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CEE bankwatch  
network

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## EPS issues to be addressed within the new EBRD loan

As part of its new EUR 200 million loan to the Serbian electricity company EPS, the EBRD aims to assist with “*identifying opportunities to improve environmental, safety, social, and labour governance and capacity, and on helping EPS to develop a more strategic approach to managing these issues*”<sup>1</sup> So far the EBRD's fifteen-year partnership with EPS has not brought visible improvements in company practices and it is high time for the bank to prove that its engagement can add value. If this opportunity is well-utilised, it can help tackle the challenges facing Serbia's key electricity provider and the development of the electricity sector.

### Locked into lignite

EPS still produces about 70% of electricity from lignite and the new Serbian energy strategy up to 2025 does not show plans to decrease this. However Serbia has clear obligations to increase its share of renewable energy under the Energy Community Treaty and to apply EU climate change targets and the Emissions Trading Scheme by the time it joins the EU. Both the Nikola Tesla and Kostolac plants as well as the nearby mines proved vulnerable to flooding in 2014, so transition away from large, centralised lignite facilities is also a matter of ensuring a more resilient electricity supply.

As well as prolonging the life of existing plants, EPS is planning several new lignite power plants: Kostolac B3, Nikola Tesla B3, Kolubara B, Kovin and Stavalj.<sup>2</sup>

EPS' influence on decision-making also results in Serbia increasing its public debt in order to support lignite, rather than supporting an energy transition, eg. taking a loan from the China Exim Bank for the Kostolac B3 power plant – a decision which is also the subject of a state aid complaint by CEKOR currently being examined by the Energy Community Secretariat.<sup>3</sup>

During recent meetings EBRD staff have informed us that EPS is planning a revision of its “Green Book” sustainability document and if the bank expects the company to undergo a successful restructuring it will have to pay much more attention to future-proofing than has been the case so far. In our view, this means:

- No new lignite power plants should be constructed.
- The most outdated production capacities that cannot be refurbished in a financially viable way in line with the Industrial Emissions Directive should be closed. Plans for

<sup>1</sup> <http://www.ebrd.com/work-with-us/projects/psd/eps-restructuring.html>

<sup>2</sup> These are also included in the national energy strategy as candidate projects. While it is unlikely that all of these can go ahead in the immediate future, EPS does not clearly prioritise or publicly announce cancellations, nor is there any sign of the company turning towards increased investments in new forms of renewable energy.

<sup>3</sup> For more information on the state aid issues see here:

[http://bankwatch.org/sites/default/files/EnCom-state-aid-cases-08Jun2015\\_0.pdf](http://bankwatch.org/sites/default/files/EnCom-state-aid-cases-08Jun2015_0.pdf)

refurbishment outlined in the National Emissions Reduction Plan (NERP) must be publicly available and subject to a strategic environmental assessment.

## Legal violations

EPS has still not learnt to adhere to the law in its operations. If this situation is to change, it will require EBRD engagement with both the company and the Serbian government in order to ensure even-handed enforcement and strong signals to EPS that it is not above the law.

- A) As a result of a landslide in 2013 caused by piling overburden higher than allowed at Junkovac in the Kolubara region, criminal charges were filed against EPS in 2014<sup>4</sup>, however the court has not initiated official procedures investigating the company.



Illustration 2: Chimney photographed on July 16 2015 (construction to the right of main chimney)

Република Србија  
МИНИСТАРСТВО ГРАЂЕВИНАРСТВА,  
САОБРАЋАЈА И ИНФРАСТРУКТУРЕ  
Број: 351-03-01606/2015-07  
Датум: 31.08.2015. године  
Београд

Министарство грађевинарства, саобраћаја и инфраструктуре решавајући по захтеву ЈП „Електропривреда Србије“, Београд, ул. Царине Милице бр.2, за издавање грађевинске дозволе за изградње радова на изградњи постројења за складирање димних гасова у ТЕ „Костолак Б“ у Костолац, на катастарској парцели бр. 303 К.О. Костолак Село, на месту члана 132, а члана 133, став 2, тачка 6. Закона о планирању и изградњи („Службени гласник РС“, бр. 72/09, 81/09-исправка, 66/10-УС, 24/11, 12/12, 42/13-УС, 50/13-УС, 98/13-УС, 132/14 и 145/2014), члана 21. Правилника о поступку спровођења обавезних процедура („Службени гласник РС“, бр. 22/2015), члана 84. Правилника о садржини, начину и поступку израде и начину вршења контроле техничке документације према класи и имени области („Службени гласник РС“, бр. 23/2015, члана 6. Закона о министарствима („Службени гласник Републике Србије“ бр. 44/2014) и члана 192. Закона о општем управном поступку („Службени лист СРП“ бр. 33/97, 31/01 и „Службени гласник РС“, бр. 30/10), и саопштења садржаног у решењу министра број: 031-01-00231/2015-02 од 03.08.2015. године, доноси:

