

Republika Srpska: The story of CEZ failed adventure with new TPP Gacko, arbitration case

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After failed CEZ adventure and arbitration case the project of new unit at TPP Gacko is restarted again. Chinese expansion in SEE locked this project as potential, agreements were signed and feasibility assessment kicks off.

Coal fired power plant Gacko was commissioned 30 years ago. Together with lignite coal mine Gracanica always was a state company and part of power utility. In 2005 the company was privatized and registered as shareholder company Mine and TPP Gacko RITE. Republika Srpska government remained with the 65% of control package of shares while the remaining shares are ownership of small shareholders. In 2006 the Gacko energy company became subsidiary of state power utility Elektroprivreda Republike Srpske ERS.

During the construction of Gacko I unit some part of infrastructural facilities for new Gacko II unit were also completed. In 2006 ERS decided to enter the joint venture agreement with Czech Republic company CEZ. The plan was to construct the new power plant by 2013, overhaul the existing equipment and extend their operation life but also to invest in new coal mine field in order to increase the coal deposits for supply of new power plant.

JV partners estimated that the value of this investment is 1.4 billion euro. An SPV company was agreed between JV partners to be registered in Gacko which would be in charge of all project activities. As a share ERS would bring the property of RITE Gacko and CEZ would invest the capital in the amount which would enable the right for majority project management. The remaining or missing capital would be secured thru commercial loans.

The realization of the project started in 2006. SPV company was founded with registry code for production and sale of electricity NERS with initial capital of 400.000 EUR. CEZ had the majority ownership of 51% while ERS has 49%.

In order to start the project minority shareholders needed to be informed and consent on the JV partners agreement. However issue rose from property estimation of ERS share, the value of Gacko property, and minority shareholders refused to consent the estimations. Remarks were sent to government on the lack of proper informations which was not delivered on time before the shareholders assembly. Despite the issues the assembly adopted the decision on the JV agreement but without the votes of minority shareholders which remained neutral.

Based on this assembly decision the government and power utility representatives signed the agreement with CEZ representatives Martin Roman and Vladimir Schmalz. The agreement provisioned that ERS capital share in NERS is half of Gacko energy complex. All real estates, facilities and equipment as well as long term financial cash flow are becoming NERS ownership. Consultancy Deloitte Belgrade estimated the value of this share was

170MEUR on the date of 31.12..2006

Agreement also noted that paralelly with ERS - NERS transfer of Gacko shares a JV partner CEZ has to deposit cash capital in the new company. It was not defined how much would that be but it was stated that this amount should be on the level of securing the majority ownership of CEZ in NERS.

CEZ capital inflow was stated as precondition of any other future activity, like to transfer of permits, concessions and licenses to NERS. Agreement also stated that in the case of Gacko shares ownership transfer failure to NERS the ERS would have to buy out CEZ from this JV company and that all issues between partners is to be settled in International Arbitrage of Vienna Chamber.

Such details of the agreement were not received positively by small shareholders and representatives of closed investment funds: Euroinvestment fund, Zepter fund, BLB profit and VB fund which sued ERS in the Trebinje court. Funds requested the cancellation of all assembly decisions and stated that the estimated value of Gacko property done by Deloitte was underestimated and that the real value is 470MEUR. Funds also requested a buy out option of their shares in value of 60MEUR.

The funds never actually wanted to leave the Gacko ownership but only wanted to raise the attention of wider circle of stakeholders of this project. After 7 years of trials no progress was achieved, both sides remain in their position and court decided to drop the case of Funds. But this process halted the transfer of property of Gacko from ERS to NERS.

This triggered CEZ which filled arbitration case in 2009 in Vienna and requested the reimbursement of 55MEUR on the basis of loss income caused by all delays.

This arbitration case was finished in august 2014 parallel with the ending of court case in Trebinje. Details of the arbitration case were never revealed and neither CEZ or ERS refused comments on the process. ERS commented earlier that CEZ will not get the requested amount as there was no damage done during the agreement duration.

However local bosnian NGO CIN revealed that ERS and Gacko energy company had severe damage from this process. Gacko company had a loss of 1.2MEUR from this project which had to be paid to CEZ on the basis of case and rates, it was stated in the report of independent auditor for company operations in 2014. Court documentation reveals that ERS had to pay 2MEUR to CEZ for boy out option of shares 51% in NERS company. No actual value was not get from this step but only loss claim from CIN.

TPP Gacko I is producing one third of electricity in Republika Srpska. It was designed to have production of 200.000 h so the decommissioning is projected for 2026. Thefore the government in Republika Srpska restarted the project Gacko II.

This time as potential contractor and JV partner a chinese company Dongfang Electric Corporation was mentioned in local medias. CEO of Dongfang and energy minister Petar Djokic signed MoU.

According to minister statement, the chinese compay is willing to support in loan and financial mechanism set up which would be acceptable for ERS. The key factor is the loan repayment condition explained the minister.

Dongfang is currently finishing the construction coal fired power plant Stanari which is owned by UK company EFT Mine and TPP Stanari. Chinese development bank approved the credit line. TPP Stanari is expected to be commissioned by end of 2016, transmits [Serbia-energy.eu](http://serbia-energy.eu)