TO THE MINISTERIAL COUNCIL OF THE ENERGY COMMUNITY
represented by the Presidency and the Vice-Presidency of the Energy Community

REASONED REQUEST

in Case ECS-11/14

Submitted pursuant to Article 90 of the Treaty establishing the Energy Community ("the Treaty") and Articles 15 and 29 of Procedural Act No. 2015/04/MC-EnC of the Ministerial Council of the Energy Community of 16 October 2015 on the Rules of Procedure for Dispute Settlement under the Treaty,[1] the

SECRETARIAT OF THE ENERGY COMMUNITY

against

THE REPUBLIC OF SERBIA

seeking a Decision from the Ministerial Council that

> by the Commission for State Aid Control either not assessing or incorrectly assessing the compatibility of certain State aid measures, the Republic of Serbia has failed to comply with its obligations under the Energy Community Treaty, in particular Articles 18 and 19 thereof.

The Secretariat of the Energy Community has the honour of submitting the following Reasoned Request to the Ministerial Council.

I. Relevant Facts

1. The electricity sector of the Republic of Serbia

(1) The Serbian electricity market is dominated by the state-owned public companies *Elektroprivreda Srbije* (*EPS*) and *Elektromreza Srbije* (*EMS*). *EPS* is a public enterprise, established in 2005 by the Decision on the establishment of the public enterprise for generation, distribution and trade of electricity,[2] adopted by the Government of the Republic of Serbia in accordance with the Energy Law.[3] The vertically integrated undertaking performs generation, distribution and supply activities.

(2) The mine *RB Kolubara Lazarevac* forms part of *EPS*, producing 75% of all lignite in Serbia, 94% of which is used for the generation of electricity by several thermal power plants. The

[1] Procedural Act No. 2015/04/MC-EnC of 16 October 2015.
[2] Official Gazette of the Republic of Serbia No. 12/05 and 54/10 (ANNEX 1).
[3] Official Gazette of the Republic of Serbia No. 84/04.

lignite coming from the Kolubara Mining Basin is used for the production of about 52% of the total electricity generation in Serbia. Kolubara Mining Basin is composed of several mines: Polje B, Polje C, Polje D, Tamnava West and Veliki Crljeni.

(3) Thermal Power Plant Kolubara A, located at the edge of the Kolubara Mining Basin, also forms part of *EPS* and generates electricity using the lignite mined in the Kolubara Mining Basin.

(4) In 1983, *EPS* decided to build another coal-fired power plant, Kolubara B, for combined generation of electricity and heat for the heating system of Belgrade. Shortly after the start of the construction works, the project was suspended in 1992 due to the lack of financial resources. At that point, only 40% of the facility had been built. As a consequence, the initial plan was revised so that the facility would supply heat to Belgrade through a condensation system.

(5) In June 2011, *EPS* and Italy's *Edison SpA* signed an agreement to jointly develop Kolubara B, with financial assistance from the European Bank for Reconstruction and Development (EBRD). However, in 2013, the EBRD announced that it would not support the construction of Kolubara B because of the delays in the development of the project and because the project was not compliant with the new energy and climate strategy of the EBRD.

2. The State aid enforcement system in the Republic of Serbia

(6) State aid in Serbia is governed by the Law on State Aid Control adopted in 2009 (hereinafter "the Law").[4] The Law prohibits State aid which distorts or threatens to distort competition on the market. Under this Law, generally, State aid is not allowed. However, there are certain exceptions under which State aid is admissible.

(7) The aim of the Law is, as stipulated in its Article 1, to ensure compliance with the obligations of the Republic of Serbia related to international agreements that contain provisions on State aid. The Law defines State aid as "*any actual or potential public expenditure or realised decrease in public revenue which confers to state aid beneficiary a more favourable market position in respect to the competitors and as a result causes or threatens to cause distortion of the market competition.*"[5] The Law does not contain any provision on the exemption of public undertakings from the application of State aid rules. It also applies to providers of services of general economic interest (SGEI).

(8) The body in charge of the enforcement of the Law in Serbia is the Commission for State Aid Control (hereinafter "the Commission"), established by a governmental decision in 2009.[6] The Commission is assisted by a Department of State Aid established within the Ministry of Finance.

(9) According to Article 11 of the Law, any State aid needs to be notified to the Commission before granting. The Commission then performs an *ex ante* control and has to decide within 60 days (as of receipt of the complete notification) whether to allow the notified aid or not. Until such a decision is taken by the Commission, the notified aid cannot be granted ("standstill clause").

[4] Official Gazette of the Republic of Serbia No. 51/09 (ANNEX 2).
[5] Article 2(1)(1) of the Law on State Aid Control.
[6] Official Gazette of the Republic of Serbia No. 112/09 (ANNEX 3).

(10) With the purpose of adopting more detailed rules for State aid granting and for assessing whether a notified or granted aid measure is allowed, the government of the Republic of Serbia adopted the Regulation on Rules for State Aid Granting (hereinafter "the Regulation"), which entered into force in March 2010.[7] The Regulation provides detailed rules for the assessment of different categories of State aid (regional, horizontal, sectoral, *de minimis* State aid, and State aid for providing SGEI). It contains special rules for aid with environmental and energy efficiency purposes under the rules for horizontal State aid, and special provisions on aid in the coal mining industry under the rules for sectoral State aid. Article 97a of the Regulation prescribes conditions under which aid granted for SGEI falls outside the scope of the Law because it is considered compensation for providing SGEI, as laid out in Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.[8] Finally, the Regulation contains rules for the assessment of "specific instruments" for granting State aid, such as state guarantees.

II. Relevant Energy Community Law

(11) Energy Community law is defined in Article 1 of the Dispute Settlement Procedures as "*a Treaty obligation or* […] *a Decision or Procedural Act addressed to* [a Party]."

