state-owned top-company of the ENEA Group. As you state in your answer to my first letter to the EBRD on the loan to ENEA Operator from 22nd March the EBRD has been shareholder of ENEA S.A since the IPO of the company in 2008¹ and retains a 2.5% equity stake in it². You also stress that the loan to ENEA Operator will be treated as fully independent from the Bank's equity investment made in 2008.

The priority investment for ENEA S.A. is the construction of a 1000 MWe coal-fired unit in Świerże Górne, usually referred to as Koziencice unit 11³. This information has been repeated by the company's top management and the Polish Treasury Minister Mr. Budzanowski during public events and press interviews and is available on the website of both ENEA S.A. and the Ministry of Treasury⁴. As recently as 30th August the Vice-President of the Board of ENEA Mr. Hubert Rozpędek has stated that Koziencice coal-fired unit 11 is the priority for ENEA and that the financing for the construction of the new coal-fired unit has been secured. The company has signed an agreement for PLN 4 billion for a bond issue and is in talks for a loan of up to PLN 2 billion from the EIB and the EBRD⁵. We believe that treating the loan to ENEA Operator independently from the investment programme of ENEA S.A., which fully owns ENEA Operator, is unacceptable. This is even more so given that the ENEA privatization process came to a halt in March 2011 because the companies negotiating to buy the majority of the shares from the State Treasury would not agree to construct the Koziencice unit 11 as a condition of the sale of 51% of ENEA's shares.

¹ <http://www.ebrd.com/english/pages/project/psd/2008/39453.shtml>

² Response from the EBRD from 13th April 2012.

³ http://www.msp.gov.pl/wai/en/form/r34/Enea_SA_seated_in_Poznan.html and
http://www.ir.enea.pl/en/news/enea_launches_bond_issue_programme/

⁴ *Ibidem*

⁵ http://budownictwo.wnp.pl/enea-umowa-ws-budowy-bloku-w-kozienicach-w-najblizszych-dniach,177619_1_0_0.html

The European Coal Finance Campaign, uniting a number of environmental and civil society organizations, and its partners are asking the bank to step away from either direct or indirect financing of coal power plants in Europe and the EBRD's countries of operation in general. In particular we ask the bank to refrain from indirectly supporting the Kozenice unit 11 construction through the proposed loan to ENEA Operator. Declining the loan will allow the EBRD to protect its reputational integrity and the financial interest of its shareholders.

Kozenice Coal Plant Unit 11 has already finalized its permitting procedure and is currently seeking financing. We believe that the loan to ENEA Operator that the Board of Directors of the EBRD is scheduled to vote on 30th October 2012 is closely related to ENEA's investment plans and that it facilitates the allocation of resources to the construction of the new coal-fired unit.

Moreover, on 13th July 2012, the European Commission rejected financial support for construction of Kozenice Unit 11 under Article 10c of the EU ETS Directive. Kozenice Unit 11 has been removed by the European Commission from the National Investment Plan, a list of investments allowed to benefit from a financial mechanism supporting low-carbon investments in return for approved free allocation of emission permits to the Polish power sector between 2013 and 2019⁶.

The information about the irregularities related to Article 10c (5) of Directive 2003/87/EC of the European Parliament and of the Council has also been shared with the EBRD in a letter from CEE Bankwatch Network from 22nd March 2012.

Given such circumstances the EBRD should conduct a new evaluation of its proposal to participate in a senior unsecured long-term PLN 800 million corporate loan to ENEA Operator and the relation of that loan to ENEA S.A.'s investment programme⁷.

If the loan is approved by the Board of Directors, the EBRD may also face reputational damage as the loan from the European Financial Institutions (the EBRD, the EIB and Nordic Investment Bank) is a crucial factor that will determine whether ENEA will be able to pursue the construction of Kozenice unit 11.

There are a significant number of reasons to reconsider the proposed EBRD loan to ENEA Operator.

First, ENEA S.A. has shown excellent economic performance in the recent years with a net profit of PLN 456 million in the first half of 2012⁸ and PLN 2.5 billion in cash at the end of 2011⁹. Additionally ENEA S.A. has secured PLN 4 billion through an agreement with a consortium of five banks on a corporate bond issue¹⁰. According to the Vice-President of the Board ENEA S.A. will be able to invest over PLN 18 billion in the coming years¹¹. This means that if the company was to

⁶ COMMISSION DECISION of 13.7.2012 concerning the application pursuant to Article 10c (5) of Directive 2003/87/EC of the European Parliament and of the Council to give transitional free allocation for the modernisation of electricity generation notified by Poland:

http://ec.europa.eu/clima/policies/ets/auctioning/derogation/docs/comm_dec_2012_4609_en.pdf

⁷ <http://www.ebrd.com/english/pages/project/psd/2012/43001.shtml>

⁸ http://www.ir.enea.pl/en/news/enea_group_generated_over_pln_5_bln_revenues_in_h1_2012/

⁹ www.ir.enea.pl/plik/901/

¹⁰ http://www.ir.enea.pl/en/news/enea_launches_bond_issue_programme/

¹¹ http://budownictwo.wnp.pl/enea-umowa-ws-budowy-bloku-w-kozienicach-w-najblizszych-dniach.177619_1_0_0.html

drop its plan to invest PLN 6.28 billion¹² in the Koziencice unit 11 it would dispose of sufficient resources to carry out the extensive investment programme upgrading ENEA Operator's distribution network¹³ – which in the 2012–2015 period is to cost PLN 3.2 billion¹⁴ – by moving resources within the group, and thus the question arises where the additionality of the EBRD loan to ENEA Operator comes from. In fact by providing the loan for ENEA Operator the EBRD allows the company to spend PLN 800 million less on its distribution network in the 2012–2015 period and use that money for the construction of Koziencice coal-fired unit 11.