### РЕШЕЊЕ О ГРАЂЕВИНСКОЈ ДОЗВОЛИ

I. ДОЗВОЉАВА СЕ инвеститору Републике Србије, за потребе Јавног предузећа „Електропривреда Србије“, Београд, ул. Царине Милице бр.2, извођење радова на изградњу постројења за складирање димних гасова у оквиру Термоелектране „Костолак Б“, које се састоји од: два апсорбера (теплични резервоари), висине 41,80 m, две зграде са постројењем за ификационане пумпе, свака габарита 34,0x11,90 m, висине 11,35 m, БРПТ 411,74 m<sup>2</sup>, две зграде за смештај пумпе за пречишћавање апсорбера, свака габарита 13,00x7,00 m, висине 5,0 m, БРПТ 105,00 m<sup>2</sup>, две зграде бустер пумпатора за транспорт димног гаса, свака габарита 17,00x23,60 m, висине 14,80 m, БРПТ 346,51 m<sup>2</sup>, скалинате за крењак, габарита 69,30x35,40 m, висине 15,00 m, БРПТ 2.453,22 m<sup>2</sup>, зграда за припрему аморфног крењака, габарита 47,8x23,0 m и висине 7,50x36,4 m, БРПТ 1.723,72 m<sup>2</sup>, зграда ОПГ амонијака са радним постројењем на неколико нивоа, габарита 68,35x33,40 m и висине 33,00 m, БРПТ 4.800,00 m<sup>2</sup>, претвора 18,00 m, зграда топлинско-енергетске станице, габарита 7,40x60,0 m, висине 3,8 m, БРПТ 44,40 m<sup>2</sup>, зграда за смештај система за пречишћење емисије, габарита 5,00x4,00 m, висине 3,35 m, БРПТ 15,75 m<sup>2</sup>, зграда дилат артегити, габарита 13,00x10,6 m и висине 7,10 m, БРПТ 136,40 m<sup>2</sup>, амонак висине 180,00 m, резервоар за припрему складиштене суспензије, транспортери за гисе са три претоварна торања, тивни мост за транспорт аморфног крењака и топлина плоча трансформатора снаге 25 MVA (Гашни ниво изнад), све на катастарској парцели бр. 303 К.О. Костолак Село, у Костолац, на територији градске општине Пожаревац.

II. Прегорачнска вредност радова из преломега и предрачуна је: 13.319.184.000,00 динара.

Illustration 1: Construction permit issued on 31.8.2015

- B) EPS began to construct desulphurisation facilities at Kostolac B in summer 2015 before the EIA procedure was concluded, which also meant it did not have a construction permit.
- C) By mid-July the new chimney was already under construction, yet the public debate for the environmental impact assessment took place on August 18 when already half of the chimney was already erected. The construction permit for the chimney was issued in document 351-03-01606/2015-07 dated 31.8.2015 – in record time after the public debate for the environmental impact assessment!

It appears that a similar attempt was made to start works for the new Kostolac B3 unit in August 2015. The environmental impact assessment decision was issued in late December 2013 and is subject to a court challenge. In the meantime, in December 2015, it has expired and it is not clear whether a request has been made for a new EIA process. Neither the construction permit nor an integrated environmental permit have been issued for the plant. Yet on 20 August 2015 local media reported that Premier Aleksandar Vucic would be visiting Kostolac on 21 August to mark the official opening of works on Kostolac unit B3. The following

<sup>4</sup><http://bankwatch.org/news-media/blog/serbian-ngo-presses-criminal-charges-against-kolubara-mining-company-over-landslide>

day, they reported that the public relations office of Kostolac mine and power plant had issued a statement saying that the event had been postponed until further notice, but the reasons had not been stated.<sup>5</sup> We can only speculate that the postponement may have been related to CEKOR's investigation of the desulphurisation, but the announcement that works would start was a clear signal that permits are considered only a formality.

- D) Since 2000 there has been pressure on local communities and their representatives who demand just and legal resettlements and damages for EPS operations. At the time of writing activists from Drmno are being subjected to threats by local decision-makers and the police for their activity in demanding resettlement of Drmno village. While EPS does not necessarily make the threats directly, it is unlikely that the company does not know anything about them, considering that it is EPS' interests involved.