(12) A violation of Energy Community law occurs if "[a] *Party fails to comply with its obligations under the Treaty if any of these measures (actions or omissions) are incompatible with a provision or a principle of Energy Community law.*"[9]

(13) Article 6 of the Treaty reads:

The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty. The Parties shall facilitate the achievement of the Energy Community's tasks. The Parties shall abstain from any measure which could jeopardise the attainment of the objectives of the Treaty.

(14) Article 18 of the Treaty reads:

1. The following shall be incompatible with the proper functioning of the Treaty, insofar as they may affect trade of Network Energy between the Contracting Parties:

[…]

(c) any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources.

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty establishing the European Community (attached in Annex III).

[7] Official Gazette of the Republic of Serbia No. 13/10, 100/11, 91/12, 37/13, 97/13 and 119/14 (ANNEX 4).
[8] OJ 2012 L 7/3.
[9] Article 3(1) of the Dispute Settlement Procedures.

(15) Article 19 of the Treaty reads:

With regard to public undertakings and undertakings to which special or exclusive rights have been granted, each Contracting Party shall ensure that as from 6 months following the date of entry force of this Treaty, the principles of the Treaty establishing the European Community, in particular Article 86 (1) and (2) thereof (attached in Annex III), are upheld.

(16) Article 94 of the Treaty reads:

The institutions shall interpret any term or other concept used in this Treaty that is derived from European Community law in conformity with the case law of the Court of Justice or the Court of First Instance of the European Communities. Where no interpretation from those Courts is available, the Ministerial Council shall give guidance in interpreting this Treaty. It may delegate that task to the Permanent High Level Group. Such guidance shall not prejudge any interpretation of the acquis communautaire by the Court of Justice or the Court of First Instance at a later stage.

(17) Article 103 of the Treaty reads:

Any obligations under an agreement between the European Community and its Member States on the one hand, and a Contracting Party on the other hand shall not be affected by this Treaty. Any commitment taken in the context of negotiations for accession to the European Union shall not be affected by this Treaty.

(18) Article 86(1) and (2) of the EC Treaty (currently Article 106(1) TFEU) as attached in Annex III of the Treaty reads:

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 12 and Articles 81 to 89.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.

(19) Article 87(1), (2) and (3) of the EC Treaty (currently Article 107(1), (2) and (3) TFEU) as attached in Annex III of the Treaty reads:

1. Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.

2. The following shall be compatible with the common market:

(a) aid having a social character, granted to individual customers, provided that such aid is granted without discrimination related to the origin of the products concerned;

(b) aid to make good the damage caused by natural disasters or exceptional occurrences;

(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

3. The following may be considered to be compatible with the common market:

(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;

(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;

(e) such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.

(20) Article 3(2) of the Dispute Settlement Procedures reads:

Failure by a Party to comply with Energy Community law may consist of any measure by the public authorities of the Party (central, regional, local as well as legislative, administrative or judicative), including undertakings within the meaning of Article 19 of the Treaty, to which the measure is attributable.

III. Preliminary Procedure

(21) According to Article 90 of the Treaty, the Secretariat may bring a failure by a Party to comply with Energy Community law to the attention of the Ministerial Council. Pursuant to Article 11 of the Dispute Settlement Procedures, the Secretariat shall carry out a preliminary procedure before submitting a reasoned request to the Ministerial Council.

(22) In June 2014, the Secretariat received a complaint stating that *EPS* had received State aid for different projects related to the Kolubara Mining Basin and Kolubara B power plant project, which had not been approved by the Commission. The complainant alleged that, by providing State aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources, the Republic of Serbia breached the Energy Community rules on State aid, namely Articles 18 and 19 of the Treaty.

(23) Based on the "*Report on the State Aid to the Mining Basin Kolubara and the Thermal Power Plant Kolubara B*" drafted by the Center for Research, Transparency and Accountability, the complainant listed five measures of state support that *EPS* had allegedly received since 2006:

1) For the project "*Procurement of the ECS System*", which includes purchasing a coal excavator, a conveyor and a spreader system for the Tamnava West field: State guarantee for an EBRD loan amounting to EUR 52 million.

2) For the same project: State guarantee for a *Kreditanstalt für Wiederaufbau* (KfW) loan amounting to EUR 25 million and a direct grant of EUR 9 million.

3) For the *Kolubara Environmental Improvement* project: State guarantee for an EBRD loan amounting to EUR 80 million.

4) For the same project: State guarantee for a KfW loan amounting to EUR 65 million and a direct grant of EUR 9 million.

5) Transfer of property (land and buildings) for the construction of Kolubara B with a market value of RSD 1.4 billion (EUR 12.7 million, as per exchange rate on 18 November 2013).

(24) In November 2014, the Secretariat asked the Commission to provide detailed information about these measures and to inform the Secretariat whether it had previously assessed and approved them.[10] The Commission replied in April 2015 (hereinafter "the Letter") and referred to a letter of the Ministry of Mining and Energy of 30 December 2014 which confirmed that the Republic of Serbia had indeed guaranteed the above listed loans (with the difference that the first loan allegedly amounted to EUR 60 million and the second loan to EUR 16 million).[11]

(25) The Commission explained that it had not been notified and had not assessed any of the measures.

(26) The Commission stated that these guarantees as well as the transfer of property to *EPS* were granted in the period prior to the start of the application of the Law in January 2010 and of amendments regarding the Regulation's rules for State aid granting to public enterprises in January 2012. It therefore found that it was not competent to assess these measures.

(27) It found that it only had the power to examine the guarantee for a loan by the KfW totaling EUR 74 million (see point 4) above) which it did in its session held on 24 April 2015. As to this measure, the Commission stated that a Law on issuing the Guarantee by the Republic of Serbia on behalf of the German Development Bank KfW for the full loan amounting to EUR 74 million was adopted in accordance with Articles 16 to 25 of the Law on Public Debt.[12] It determines that in case the Republic of Serbia settles the obligations of *EPS vis-à-vis* the KfW, the Republic of Serbia has a right to reimbursement of the principal amount and all accompanying costs, including the legally prescribed default interest, from *EPS*. The Republic of Serbia did not charge a premium or fee for the guarantee to *EPS*. The guarantee has not been activated.

