

In 2013 Serbian NGO CRTA undertook research on support by the Republic of Serbia to Public Enterprise Elektroprivreda Srbije (EPS) for the construction of the thermal power plant Kolubara B and to its subsidiary company Kolubara Mining Basin.

State guarantee for an EBRD loan of EUR 52 million for the Project “EPS Power II”, which includes the purchase of a coal excavator, conveyor and spreader system for the Tamnava West field. Apart from a FOI (freedom of information) response from the Ministry of Energy, no detailed information on the award procedure for this guarantee and on its terms and conditions was made available.

State guarantee for KfW loan of amount of 25 million euro and direct grant of 9 million euro for the Project “Procurement of the ECS System”. Apart from a FOI (freedom of information) Response of the Ministry of Energy, no detailed information on the award procedure for this guarantee and on its terms and conditions was made available.

State guarantee for the EBRD loan worth 80 million euro for the Kolubara Environmental Improvement project related, among other things, to the procurement of the specific equipment including excavator, conveyor, spreader system and power supply for Field “C” of the Kolubara lignite coal mining basin. The Guarantee Agreement between the Republic of Serbia and the European Bank for Reconstruction and Development was concluded on July 28, 2011 (Official Gazette 8/2011).

The Republic of Serbia unconditionally guaranteed, as primary obligor the due and punctual payment of any and all sums due under the Loan Agreement. Moreover, the Republic of Serbia undertook to take measures to provide EPS with adequate support to perform all of its obligations under the Loan Agreement in support of the successful realisation of the Project whenever there is reasonable cause to believe that the funds available to EPS would be inadequate to meet the estimated expenditures required for the carrying out of the Project. The agreement covers the entire loan, however it is not clear whether EPS paid any fee to the Serbian government for the service of providing the guarantee.

State guarantee for KfW loan of amount of 65 million euro and direct grant of 9 million euro for the same project named “Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing environmental impact”. The Act on Ratification of Loan Agreement between the Republic of Serbia and the German Development Bank KfW was dated on December 24, 2012 (Official Gazette 121/2012). The Republic of Serbia undertook the obligation to settle the debt of the Public company “Electric Power Industry of Serbia” Belgrade (EPS) in the amount of 74 million euros, which includes the loan in the amount of 65 million euros and financial contributions (grants funds) in the amount of 9 million euros. The agreement covers the entire loan, however it is not clear whether EPS paid any fee to the Serbian government for the service of providing

the guarantee.

Transfer of property (land and buildings) to support the construction of the Kolubara B thermal power plant. According to the Amendment to the EPS Establishment Act, dated on May 31, 2009, the Government of the Republic of Serbia transferred to EPS the ownership of the property (land and buildings) needed for the implementation of the Kolubara B project. The value of the property (land and buildings) transferred, according to present market prices, is RSD 1.4 billion (12.7 million euro, as per exchange rate on 18 November 2013). The property in question was transferred to EPS by the Government of Serbia's Decision on the Amendments to the Decision on the establishment of the public enterprise for production, distribution and trade of electricity (Official Gazette No 54/2010).

All three guarantees mentioned in relation to Kolubara Mining Basin might have State aid implications. The key point is the coverage of the guarantees, which cannot be higher than 80%. The transfer of land can be in line with State aid rules in two ways (assuming that the value of the land is above the de minimis threshold). First, the market economy investor principle may be fulfilled if the price of the land is a profitable investment from the State's side. In this case again all State measures have to be assessed together since their aim is common and they are linked. Second, EPS may pay a market price for the land. This is not mentioned in the background materials. If land has been granted for free or below market price this advantage has also to be taken into account during the market economy investor assessment.

Source; Bankwatch.org