

Information on the implementation of the Engineering, Procurement and Construction Contract (EPC) for the largest post-war investment in the energy sector, worth 1.4 billion convertible marks (722 million euros), will soon be on the agenda of the Federation of BiH Parliament.

The opinion of the parliamentarians is sought by the Government of this entity of Bosnia and Herzegovina and Elektroprivreda BiH (EPBiH), which manages the Tuzla Thermal Power Plant and the disputed project. The strategic project in Bosnia and Herzegovina (BiH), Block 7 of the Tuzla Thermal Power Plant, in the northeast of BiH, is in question. The reason for that is the announcement that the Chinese consortium, which was the best bidder in the international tender for the construction of the block, is not able to fulfill the contractual obligations.

“At this moment, it is too early to talk about the termination of the EPC Agreement, because all parties are making efforts to keep the Agreement in force and implement it to the end. Should the Agreement be terminated in the end, future decisions would be evaluated according to the reasons and circumstances of that termination, and at this moment they cannot be prejudiced”, states the EPBiH, adding that future decisions largely depend on the guidelines they will give. line ministry, the Government of the Federation of BiH and the Parliament of the Federation of BiH”.

### **What is the issue?**

The idea of building Block 7 of the Tuzla Thermal Power Plant is 15 years old. During that time, four governments and the same number of EPBiH directors general changed. The value of the project, meanwhile, has risen from an initial 760 million marks (380 million euros) to almost 1.4 billion convertible marks (700 million euros). Several strategic partners in the project have also changed. A contract to build a 450-megawatt (MW) unit with a consortium of Chinese state-owned companies China Gezhouba Group Company and Guangdong Electrical Power Design Institute was signed in 2014. Block 7 is financed by a loan from the Chinese Import and Export Bank (EXIM), and the Government of the Federation of BiH (FBiH) guarantees a loan from EPBiH, which it owns. The loan guarantee was signed in November 2019 by the Minister of Finance of FBiH Jelka Miličević. Due to this guarantee, BiH is under sanctions from the Energy Community, a body of the European Union that believes that giving a loan guarantee violates the rules on state aid. Under a contract with EPBiH, the Chinese consortium undertook to install a boiler, turbine and generator in the future block through partners Alstom and Siemens, the American company General Electric (GE), but in the fall of 2020 the company withdrew from participating in

coal-based projects.

### **What changes does the Chinese consortium offer?**

According to documents held by RSE, the Chinese consortium has offered to amend part of the contract, according to which key equipment would now be supplied by Chinese manufacturers with European technology or a license.

However, on the advice of the legal team hired by EPBiH to protect its interests, this company opposes this.

EPBiH has invested around 19 million convertible marks (9.7 million) from its own funds in the preparatory works for the construction of the block, handing over the construction land to the Chinese partner in the fall of 2020, and thus fulfilled its contractual obligations.

“The solution is for EPBiH to terminate the EPC Contract due to the impossibility to fulfill it in the manner agreed, ie with General Electric, or to inform the EPC Contractor that it considers that the Contract has been terminated by force of law due to impossibility of fulfillment”, the Government Information reads. FBiH and EPBiH submitted to the parliament, which is in the possession of RSE.

It also adds that in the opinion of the legal advisor, the final decision must be communicated to the EPC contractor “as soon as possible, especially given how much time has elapsed since their bid” as of January 29 this year.

Welcome to the Energy Community

The director of the Secretariat of the Energy Community, Janez Kopač, told RFE / RL that something “better could not have happened” in BiH.

“General Electric saved them from economic disaster. I hope that there is no desire for anyone to continue with this project. The Chinese partners, of course, would like to continue the business, but if Bosnia and Herzegovina can elegantly get out of that business, then of course I suggest it does so, ”says Kopač.

“General Electric saved them from an economic catastrophe”, says Janez Kopač, of the Energy Community, commenting on the US consortium’s decision not to participate in the Tuzla deal.

He also states that the European Commission published a draft regulation on the taxation of CO2 emissions from thermal power plants and large combustion plants at the borders of the European Union in mid-July.

“The situation has changed a lot. There is no doubt that this is being prepared. Bosnia and Herzegovina, which exports a lot of electricity to the European Union, must count on this tax mechanism to come. When that is established, then there is no economic logic for this

project “, says Kopač.

## **Objections to Block 7 from 2019**

Concerns about the construction of Block 7 in the Tuzla power plant were also expressed by the European Commission, when the then Commissioner for Enlargement Johannes Hahn assessed the FBiH Government's decision in 2019 as a move to show that they are not committed to BiH's European path.