(28) In its assessment, the Commission first examined whether the guarantee in question constitutes State aid and therefore falls under the State aid regime. The Commission based its assessment on Article 99 of the Regulation which deals with state guarantees (transposing the European Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees[13]). The Commission came to the conclusion that due to the lack of a premium being charged for the guarantee, it did not fulfill the conditions of Article 99 and therefore constitutes State aid.

(29) The Commission then examined whether such State aid could nevertheless be "allowed".

(30) In its compatibility assessment, the Commission took into consideration four different aspects. Firstly, according to the Commission, the implementation of the project in question "*contributes to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment*", which enables *EPS* to perform the activity of public interest for which it was established, that is, secure regular and safe distribution of electricity to households and small customers on the territory of the Republic of Serbia at preferential prices. Secondly, the Commission considered that *EPS* was obliged to take measures for securing the development of the capacities for production and distribution of energy and the capacities for coal production

[10] ANNEX 5: Request for information in Case ECS-11/14, dated 11.11.2014.
[11] ANNEX 6: Letter in Case ECS-11/14, dated 24.04.2015.
[12] Official Gazette of the Republic of Serbia No. 61/05, 107/09, 78/11.
[13] OJ 2008 C155/02.

Energy Community

and their regular maintenance and clear functioning, and to provide special conditions for the protection and improvement of the environment, and prevent the causes and eliminate consequences endangering the environment. Thirdly, the loan in question would not have been granted if the Republic Serbia had not issued a guarantee and, therefore, the project would not have been realized. Finally, the Commission concluded that, since the project contributes to goals which are of general interest to all citizens of the Republic of Serbia, the aid was compatible and could be granted for the execution of an important project for the Republic of Serbia in accordance with Article 5 of the Law.

(31) However, the Secretariat took the preliminary view that the Republic of Serbia infringed Articles 18 and 19 of the Treaty because the Commission did either not assess or incorrectly assess the support measures. It therefore sent an Opening Letter to the Republic of Serbia on 14 July 2016.[14] The Republic of Serbia was requested to submit its observations on the points of fact and law raised in the Opening Letter.

(32) By a letter dated 13 October 2016, the Ministry of Mining and Energy of the Republic of Serbia (hereinafter "the Ministry") submitted its reply which is contained in a letter by the Commission attached to the Ministry's cover letter (hereinafter "the Reply").[15] It contested the Secretariat's assessment and reiterated the argumentation contained in its Letter. It based its assessment on the provisions of the Interim Agreement on trade and trade-related matters between the European Community and the Republic of Serbia, the Public Property Law and the Constitution of the Republic of Serbia.

(33) Having assessed the information and arguments put forward in the Reply, as outlined in the legal assessment below, the Secretariat considered that the argumentation provided therein did not change its finding of an infringement. Therefore, it submitted a Reasoned Opinion to the Republic of Serbia on 28 February 2017.[16]

(34) Subsequently, the Secretariat was approached by the Ministry with a proposal for a settlement of the present case. The Secretariat declared its readiness to consider the proposal under two conditions: (i) The decision by the Commission includes in its reasoning a comprehensive and sound legal assessment of all state support measures (including the ones granted before 2012) in line with the Energy Community *acquis*; (ii) this assessment is carried out by the Commission, but in close cooperation with the Secretariat under Article 2 of the Dispute Settlement Procedures.

(35) In the following, a meeting took place between representatives of the Commission, the Ministry and the Secretariat in Belgrade on 24 April 2017, in which a draft decision was discussed and open issues identified. The participants to the meeting agreed on particular points which needed to be further elaborated by the Commission in order for the decision to constitute a sound and comprehensive legal assessment (in particular with regard to the four State aid criteria, the compatibility assessment under Article 5 of the Law and the SGEI, and the transfer of property). The Secretariat offered its assistance in the framework of the procedure established by Article 2 of the Dispute Settlement Procedures and provided assistance in particular with regard to the assessment of the State aid criteria in the case of guarantees and with regard to the quantification of the advantage granted by a guarantee.

---

[14] ANNEX 7: Opening Letter in Case ECS-11/14, dated 14.07.2016.
[15] ANNEX 8: Reply to Opening Letter in Case ECS-11/14, dated 13.10.2016.
[16] ANNEX 9: Reasoned Opinion in Case ECS-11/14, dated 28.02.2017.

(36) The Commission submitted a new draft decision on 12 May 2017. The Secretariat submitted its comments on 14 May 2017, highlighting issues that need to be further clarified and elaborated.

(37) However, no decision that fulfils the conditions agreed upon in the compromise solution has been adopted to date.

(38) As the Republic of Serbia did not rectify the breach within the deadline set, the Secretariat decided to refer this case to the Ministerial Council for its Decision.

IV. Legal Assessment

(39) According to Article 3(2) of the Dispute Settlement Procedures, a failure by a Party to comply with Energy Community law may consist of any measure by the public authorities of the Party; therefore, the Commission's actions are attributable to the Republic of Serbia and may constitute an infringement of Energy Community law by that Party.

(40) In the following, the Secretariat first addresses the issue that the Commission did not at all assess the measures listed under points 1), 2), 3), and 5) in paragraph 23 above. Secondly, the Secretariat will assess the compatibility assessment undertaken by the Commission with regard to the measure listed under point 4) above.

1. Lack of assessment of support measures

(41) In November 2014, the Secretariat asked the Commission to provide information about the support measures brought to its attention by the complaint and to inform the Secretariat whether it had previously assessed and approved them. In its Letter, the Commission confirmed the support measures, but explained that it had not been notified and had not assessed any of the measures in advance. It stated that the measures listed under points 1), 2), 3), and 5) in paragraph 23 above were granted in the period prior to the start of the application of the Law in January 2010 and of amendments regarding the Regulation's rules for State aid granting to public enterprises in January 2012 and that it therefore was not competent to assess these measures.[17]

(42) The Secretariat came to the preliminary conclusion that the lack of assessment of these support measures constitutes a breach of the obligations of the Republic of Serbia under the Treaty, in particular Articles 18 and 19 thereof, and therefore sent an Opening Letter laying down its concerns.

