

## **Serbia Exclusive: True or false on 1Giga Securum project, Government vs offshore investor; the complete report**

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Is there anything more natural, besides Tesla, than Serbia to have the largest solar park in the world? There is. More natural for Serbia is to lose such investment and mostly for two reasons. One is that we very often choose suspicious partners with whom the authorities make even more suspicious contracts, and the other is a slow bureaucracy and inattentiveness in meeting deadlines.

Probably that this time exactly such a reasons stopped the solar park developing in Serbia, on condition that the investor really had intention to do the job. Not only that there will be nothing of solar park construction in Serbia, but it seems, that the investor announces a lawsuit at the International Court of Arbitration in London and compensation of 160 MEUR.

According to the Ministry of Energy official statements it is clear that the investor "Securum equity partners" did not comply with all obligations under the contract. For the beginning he was not willing or financially able to furnish a bank guarantee for the project worth 1.75 billion dollars.

Secondly, the investor also in the period specified by agreement, 10 days after signing, did not submit specification of technical and location parameters, in order that Serbia on time from its side could identify adequate land by the criteria that the investor was required to submit 10 days after the contract signing in October 2012.

Although the project coordinator from the Serbian side reminded repeatedly and requested the mentioned analysis and technical parameters, "Securum equity partners" did not do that.

However, after nine months of chase, correspondences and meetings, instead that Serbia requested contract termination with apparently frivolous partner, the offshore based American Delaver state company "Securum equity partners" definitely announced that it terminated the agreement with the Serbian government of the solar park constructing in Serbia and that on the international arbitration would seek damages of 160 MEUR, because Serbia allegedly did not fulfill its agreement obligations, by which was supposed to provide the location of the 3,000 acres to build a solar power plant of 1,000 MW.

The project of a thousand megawatts, worth 1.75 billion EUR - is also one of the largest in the world and it is symbolically named - "One giga". Solar panels should have been installed in several locations, and originally were mentioned three: the area of Vranje, Pirot and Dimitrovgrad. These sites, however, were not adequate to investors.

According to the Clause 3.3.1 of the contract signed in Belgrade on 26<sup>th</sup> October 2012, the

Republic of Serbia was committed, on the basis of its analysis, to provide to the investor necessary parcels in the region with the highest degree of efficiency and potential for solar energy production. That clause also provided that the total land area had to be 3,000 acres, and the land must be far away no more than one kilometer from the network for the electricity transmission.

The Ministry of Energy in accordance with the contract, on 28<sup>th</sup> November 2012, submitted a list of 30,000 acres of land in southern Serbia and only one day later the investor concluded that offered land did not fulfill the criteria, about what informed the Serbia Government finally and officially on 20<sup>th</sup> December 2012.

On that occasion, Securum equity partners" informed the government that the investor also was willing to consider other locations in Serbia and expressed interest in visiting the land parcels in the mining pits of Kolubara and Kostolac mines.

Official visit to these locations was organized on 16<sup>th</sup> and 17<sup>th</sup> January of this year, but none of these parcels, as the authorities claimed, were officially offered to the investor or that category of land was covered by the contract, but their visit to Kolubara and Kostolac was organized in the tourism way.

According with that, the investor then asked a new list of 3,000 acres of land for the solar park construction, as from previously offered 30,000 acres only 135 acres were corresponding to the criteria, while the rest was inadequate for construction because it was located in areas flooded with water, in the area of the mountains peaks and construction sites, and all that did not conform to the basic construction criteria.

Umbrella agreement on the solar park construction in Serbia, investments worth 1.75 billion EUR, was signed in October 2012. between Serbia on one side and "One Giga Solar Park Ltd" on the other side, the company that was established in Serbia with director Ivan Matejak and "Securum equity partners" based in Malta, which represented the company "Securum equity Partners & Associates LLC" from Luxembourg , who signed the agreement.

It is interesting that, during the agreement signing, which had the contract validity, the bank guarantee was not submitted, since it was the investment worth 1.75 billion EUR.

It was predicted by the contract that the land planned for this project would be given to the investor on lease for 60 years, that had to be in public ownership and from the category of non-arable agricultural land or forest woodless land.

Namely, by the contract that was signed on 25<sup>th</sup> October 2012, it was predicted that Serbia would not fulfill the obligation to designate land for construction by 1<sup>st</sup> December and that local governments by 1<sup>st</sup> February of this year, would not carried out and completed the process of land allocation. Even more interesting is that in the contract stated that in the case of contract termination by investors for contractual commitments failing, Serbia would pay amount of 250,000 EUR to the investor based on contractual sanction. The parties agree that this is also the maximum amount of compensation, and that Serbia for any reason would not be committed to compensate the investor an amount greater than the above mentioned.

Then there is question on what basis "Securum equity partners" announces a lawsuit to the International Arbitration Court in London and seeks payment of compensation of 160 MEUR.

It is interesting that in the letter to the Serbian government dated 5th August, the advocatory chancellery that represents "Securum equity partners" in Serbia, demanded the payment of compensation and contractual damages in the amount of 900,000 EUR and ultimately to 23th of this month. The question is wherefrom the amount of 160 million that they announce to seek redress in court in London.

Ministry of Energy estimates that the American company has no basis to claim compensation, that ministry did not receive the contract termination and that the public interest is not compromised.

In the relevant ministry besides they claim that we cannot lose the court case also emphasize that the Serbian government could sue "Securum equity partners" because that company also did not respect contractual commitments.

The non-agricultural, derelict land is planned exclusively for solar power plant construction, but however several criteria must be satisfied- from climate to infrastructure.

Serbia has ideal conditions for solar energy use because the solar radiation is even for 40 percent higher than the Central European average. The best locations are in the south of Serbia because they have the sunniest days. Apparently this is the reason why the American company chooses Serbia to build a solar park. Solar radiation in Serbia, as they claimed, was for a third higher than in Central Europe.

Everything indicates that the solar park construction in Serbia was apparently another marketing election trick of former PM Minister Mirko Cvetkovic. It was announced as the largest investment that would ever get to Serbia. New jobs, tax revenues in the amount of 28 MEUR per year, since the electricity that would be produced in the solar park would be assigned to export.

On the same day, to this company address arrived support letters of Ministry of Dulic and Ministry of Energy, which was at that time leaded by the SPS member, Petar Skundric.

Even then, in the public it could be heard that this was a highly dubious company, which its web site made six months before the contract signing in 2011, and whose main investors were actually some companies registered in offshore zones, on the Cayman Islands, in Curacao, Liechtenstein...

By agreements signed in 2011. and the Memorandum of Understanding in May 2012 , during the government of Mirko Cvetkovic, "Securum equity partners" also committed not to seek subvention state tariffs for produced electricity.

From this investment it was expected about 30 MEUR of revenue in the budget. Earlier it was announced that with that job Serbia also could get three new factories for solar equipment production.

A month after support letters, on 18th November 2011 , a framework agreement on mutual rights and obligations of the investment was signed, and on 12 May, that is between the presidential and parliamentary elections, a Memorandum of Understanding with "Securum equity partners" that signed Oliver Dulic in the presence at that time Prime Minister Mirko Cvetkovic. However according to the independent law expertise and ministry of Energy these two documents are not legally binding.

Before the Memorandum of Understanding signing, "Securum equity partners" was inscribed in the holding company based in Malta, also a new one "One Giga Park Incubator Ltd" based in Belgrade, with witch the state of Serbia actually signed umbrella and binding agreement on 26th October 2012.

Source; Serbia Energy/MERZ/Agencies