Second, the company is determined to invest in Koziencice unit 11 and the EBRD is contributing to the construction of that unit by freeing the assets available to ENEA S.A. from investing in the distribution grid. The EBRD's due diligence and public consultation on its loan therefore need to explore the links with the coal power plant and the project should not be considered by the board until this has taken place. The project summary document states that "The Project is the investment programme and operation of assets of ENEA Operator, the distribution company, whilst the area of influence includes all operations of ENEA and its subsidiaries." Yet a loan to this company, which is about to build a new 1000 MW coal power plant, has been categorised as environmental category B by the EBRD, there is no Environmental and Social Impact Assessment available on the EBRD's website and the word 'coal' does not appear once in the project description on the EBRD's website.

Third, there are serious integrity questions in the management of ENEA S.A. as reported by both "Newsweek"¹⁵ and "Rzeczpospolita"¹⁶ newspapers. Both the Interior Security Agency (ABW) and Central Corruption Agency (CBA) are closely monitoring the irregularities in ENEA's management and the use of public resources and the district public prosecutions office in Poznan opened an investigation of ENEA. We are sure the EBRD, as a shareholder of ENEA, is well aware of this situation. We would like to bring your attention to the fact that the financial irregularities in ENEA S.A. have been addressed publicly in the Polish Parliament and the first parliamentary question by Jan Cedzyński concerning ENEA dates from 29th March 2012¹⁷. Since then as many as ten more parliamentary questions have been asked, with answers for the Treasury Minister and the Prime Minister of Poland, all related to the financial irregularities and management practices in ENEA S.A. that are unethical or harmful to the State Treasury. This should be of even greater importance to the EBRD given that the process of privatization of ENEA in the 2010–2012 period is being investigated and one of the stated reasons for the EBRD's financial involvement in ENEA was to smooth the process of the company's privatization.

Fourth, one of the companies that would be responsible for the Koziencice unit 11 construction if the agreement is signed – Polimex–Mostostal S.A. – is going through very hard times financially¹⁸

¹² <http://www.parkiet.com/artykul/9,1279211-Wyrazna-poprawa-wynikow-Enei.html>

¹³ <http://www.ebrd.com/english/pages/project/psd/2012/43001.shtml>

¹⁴ <http://www.ebrd.com/english/pages/project/psd/2012/43001.shtml>

¹⁵ <http://polska.newsweek.pl/psl-w-biznesie--czyli-elektrownia-ludowa,94258,1,1.html>

¹⁶ <http://www.ekonomia24.pl/artykul/706160,927127.html?p=1>

¹⁷ <http://jancedzynski.pl/posel-jan-cedzynski-zlozyl-interpelacje/>

¹⁸ <http://www.parkiet.com/artykul/9,1279710-Plan-ratunkowy-dla-Polimeksu.html?p=2>

and has already signed an agreement with its major creditors.¹⁹ Some of them – for example Idea TFI – are not at all convinced that the company will avoid bankruptcy²⁰.

The European Coal Finance Campaign considers the EBRD's indirect involvement in the financing of Koziencice unit 11 coal-fired power plant project unacceptable. Together with national and international civil society opposition we ask the EBRD not to provide financing or financial services for coal power plants in Poland in any form, no matter whether the financing is direct or indirect as in the case of the loan to ENEA Operator.

We ask the European Bank for Reconstruction and Development to confirm that it is not considering providing project finance or any other sort of financial support and/or services to Koziencice Unit 11 coal-fired power plant project and its developers – Polimex–Mostostal and Hitachi Power Europe – including in its proposed loan to ENEA Operator.

We also request the EBRD to list the measures it will take before the Board of Directors vote on the ENEA Operator loan to investigate the irregularities in ENEA S.A. and their impact on the loan in question.

Were the financial irregularities in ENEA S.A. part of this appraisal and, if yes, what are the conclusions from that appraisal and recommendations to the Board of Directors?

The role of the European Bank for Reconstruction and Development as a responsible financial public institution will be judged against the decisions taken by the bank now. Poland is an important test ground for the EBRD's future policy.

We are aware that a decision by the EBRD Board of Directors on the loan to ENEA Operator is timed for 30th October 2012. Therefore we ask the EBRD to reply to our requests at its earliest convenience but by no later than Thursday, 4th October 2012.

Yours sincerely,

Kuba Gogolewski
CEE Bankwatch Network

Mel Denes
European Coal Finance Campaign

¹⁹ <http://www.polimex-mostostal.pl/en/press-centre/news/2012/polimex-mostostal-closer-to-the-restructuring-of-financial-liabilities>

²⁰ <http://www.parkiet.com/artykul/7,1274336-Idea-Premium-odpisa-obligacje-Polimeksu.html>