(43) In its Reply, the Commission based its argumentation mainly on Serbia's Stabilization and Association Agreement with the EU and its Interim Agreement on Trade and trade-related matters.[18] Specifically, Article 39 of the Interim Agreement envisages that the Republic of Serbia needs to apply the principles to public enterprises and enterprises with special rights only after three years following the entry into force of the Interim Agreement, *i.e.* by 2012.[19] Therefore, the Regulation on Amendments and Supplements to the Regulation on the Rules

[17] Letter, p. 2.
[18] OJ 2010 L 28/2; Official Gazette of the Republic of Serbia No. 83/08.
[19] Reply, p. 3-4.

for the State Aid Granting entered into force on 1 January 2012, governing the granting of State aid to public enterprises and enterprises with special rights. Furthermore, the Commission argued that the Constitution of the Republic of Serbia[20] prohibits retroactive effect of laws and other general acts (Article 197) and the application of the rules of State aid control to a period in which its application was not mandatory would infringe this provision.[21]

(44) The Secretariat analyzed the arguments brought forward by the Republic of Serbia in its Letter and Reply which are annexed for further reference.

a. <u>Existence of State aid</u>

(45) According to well-established case law, the first step in the assessment of the character and compatibility of support measures is to assess whether a measure constitutes State aid and is, therefore, subject to the State aid rules.[22] Only if the measures listed above constitute State aid, the Commission would have needed to assess them in compliance with the State aid *acquis*.

(46) The elements of the definition of State aid are the following:[23]

i. there must be a benefit or advantage;
ii. which is granted by the state or through state resources;
iii. which favours certain undertakings or certain energy resources (selectivity);
iv. which is liable to distort competition;

(47) The measures listed under points 1), 2), and 3) in paragraph 23 above are State guarantees. Article 99 of the Regulation provides that "[a]*n individual state guarantee shall not constitute an instrument for granting state aid if it cumulatively meets the following conditions*": the enterprise is not in difficulties; the guarantee is linked to a specific financial transaction, for a fixed amount and a fixed time period; the guarantee does not cover more than 80% of the outstanding loan (not applicable in case of providers of SGEI); and the guarantee premium is calculated on the basis of market principles. Due to the lack of premium charged by the Republic of Serbia for the guarantees at issue, the last condition is not fulfilled. Due to the lack of any compensation for the guarantees issued, they constitute advantages. They were granted by the state, namely the Republic of Serbia, and favour one specific undertaking, namely *EPS*. They were also liable to distort competition and affect trade of Network Energy between the Contracting Parties because they strengthened the position of *EPS* in relation to its competitors[24] and the sector in which *EPS* is active is characterized by a substantial level of trade between Contracting Parties.[25]

---

[20] "Laws and other general acts may not have a retroactive effect. Exceptionally, only some of the law provisions may have a retroactive effect, if so required by general public interest as established in the procedure of adopting the Law. A provision of the Penal Code may have a retroactive effect only if it shall be more favourable for the perpetrator. (Official Gazette of the Republic of Serbia No. 98/06).

[21] Reply, p. 10.

[22] E.g. Case 62/87 and 72/87, *Exécutif regional wallon* [1988] ECR 1573.

[23] See Article 18(1)(c) of the Treaty or Article 107 TFEU.

[24] See, to that effect Cases 730/79 *Philipp Morris/Commission* [1980] ECR 2671, para. 11; C-182 and 217/03 *Belgium and Forum 187/Commission* [2006] ECR I-5479, para. 131.

[25] See, to that effect Cases 173/74 *Commission/Italy* [1974] ECR 709, para. 19; C-114/00 *Spain/Commission* [2002] ECR I-7657, para. 65.

(48) Also the transfer of property listed under point 5) above constitutes an advantage for *EPS* as it did not pay any compensation for the transfer that corresponds to the market price to the Republic of Serbia.[26] The property belonged to the Republic of Serbia and therefore constitutes state resources.

(49) In its Reply, the Commission argues that the transfer of ownership of land and buildings to *EPS* for the implementation of the project Kolubara B is governed by the Public Property Law[27] which is not selective and that, therefore, there is no advantage and impact on competition, since the Public Property Law applies to all state bodies and organisations, autonomous province bodies and local self-government units, public enterprises, capital companies founded by the Republic of Serbia, the Autonomous Province and local governments, as well as their subsidiaries. Furthermore, it contends that assets in public ownership can be made available to other legal entities. Moreover, the Commission in its draft decision of 12 April 2017 argues that no State aid is granted because the right of use of the property has merely been transformed into ownership.

(50) The Secretariat notes that *EPS* is an undertaking within the meaning of competition law, *i.e.* an entity engaged in an economic activity on the market, irrespective of the state's ownership. It follows that the transfer of property needs to be assessed against the applicable State aid provisions. This applies irrespective of the provisions of the Public Property Law. The transfer constitutes an advantage for *EPS* as the Republic of Serbia did not ask for any compensation for the transfer.[28] Although *EPS* might already have been entitled to use these assets, the transformation into its own property, constitutes an advantage. It was granted by the state, namely the Republic of Serbia, because it was state property, as defined in the Public Property Law. It also favours one specific undertaking, namely *EPS*. It is not the Public Property Law that is selective, but the individual measure, i.e. the transfer itself. Finally, the transfer is liable to distort competition and affect trade of Network Energy between the Contracting Parties because they strengthened the position of *EPS* in relation to its competitors[29] and the sector in which *EPS* is active is characterized by a substantial level of trade between Contracting Parties.[30] The transfer therefore constitutes State aid.

