



In Belgrade, 14 January 2020

Esteemed members of the European Bank for Reconstruction and Development Board of Directors,

This letter is prepared by A 11 - Initiative for Economic and Social Rights on the situation of between 30 and 40 former residents of the informal settlement located at the “Vinča” landfill in Belgrade, who have been relocated from their places of residence, and particularly the six families that this organization officially represents through powers of attorney in the IPAM complaint procedure.

This letter refers to the *Belgrade Solid Waste PPP project (46758)* as part of which EBRD provides debt financing to Beo Čista Energija D.o.o. Beograd, a limited liability company established with the sole purpose of operating and financing the Belgrade Solid Waste PPP project under a Design, Build, Finance, Operate, Transfer (DBFOT) scheme, and owned by consortium of Suez, Itochu and Marguerite Fund. The purpose of this letter is to bring to your attention the mishandling of the relocation of residents of an informal settlement located in the vicinity of the “Vinča” landfill because of this operation, which represents a breach of EBRD Environmental and Social Policy (2014) provisions, in our view.

Our organization is currently providing legal aid and formal representation to six individuals who were relocated from the site to other alternative housing, located on the territory of the City of Belgrade, on the territory of the City of Šabac and the village of Vladimirci located in the vicinity of Šabac.

Namely, the entire process of relocation - of not just these six families, but of all families who were beforehand residing in the area related to the development of the EfW facility (17 families) - has been mishandled in the sense that it has not satisfied EBRD's Environmental and Social Policy, namely in relation to performance requirements 5 and 10. The relocation has also fallen substantially short of international human rights standards related to the right to adequate housing as the component of the right to an adequate standard of living, both in relation to the eviction of individuals from their places of residence, and provision of alternative adequate housing solutions. Furthermore, the requirements of the project and obligations of the City of Belgrade and implementing parties in this process entail that all persons displaced be enabled to reestablish their sources of income which, as you will see, was also not the case in this instance.

Substantive issues pertaining to the Environmental and Social Policy of the EBRD

EBRD Performance Requirement 10: Information Disclosure and Stakeholder Engagement

As part of the relocation process, the City of Belgrade (Secretariat for Social Welfare of the City of Belgrade and the competent Social Welfare Center), as presented in the Resettlement Plan for Households living in the Informal Settlement Located on the Vinča Landfill as well as for the Restoration of Livelihoods of Waste pickers on the Vinča Landfill,¹ conducted three censuses of the site of the informal settlement located at the landfill, the last of which was implemented on 8 June 2016. The Plan outlines that this was the last date at which the right to relocation to adequate housing could be attained.

¹ Available at: <https://bit.ly/39wgNVh>

There were several problems related to this process, namely that the censuses were never announced ahead of time, meaning that they did not take into account all individuals who were located there at the time, as certain individuals were not aware of the process taking place. This is problematic from the standpoint of paragraphs 6, 7 and 8 of PR 10, requiring stakeholder identification and analysis, and access to timely, relevant, understandable and accessible information in a manner that is meaningful, effective and inclusive. As a result of the manifestly ill-implemented census, several families who had already been living at this settlement before the date of the final census, as well as several families for whom this settlement had become home² after the census were left without any alternative accommodation.

EBRD Performance Requirement 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement

Paragraphs 14-15, which requires that "seasonal resource users who may not be present in the project area at the time of the census" are taken into account, and 12 and 13 of this PR also requires informed participation of and meaningful consultation with individuals who are to be relocated, i.e. displaced physically and/or economically from the site of the operation. As stated above, the failure to provide information regarding the censuses to the individuals subject to displacement constitutes a failure to fulfill the provisions of this PR. And although the provisions of paragraph 16 envisions a cut-off date for the eligibility for social housing, the residents were not adequately informed that the date of the last census constitutes said cut-off date, in a manner outlined in the said paragraph.