Johannes Hahn, former EU Enlargement Commissioner, during a visit to BiH in March 2019. The problem of Chinese lending and the construction of thermal power plants in Southeast Europe within the “One Belt, One Road” initiative has long been pointed out by non-governmental organizations, which have called on the European Union to step up proceedings for legal violations of Chinese companies' laws.

“All projects and project contracts were signed in the absence of adequate and appropriate environmental permits, public hearings and in-depth analysis. So, in a way, the question is whether Chinese ventures on new coal-based projects in the Western Balkans are directly contributing to undermining the rule of law”, said Wawa Wang, program director of Just Finance International, which monitors Chinese investment abroad. interview for RFE.

## **What can Parliament do?**

Sanela Klarić, Our Party's representative in the House of Representatives of the FBiH Parliament and a member of the Parliamentary Committee on Energy, says that the failure of the project is also an opportunity for the Federation of BiH to finally decide, not only on paper but in practice, for a green energy strategy.

This party is also the only one in Parliament to refuse to support the Block 7 construction project.

“Practically, this is in principle a good moment to take this situation seriously and to really turn to renewable energy sources”, Klaric told RFE / RL, adding that the club of this party agreed to support the termination of the Agreement.

“It simply came to our notice then. We considered it risky because the Energy Community itself gave its opinion, which was not positive, and they then problematized state aid. In addition to state aid, we have problematized investment in thermal power plants at a time when we know that thermal power plants are shutting down in European countries, to talk about transition, especially now that we have a new strategic plan, the European Green Agreement “, says Klarić.

## **What has BiH committed itself to in the Green Agenda?**

In November 2020, BiH signed the Declaration on the Green Agenda for the Western

Balkans at the summit of the countries of the region in Sofia.

With this declaration, the countries of the region have committed themselves to the introduction of a model for the taxation of greenhouse gas emissions, an increase in the share of renewable energy sources and the phasing out of coal subsidies. The Green Agenda is envisaged by the European Green Plan, which contains measures to make the EU climate neutral by 2050.

The program envisions nine billion euros in aid to achieve these goals in the Western Balkans.

“It is really an opportunity for BiH to spend a good part of those funds here as well, and for renewable sources to be the ones that can be financed from those funds”, says Klarić.

### **Does the miners’ strike have an impact?**

Denis Zisko, project manager of the Center for Ecology and Energy in Tuzla, told RFE / RL that both the FBiH and EPBiH governments are aware that Block 7 is doomed, but that it is delaying the announcement of the decision for fear of reaction from miners, who are part of the electorate, on the eve of the elections in BiH in the fall of 2022.

Due to unpaid salaries, after the FBiH Tax Administration blocked the accounts of coal mines due to debts, thousands of them went on a general strike.

“The government has practically no political courage to make that decision on its own. Although this is a turning point. They have a scapegoat where they will say the Chinese lied to us “, says Žiško.

He also explains that according to the terms of the Agreement, EPBiH has the right to request a return on investment, as well as that the FBiH Government can ask the bank for a refund for the loan guarantee. It is also possible to seek compensation from the Chinese partner through mediation for non-compliance with the “clause from the contract for the time and money we spent on preparations”.

According to the National Emission Reduction Plan (NERP), Units 3 and 4 of the Tuzla Thermal Power Plant will be shut down in two years. These blocks provide district heating in Tuzla and nearby Lukavac.

“They will work 20,000 hours, they have to close and there is no delay”, says Žiško, adding that there is already a plan to switch the heating for these two cities to block 6.

### **The issue of Tuzla targeted by the UN special rapporteur**

Emissions from the existing units of the Tuzla Thermal Power Plant have been affecting the health of almost half a million inhabitants of Tuzla Canton, one of the ten cantons of the Federation of BiH, according to data from health institutions and non-governmental

organizations. Data from the Tuzla Canton Public Health Institute show that polluted air in Tuzla in 2018 caused 29 percent of deaths from strokes, 20 percent of deaths from lung cancer, 31 percent of bronchitis in adults, and 23 percent of bronchitis in children. Although the Thermal Power Plant was obliged to install desulfurization equipment, that project has not started to date. Following a complaint from environmental NGOs, the UN Special Rapporteurs sent a letter to BiH authorities in March expressing concern for the health of BiH citizens living near thermal power plants, including the Tuzla Thermal Power Plant, which they say threaten their human rights to health, environment, life and health, as well as access to justice. In the letter, they invite BH. authorities to provide timely response and reparation to citizens whose rights have been violated. Although the BiH authorities were asked to comment on the mentioned problems within two months, the answer to the requested requests has not been submitted to date.

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