(51) The Secretariat therefore submits that the measures listed above constitute State aid.

b. Lack of compatibility assessment of State aid measures

(52) Article 18(1)(c) of the Treaty provides that any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources shall be incompatible with the proper functioning of the Treaty, insofar as it may affect trade of Network Energy between the Contracting Parties. Article 19 of the Treaty explicitly provides for an obligation of the Contracting Parties to ensure that with regard to public undertakings and undertakings, to which special or exclusive rights have been granted, the principles of the

[26] See for undervalue price e.g. Cases T-274/01 *Valmont/Commission* [2004] ECR II-3145, para. 45; T-366/00 *Scott/Commission* [2007] ECR II-797, para. 93.
[27] Official Gazette of the Republic of Serbia No. 72/2011, 88/2013 and 105/2014 (ANNEX 10).
[28] For undervalue price e.g. Cases T-274/01 *Valmont/Commission* [2004] ECR II-3145, para. 45; T-366/00 *Scott/Commission* [2007] ECR II-797, para. 93.
[29] See, to that effect Cases 730/79 *Philipp Morris/Commission* [1980] ECR 2671, para. 11; C-182 and 217/03 *Belgium and Forum 187/Commission* [2006] ECR I-5479, para. 131.
[30] See, to that effect Cases 173/74 *Commission/Italy* [1974] ECR 709, para. 19; C-114/00 *Spain/Commission* [2002] ECR I-7657, para. 65.

Treaty, including the rules on State aid, are upheld. The provision imposes a deadline of six months after the Treaty's entry into force for ensuring that such undertakings are subjected to these principles.

(53) The Republic of Serbia is a Contracting Party to the Treaty which was signed on 25 October 2005. After its ratification, the Treaty – including Article 18 thereof – entered into force on 1 July 2006. According to Article 19 of the Treaty, the Republic of Serbia was therefore obliged to ensure that with regard to public undertakings and undertakings with special or exclusive rights the Treaty's State aid rules are upheld at the latest as of 1 January 2007.

(54) Articles 18 and 19 of the Treaty contain a legally binding obligation on the Contracting Parties to introduce a corresponding prohibition of State aid into their national legal systems. This has been done by the Republic of Serbia with the adoption of the Law on State Aid Control in 2009, which entered into force in 2010. The Law transposes the *acquis* on State aid. It does not contain any provision specifically exempting public undertakings from the application of State aid rules. As the Law needs to be interpreted in the light of the wording and the purpose of the Treaty,[31] in particular Articles 18 and 19 thereof, this means that the State aid regime applies – and applied already in 2010 – to undertakings irrespective of their public or private character.

(55) The Regulation merely contains more detailed rules for the assessment of different types of aid (see Article 1 and 24 of the Law); however, it does not limit or expand the application of the State aid prohibition contained in the Law. The amendments adopted in 2011 and in force since 2012 contain amendments to Article 97b regarding compensation for the provision of SGEI; however, they did not contain any exemption for public undertakings or undertakings with special rights nor do the amendments indicate that the Law did not apply to public undertakings or undertakings with special rights before.

(56) The Republic of Serbia set up the Commission and put it in charge of enforcing the Law. This means that according to Article 11 of the Law, any State aid needs to be notified to the Commission before being granted. Only in case of a positive decision by the Commission, the aid should be granted. Contrary to the Commission's assertions in its Letter (page 2), the Commission should have assessed the support measures already as of 2010.

(57) Apart from the measure listed under 1)[32] and 2)[33] above, the measures were granted after the entry into force of the Law in 2010. The guarantee for the EBRD loan of EUR 80 million (measure 3) above) was signed and ratified in 2011.[34] The property in question (measure 5) above) was transferred to *EPS* by Decision of 29 July 2010 on the Amendments to the Decision on the establishment of the public enterprise for production, distribution and trade of electricity.[35]

---

[31] See e.g. Case C-106/89 *Marleasing* [1990] ECR I-4135, para. 7.

[32] Law on Ratification of the Guarantee Agreement (EPS, Project II) between Serbia and Montenegro and the European Bank for Reconstruction and Development (Official Gazette of the Republic of Serbia, No. 5/2004 – ANNEX 11).

[33] Law on provision of guarantees of the Republic of Serbia to the German financial institution KFW upon mandate of "Electric Power Industry of Serbia" for financing the project for the purpose of mining equipment for the needs of open pit "Tamnava – West Field" (Official Gazette of the Republic of Serbia, No. 34/2006 – ANNEX 12).

[34] Loan Agreement No. 41923 of 28 July 2011 for the "Procurement and installation of a BTO system for the open pit Field "C"; Law on the Ratification of the Guarantee Agreement (EPS Kolubara project) between the Republic of Serbia and the European Bank for Reconstruction and Development (Official Gazette of the Republic of Serbia, No. 8/2011 – ANNEX 13).

[35] Official Gazette of the Republic of Serbia No. 54/2010 (ANNEX 14).

(58) As regards the Commission's argument that the application of State aid rules to cases regarding public undertakings before their application became mandatory in 2012 would infringe the Constitution's prohibition of retroactive application,[36] the European Court of Justice has repeatedly found that the prohibition of retroactivity prohibits measures to take effect prior to their publication.[37] As it has been pointed out above, there was no exemption for public enterprises in place, and therefore the State aid prohibition already applied as of January 2010. As all support measures at stake were taken after the entry into force of the Law in 2010, there is no need to apply the legislation on State aid prohibition in a retroactive manner.

(59) Under EU law, Article 107 TFEU is enforced by the European Commission (see Article 108 TFEU). Any plan to grant State aid needs to be notified to the European Commission, who then decides whether it is compatible with the internal market, having regard to Article 107 TFEU. The Member State is not allowed to put the proposed measure into effect until the European Commission has rendered a final decision. However, although the substantial provision in the Treaty is identical with Article 107 TFEU, the institutional set-up in the Energy Community differs due to the lack of a centralized enforcement authority. It follows from Article 6 of the Treaty that in this situation, each Contracting Party is obliged to take all appropriate measures to ensure fulfilment of the obligations arising out of the Treaty and abstain from any measures that might jeopardise the attainment of the objectives of the Treaty. Therefore, the Contracting Parties are obliged to ensure enforcement of the State aid prohibition enshrined in Articles 18 and 19 of the Treaty. This obligation exists since the entry into force of the Treaty (1 July 2006) and the end of the deadline for Article 19 of the Treaty (1 January 2007).