There are numerous other discrepancies related to the requirements of this PR, and in no small part in relation to the observance of the right to adequate housing as outlined in paragraphs 2 and 4, with particular reference to the security of tenure, and even more so to the affordability of the housing provided. Namely, the individuals that A 11 Initiative represents in the complaint procedure who were allotted housing in Belgrade have utility and electricity bills that they cannot afford to pay, i.e. the allocated housing cannot be considered adequate alternative accommodation according to the domestic and international regulations that guarantee the right to adequate housing, because it is not affordable for its users. In accordance with domestic legislation and international human rights standards, the affordability of housing³ implies that costs of an individual or household for housing needs should be at a level that does not jeopardize the fulfilment and satisfaction of other basic needs, which in this case it does. This is supported by the fact that the majority of relocated households that have been allocated social housing for use are already burdened with large debts for the costs of rent and utility services, only two years after being relocated.

Furthermore, in May 2020, waste pickers were informed of the unilateral contract termination with Public Utility Company "Gradska čistoća". This contract termination resulted in limited access to the landfill due to lack of permission assigned to the contract. No adequate means for reestablishing sources of income were provided for these families, leaving them in a particularly dire position considering the cost of living they face. This is also problematic from the standpoint of provisions of said PR.

² Taking into account the case law of the European Court of Human Rights, according to which "a home consists of premises with which an individual has a sufficiently strong, real and lasting (continuous) connection, regardless of whether they live legally or without authorization", we emphasize that these families also had the right to adequate alternative accommodation. (See *Bjedov v. Croatia*)

³ Law on Housing and Building Maintenance ("*The Official Gazette of the RS*", No. 104/2016 and 9/2020 – *other law*) Art. 79; General Comment No. 4 of the United Nations Committee on Economic, Social and Cultural Rights in conjunction with Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights ("*The Official Gazette of the SFRY – International Treaties*", No. 7/71)

Other issues

Additionally, it should be added that the relocated waste pickers have only been provided housing contracts in December of 2020, two years after being relocated from Vinča. An A 11 Initiative lawyer accompanied one of our clients to the Secretariat for Social Welfare on the occasion, to assess whether the contracts satisfy the requirements outlined by the previously mentioned legislation.⁴ Having found that the contracts fail to mention any rent costs, which are effectively charged monthly through utility bills, nor do they outline the duration of the tenure, the A 11 lawyer accompanied the client to the meeting with the Secretariat, in order to ensure the client fully comprehends the provisions of the contract. The following day a secretariat officer contacted the client stating that it was a mistake to involve outside lawyers and that such action will only be to her detriment. This form of intimidation in light of our clients attempt to exercise her rights is unacceptable and further negatively reflects upon the entire project.

Considering the various discrepancies between EBRD policy requirements/international human rights standards and the Relocation Plan, its implementation and effects, this project has thus far arguably only served to the detriment of the individuals affected and has contributed to the violation of their guaranteed human rights. The treatment that they have received and experienced is more akin to forced eviction than any form of sustainable and legally sanctioned process of relocation. With that in mind, we have submitted a complaint to the IPAM, in expectation that adequate alternative accommodation will be provided for everyone who was evicted from Vinča landfill, in accordance with domestic laws, the EBRD standards and international standards of human rights which guarantee adequate housing and protection from forced eviction. Moreover, a realistic possibility for renewal income for everyone who has worked on landfill must be provided if the project is to be considered aligned with the aforementioned requirements.

In conclusion, our clients, the six project affected individuals have requested from the bank's Accountability Mechanism to facilitate a Problem-Solving process, so that the violation of their rights to suitable and affordable housing, and to livelihood restoration can be redressed. We hope for the good will of the bank's client and the City of Belgrade for reaching a solution. In view of the complexity of the Public-Private Partnership set up and the risk of intimidation and reprisals against complainants, we kindly ask for the close attention and support of EBRD's Management and Board, to ensure that the parties can reach an agreement and restoration of the complainants' rights, as guaranteed by the EBRD's policy.

Should you have any additional queries concerning the impact of the Belgrade Solid Waste PPP project on the former residents of the informal settlement located at the Vinča landfill, please do not hesitate to contact us as we are always at your disposal.

Thank you for your time and consideration,

Kind regards,

For A 11 – Initiative for Economic and Social Rights

Programme Coordinator Danilo Ćurčić



⁴ Ibid