### **Damage to property and failure to conduct adequate resettlement:**

Despite the EBRD's cooperation with EPS there are ongoing violations of the property rights of communities in both the Kolubara and Kostolac mining basins, as well as their right to participate in decision-making. They suffer from health damage, pollution of air, noise and vibration levels and are stuck in limbo, not resettled but unable to make investments into their own development. In addition, arrests took place in 2013 on suspicions of fraud in land expropriation proceedings related to Kolubara.<sup>6</sup>

As well as the inhabitants of **Vreoci** community, whose case was examined by the Project Complaint Mechanism (PCM) review, and which is still far from being satisfactorily resettled, several other communities suffer from serious problems.

- The people of **Junkovac** in the Kolubara region are still not being considered for resettlement despite ongoing threats from new landslides and further damage to property.
- The inhabitants of **Barosevac** (Kolubara region) are not being considered for resettlement even though living less than 50 meters from the open-cast mine. Recently a group of around 20 families from the village have contacted CEKOR for assistance in securing adequate resettlement.
- People from the village of **Drmno** (Kostolac region) are virtually surrounded by an opencast mine, overburden dump and thermal power plant complex, some of them less than 100 metres away. A new railway line constructed for the Kostolac power plant and mine will enclose them even further. They are not being considered for resettlement even though they have explicitly requested it through a petition signed by the vast majority of villagers. There were 368 signatures out of a population of 894 people (including children), according to the 2011 census. In an answer to CEKOR, EPS said the local municipality (mesna zajednica) rejects the petition as illegitimate so EPS will not respond to it either. This is all the more unacceptable since petitioning is a

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<sup>5</sup> [http://www.danas.rs/dodaci/branicevo/aleksandar\\_vucic\\_danas\\_u\\_kostolcu.59.html?news\\_id=306726](http://www.danas.rs/dodaci/branicevo/aleksandar_vucic_danas_u_kostolcu.59.html?news_id=306726), <http://www.ebranicevo.com/kostolac/info/vest/7022/dogadaj-odlozen-vucic-ipak-ne-dolazi-u-kostolac.html>

<sup>6</sup> Dragan Tomic, former director of the Kolubara coal mine was arrested together with 27 others in April 2012 and charged with embezzling USD 11 million from Kolubara between 2006 and 2007 for allegedly paying private companies for unnecessary mining equipment and services. Neither Tomic nor the other arrestees have been sentenced to this day. In September 2013, Serbian media reported that the former director of the Kolubara Mining Basin Nebojsa Ceran had been arrested along with former financial director Ljubisa Nekić, businessman Radoslav Savatijević, and several other individuals. The arrestees are suspected of fraud in land expropriation proceedings around the Kolubara mine, but again, the main trial has not still not taken place.

constitutionally guaranteed right in Serbian law.

- Citizens of **Old Kostolac** village live about 100 meters from the ash deposit for Kostolac B power plant and are exposed to high levels of dust. They are requesting resettlement due to the unbearable conditions but EPS has not agreed to do so.

### **Recommendations to the EBRD:**

- Clear signals need to be sent to EPS that it needs to comply with permitting processes and other legal requirements such as international commitments under the Espoo Convention, Aarhus Convention and Energy Community Treaty on environmental impact assessment, strategic environmental assessment and public consultation.
- The planned update to the EPS Green Book needs to take EU 2050 climate change goals as its basis, and to lay out a path for decarbonisation of the energy sector.
- Given EPS' size and importance, and the fact that it is state-owned, the Green Book will need to be publicly consulted if it is to generate public buy-in.
- EPS' generation investments need to be reconsidered and new priorities drawn up. No new lignite plants should be built, and in particular those projects which are not in line with the Industrial Emissions Directive and Best Available Techniques and/or for which incompatible state aid is planned need to be cancelled. CO2 costs need to be taken into account in all investment plans. The public should be clearly informed and meaningfully consulted about the projects.
- Once an adequate resettlement framework is developed, resettlement action plans will need to be developed in a participatory manner with communities living less than 500m from mining operations, including but not limited to Vreoci, Barosevac and Drmno.
- Ensure that EPS sets up a functional company-wide complaint mechanism.

In its communication with the Serbian government, the bank needs to advocate for:

- Effective and publicly transparent solutions for all the corruption cases that are on hold
- Timely and effective investigations into responsibility related to the landslide in Junkovac in the Kolubara region, violation of rights in Drmno village in Kostolac region, and speeding up resettlement of Vreoci and Barosevac villages.

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