(60) In its Reply,[38] the Commission bases its arguments mainly on Article 39 of the Interim Agreement which stipulates that "*by the end of the third year following the entry into force of this Agreement [i.e. by 2012], the principles set out in the EC Treaty, with particular reference to Art. 86 shall apply in Serbia to public undertakings and undertakings to which special and exclusive rights have been granted.*" However, this provision does not hinder the Commission to apply the State aid principles to public undertakings before 2012; it merely postpones the obligation to do so until 2012. Therefore, the Republic of Serbia would not infringe the Interim Agreement when assessing aid to public undertakings before 2012, in particular the measures listed under points 3), and 5) in paragraph 23 above. Therefore, there is no conflict between Article 39 of the Interim Agreement and the obligations of the Treaty regarding enforcement of the State aid *acquis*.

(61) As there is no conflict between Article 39 of the Interim Agreement and the Treaty, Article 103 of the Treaty does not apply. Article 103 of the Treaty provides that the Treaty shall not affect *obligations* under an agreement with the EU and its Member States. Firstly, the Interim Agreement is not a mixed agreement as envisaged by the first sentence of Article 103 of the Treaty as its Contracting Parties are only Serbia and the European Community. Secondly, Article 39 of the Interim Agreement obliges the Republic of Serbia to apply Article 86 of the EC Treaty to public undertakings by the end of the third year following entry into force of the Agreement; this does not mean that the Republic of Serbia *cannot* apply the State aid prohibition during these three years. The Treaty does not affect any obligation under the Interim Agreement; the obligation to apply the State aid prohibition as of 2012 is not affected

[36] Reply, p. 10.
[37] See e.g. Case C-84/78 *Tomadini* [1979] ECR 1801.
[38] Reply, p. 3-4.

– the Interim Agreement does not contain an obligation *not to apply* the State aid prohibition before 2012.

(62) In any case – although there is no conflict between the two treaties – the obligations arising from the Treaty are independent of any commitments made by individual Contracting Parties under the terms of any bilateral agreements, as the second sentence of Article 103 of the Treaty confirms. Thus, Article 39 of the Interim Agreement cannot exclude Serbia's obligation to implement the rules on State aid under the Treaty.

(63) As the measures listed under points 3), and 5) in paragraph 23 above constitute State aid, the effective enforcement of State aid rules would have required these measures to be assessed as to their compatibility with the State aid rules by the Commission. As the Commission did not assess the compatibility of these measures, the Secretariat submits that the Republic of Serbia infringed Articles 18 and 19 read in conjunction with Article 6 of the Treaty.

2. Incorrect compatibility assessment of State aid measure

(64) The measure identified under point 4) in paragraph 23 above takes the form of a guarantee by the Republic of Serbia for the loan that *EPS* obtained from the KfW in order to carry out the project "*Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing environmental impact*".[39]

(65) In response to the Secretariat's request for information of November 2014, the Commission informed the Secretariat that it had not been notified and had not assessed any of the measures in advance. However, the Commission accepted that the measure identified under 4) in paragraph 23 above, fell under its competence and assessed it in its session on 24 April 2015. It found that the measure constitutes State aid but is nevertheless compatible because the implementation of the project "*contributes to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment*", which enables *EPS* to perform the activity of public interest. The Commission concluded that, since the project contributes to goals which are of general interest to all citizens of the Republic of Serbia, the measure was compatible and could be granted for the execution of an important project for the Republic of Serbia in accordance with Article 5 of the Law.

(66) However, the Secretariat came to the preliminary conclusion that compatibility assessment of this support measure does not comply with the Energy Community State aid *acquis* and therefore sent an Opening Letter laying down its concerns. In its Reply, the Commission reiterated its argumentation contained in the Letter. The Secretariat considers the legal assessment and the conclusions of the Reasoned Opinion, to which reference is made, still valid.

(67) At the outset, the Secretariat recalls that the Energy Community *acquis* on State aid is based on the respective provisions of EU law. In particular, Article 18(1)(c) of the Treaty is based on Article 107(1) TFEU; Article 18(2) of the Treaty therefore states that any practices contrary to this Article shall be assessed on the basis of criteria arising from *inter alia* Article 107 TFEU (ex-Article 87 of the EC Treaty as attached in Annex III). In Article 19 of the Treaty, special

[39] The Guarantee Agreement between the Republic of Serbia and the KfW was concluded on 12.10.2012 and ratified by the Serbian Parliament on 24.12.2012 (Official Gazette of the Republic of Serbia No. 112/2012 – ANNEX 15).

reference is made to Article 106(1) and (2) TFEU (ex-Article 86 of the EC Treaty as attached in Annex III) which deal with public undertakings and undertakings with special or exclusive rights as well as SGEI.

(68) Any assessment needs to reflect the case law of the European Commission as confirmed by the Court of Justice, which is of relevance for the case at hand under Articles 18(2) and 94 of the Treaty.

(69) When assessing the guarantee identified under 4) in paragraph 23 above, the Commission itself came to the conclusion that it constitutes State aid.[40] It assessed the criteria for guarantees mentioned under Article 99 of the Regulation. Article 99 of the Regulation provides that "[a]*n individual state aid guarantee shall not constitute an instrument for granting state aid if it cumulatively meets the following conditions*": the enterprise is not in difficulties; the guarantee is linked to a specific financial transaction, for a fixed amount and a fixed time period; the guarantee does not cover more than 80% of the outstanding loan (not applicable in case of providers of SGEI); and the guarantee premium is calculated on the basis of market principles. Due to the lack of premium charged by the Republic of Serbia for the guarantee at issue, the Commission concluded that the last condition is not fulfilled and the guarantee in question constitutes State aid.

