

Bosnia: New coal TPPs, state aid and Chinese loans

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Federation of BiH plans the construction of two new coal power plants, each with several units (Tuzla, Kakanj) are currently in operation and three new units are planned (Tuzla 7, Kakanj 8 and Banovići). Of these, Tuzla 7 and Banovići are progressing more visibly than Kakanj 8. In both cases certain measures are planned that may or may not qualify as state aid. The question of breach of EU policies on state aid was the subject of the analysis which was conducted environmentalist experts.

Tuzla 7, 450 MW lignite power plant

In July 2014 the parliament of the Federation of BiH published a paper on the progress with the project prepared by project promoter JP Elektroprivreda Bosne i Hercegovine. The paper provided some basic details about the project and the offers that had been received during the tender. In April 2014 when the final offers were due, only the Gezhouba consortium submitted an offer. Gezhouba offered two options, of which one involving a Preferred Buyer's Credit, at a cost of EUR 785.7 million, was considered economically viable by EPBiH. The plan is that the China ExIm Bank will provide a loan of EUR 667 802 500 (85% of the Engineering, Procurement and Construction (EPC) contract of EUR 785 650 000). Little is known about where the other 15% of the financing will come from as it is said in the EPBiH document that it will come from the company's own resources. The EPC contract was signed with Gezhouba in late August 2014, while a Memorandum of Understanding was signed between the Federation of BiH entity and ExIm Bank at a China-CEE summit in December 2014.

Two issues arise from the EPBiH document which may raise state aid issues, according to the Bankwatch report:

- Possible state guarantee for the planned loan from the China ExIm bank by the government of the Federation of BiH entity. No information is given about whether EPBiH will have to pay for the guarantee or what percentage of the loan would be guaranteed. The parts of the document which explicitly mention a sub-sovereign guarantee are:

p.9: "The government will consider ensuring a guarantee for the financing of the project. The necessary guarantee will be considered when the financial structure of the project is defined".

p.16: Guarantee for the payment of the loan: Sub-sovereign guarantee of the Government of the Federation of BiH or sub-sovereign borrowing plus mortgage on unit 7, escrow account for income from PPA and guarantee by JP Elektroprivreda BiH d.d. - Sarajevo.

- The prices of the EPC contract on p.18 and 33 of the document are quoted without Value-Added Tax ("bez PDV-a"). No further information confirming whether the project is to be exempted from VAT is available so far. However BiH's Law on Value-Added Tax (Official

Gazette of BiH, 09/05, amended by 35/05 and 100/08) Part 4 on exemption from VAT does not list energy generation facilities among the activities that may be exempted from VAT.

- Some financial services are exempt from VAT (Article 25), so there may be some elements of the EPC contract which are not subject to VAT, but these should be relatively minor compared to the overall size of the contract. VAT in BiH is set at 17% so if this was applied to the whole cost of construction of unit 7 (EUR 785 650 000), the value of the exemption would be EUR 133 560 500.

Banovici power plant 300 MW

The tender procedure for the Banovici brown coal power plant near Tuzla is still ongoing. 11 offers were submitted in the pre-qualification round in 2014 and in July the FBiH parliament discussed the project. No conclusions from the discussion were published by the Parliament but the Banovici Mine Company published a statement on its website saying that the Parliament had approved the continuation of activities on developing the power plant and that the conclusions had obliged the Ministry of Finance to deliver a bank guarantee to the Mine Company in the following few days. Due to the fact that the EPC contractor and therefore the financier of the project has not been chosen, we assume this formulation refers rather to an indicative letter from the Government rather than a final guarantee contract. The Parliament conclusions have not been published so far.

Public measures related to the building of coal fuelled power plants can be in line with State aid rules, if 1. the market economy investor principle is fulfilled, namely the guarantee is on market terms based on the Commission's relevant notice, or if 2. the power plant will be subject to SGEI obligation to use indigenous coal under the Electricity Directive. Granting regional aid is also in theory open, but compliance is hard to achieve. Possible VAT exemptions might also lead to State aid. As regards the Banovici project, it must be stressed that any non-market based measure granted during the tender and not being part of the tender documentation is flawing the competition for the project and granting selective advantage to the bidder selected based on different conditions.