(70) Somehow at odds with its (correct) conclusion on the existence of State aid, the Commission argued that the Republic of Serbia had the right to get reimbursed in case of activation of the guarantee.[41] This could be understood as to calling into question whether an advantage has been granted to *EPS*. However, according to settled case law of the European Court of Justice[42] and confirmed by the European Commission's Notice[43], the benefit of a state guarantee is that the risk associated with the guarantee is carried by the state instead of the borrower. Therefore, if this risk is not remunerated by an appropriate premium, the borrower enjoys an advantage,[44] regardless of whether the guarantor has a right to reimbursement. In addition, even in the case that no payments are ever made by the state under a guarantee, it nevertheless constitutes State aid because the advantage is granted at the moment when the guarantee is given and not when the guarantee is invoked or when the payments are made.[45]

(71) Based on the information at its disposal, the Secretariat is of the opinion that the reasoning as well as the conclusions drawn by the Commission are manifestly wrong and contradict Energy Community law for the following reasons.[46]

a. General Block Exemption Regulation

(72) The Commission stated that the project for which State aid was granted "*contributes to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing*

[40] Letter, p. 6.
[41] Letter, p. 3; Reply, p. 8.
[42] Case C-275/10 *Residex Capital IV CV v Gemeente Rotterdam* [2011] ECR I-13043, para. 7.
[43] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ 2008 C 155/02, para. 2.1.
[44] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ 2008 C 155/02, para. 2.2.
[45] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ 2008 C 155/02, para. 2.1.
[46] See e.g. Cases C-148/04 *Unicredito Italiano SpA* [2005] ECR I-11137, para. 72 *et seqq.*; T-254/00, 270/00 and 277/00 *Hotel Cipriani SpA e.a.* [2008] ECR II-3269, para. 125.

the efficiency of thermal power plants and decreasing the impact it has on the environment."[47] This could suggest that the Commission considered the measure to fall under the General Block Exemption Regulation (GBER)[48] as aid for research and development and innovation (section 4) or as aid for environmental protection (section 7) and could therefore be compatible with the Energy Community internal market and exempted from the notification requirement. In order to come to such a conclusion, the Commission would have had to assess the following necessary conditions for such an exemption:

- The amount of the aid in order to assess whether the particular thresholds of Article 4 of the GBER are met;
- The transparency of the aid (Article 5 GBER), i.e. aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid ex ante without any need to undertake a risk assessment;[49]
- The incentive effect of the aid (Article 6 GBER), i.e. whether beneficiary would already engage under market conditions alone in activities or projects; as well as
- The aid intensity and that the measure does not exceed a certain level of eligible costs (Article 7 GBER and Article 25 or 26 GBER or Article 38 GBER).

(73) However, the Commission did not assess these criteria indicated in the GBER neither in its decision of 24 April 2015 nor in the Reply. It could therefore not rely on the GBER to find that the measure was compatible.

b. Services of General Economic Interest

(74) The Commission also stated that the measure was necessary for *EPS* to "*perform the activity of public interest for which it was established, that is, secure regular and safe distribution of electricity to households and small customers on the territory of the Republic of* Serbia *at preferential prices.*"[50] State aid in the form of public service compensation granted to certain undertakings entrusted with SGEI is considered compatible with the internal market and exempted from the requirement of notification, if it fulfils specific conditions set out in the so-called SGEI Decision.[51] However, based on the SGEI Decision, the Commission would have needed to assess the following:

- The SGEI Decision does only apply to aid below EUR 15 million, aid to hospitals and social services, aid to air and maritime links to islands as well as ports and airports below

---

[47] Letter, p. 7.

[48] Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

[49] Article 5 lists the categories of aid that are considered to be transparent. Guarantees fall under these categories (i) where the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice; or (ii) where before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation. The measure at hand does not fall under any of these two categories.

[50] Letter, p. 7.

[51] Commission Decision (EC) No 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, OJ 2011 L 7/3.

a certain number of passengers (Article 2(1)(a)). Therefore, the Commission would have had to assess the amount of the aid.

- There needs to be a specific entrustment act (Article 4). The Commission only lists the general provisions of the Energy Law, but does not elaborate on the concrete entrustment.
- The measure must control overcompensation (Articles 5 and 6). The Commission does not assess this criterion at all.
- The aid needs to be transparent (Article 7, see above). The Commission does not assess this criterion either.

(75) The Commission did not assess any of these criteria necessary to support a finding that the measure is covered by the SGEI Decision and therefore compatible, neither in its decision of 24 April 2015 nor in its Reply.

(76) In case State aid is granted as compensation for the provision of SGEI, such measure could also be declared compatible under Article 106(2) TFEU, to which Article 19 of the Treaty explicitly refers and which is attached to the Treaty in its Annex III. This provision provides for a derogation from the competition rules as far as necessary for the provision of SGEI. The jurisprudence of the European Court of Justice has identified four conditions for Article 106(2) TFEU to apply,[52] which are expanded in detail in the European Commission's so-called SGEI Framework, spelling out the conditions under which such State aid can be found compatible with the internal market pursuant to Article 106(2) TFEU:[53]

- First, there must be an act of entrustment, specifying the nature and duration of the service. In the present case, however, the Commission only refers to the general provisions of the Energy Law and the Decision on the establishment of the public enterprise for generation, distribution and trade of electricity.
- Second, the entrustment must relate to the operation of a service of general economic interest. In the present case, however, the provisions of the Energy Law and the Decision on the establishment of the public enterprise for generation, distribution and trade of electricity do not specify the service of general economic interest that shall be compensated through the support measures, nor is the duration limited.
- Third, the derogation has to be necessary for the performance of the tasks assigned and proportional to that end. In the present case, no such assessment has been undertaken by the Commission.
- Fourth, the development of trade must not be affected to such an extent as would be contrary to the interests of the Community. In the present case, no such assessment has been undertaken by the Commission.

(77) The Commission did not assess these conditions in its decision of 24 April 2015 or in the Reply. Therefore, relying only on the general statement that the activities of *EPS* were in the "general interest", the Commission could not find the measure to be compatible under Article 106(2) TFEU. Such finding also ignores that under Directive 2009/72/EC, as applicable to Energy Community Contracting Parties such as the Republic of Serbia, the market for electricity generation is to be considered deregulated as a matter of principle and allows for services of

[52] See, to that effect, Case T-289/03 *BUPA* [2008] ECR II-81.

[53] Communication from the (EU) Commission, European Union framework for State aid in the form of public service compensation, OJ 2012 C 8/15.

general economic interest only within the narrow limits drawn by Article 3 of the Directive and the corresponding case law of the Court of Justice.[54]

c. Compatibility under Article 107(3)(c) TFEU

(78) On the basis of Article 107(3)(c) TFEU, which is attached to the Treaty in its Annex III, State aid may be found compatible if it facilitates the development of certain economic activities and does not adversely affect trading conditions to an extent contrary to the common interest. Under the Guidelines on State aid for environmental protection and energy 2014-2020 (the Guidelines), the European Commission sets out the conditions under which aid for energy and environment may be considered compatible.[55] Under the Guidelines, a measure is considered compatible if the following criteria are met:

- Contribution to a well-defined objective of common interest: States intending to grant environmental or energy aid will have to define precisely the objective pursued and explain what is the expected contribution of the measure towards this objective.
- Need for state intervention: States need to demonstrate that the aid effectively targets a (residual) market failure.
- Appropriateness of the aid: The proposed aid measure must be an appropriate instrument to address the policy objective concerned, i.e. the same positive contribution to the common objective is not achievable through other less distortive policy instruments or other less distortive types of aid instruments.
- Incentive effect: The aid must not subsidize the costs of an activity that an undertaking would anyhow incur and must not compensate for the normal business risk of an economic activity.
- Proportionality of the aid: The aid has to be limited to the minimum needed to achieve the environmental protection or energy objective aimed for.
- Avoidance of undue negative effects on competition and trade: The negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest.
- Transparency of the aid: States must ensure the publication of specific information on a comprehensive State aid website.

(79) Apart from these “common assessment criteria”, the Guidelines prescribe special assessment criteria for different types of aid.

(80) The homogeneity principle as enshrined in Article 18(2) of the Treaty obliges national enforcement authorities and the Secretariat to ensure equal conditions of competition and a uniform application of State aid provisions throughout the Energy Community, based on precedence established by EU enforcement institutions. In its Policy Guidelines,[56] the Secretariat thus endorsed the Guidelines and announced to make them the point of reference for its own enforcement practice in the assessment of State aid cases in the sectors covered by the Guidelines to the extent they fall within the scope of the Treaty. The Secretariat further

[54] Cases C-265/08 *Federutility ea* [2010] ECR I-3377, para. 25 *et seqq*; C-121/15 *ANODE*, not yet published, para. 34 *et seqq*.
[55] OJ 2014 C 200/01.
[56] Policy Guidelines by the Energy Community Secretariat on the Applicability of the Guidelines on State Aid for Environmental Protection and Energy 2014-2010, PG 04/2015 of 24.11.2015.

concludes that the Guidelines need to be followed by national enforcement authorities in order to ensure their uniform and homogeneous application in the entire Energy Community.

(81) Despite the argumentation of the Commission regarding the purpose of the aid (contribution to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment),[57] it failed to assess the compliance of the guarantee with the requirements established under the Guidelines and listed above, in its decision of 24 April 2015 or in its Reply. The Commission could, therefore, not conclude on this basis that the aid is compatible.

d. Compatibility under Article 107(3)(b) TFEU

(82) Finally, the Commission claimed in its Letter that the aid in question was "allowed" due to its contribution to executing an important project for the Republic of Serbia in accordance with Article 107(3)(b) TFEU and the corresponding national provision (Article 5 of the Law).[58] Its conclusion was based on the assertion that the aid "*contribute[d] to reaching the goals which are of general interest to all citizens of the Republic of Serbia.*" According to Article 107(3) TFEU, a measure may be considered compatible with the internal market if (b) it promotes the execution of an important project of common European interest.

(83) Article 107(3)(b) TFEU only covers projects that form part of a transnational European programme, supported jointly by a number of Member States' governments, or arises from concerted action by a number of Member States to combat a common threat such as environmental pollution.[59] In the context of the single market established by the Energy Community, in order to be covered by this provision, a measure would need to contribute to the execution of an important project that is of interest for the Energy Community and not only one of its Contracting Parties. This means that the project must be of transnational interest or arise of transnational action. The transposition into Serbian law which covers "*the execution of an important project of the Republic of Serbia*" is not compliant with Energy Community law and neither is its application to the measure at stake.

(84) In any case, the Secretariat considers that the Commission failed to explain thoroughly in its decision of 24 April 2015 and in its Reply why and how the aid in question contributed to goals that were in the general interest of all citizens of Serbia. Moreover, even if one were to accept that purely domestic projects can provide a basis for the finding of compatibility under Article 107(3)(b) TFEU, the Commission would have had to analyze potential or actual negative effects of the State aid measure on competition and trade and to compare such effects with the positive effects of the measure. When assessing aid under Article 107(3) TFEU, account must be taken of whether the aid measure is aimed at a well-defined common objective, is an appropriate instrument, well-targeted and proportionate to the targeted objective and does not adversely affect trading conditions to an extent contrary to the common interest.[60]

(85) In particular, pursuant to Article 107(3)(b) TFEU and with regard to important projects of common European interest, the European Commission has established four criteria to be

[57] Letter, p. 7.
[58] Letter, p. 7.
[59] Joined Cases 62/87 and 72/87 *Exécutif regional wallon and Glaverbel SA v Commission of the European Communities* [1988] ECR 1573, para. 22.
[60] See e.g. Commission decision, State aid SA.33984 (2012/N) – United Kingdom; State aid M542/2010 – Poland.

fulfilled cumulatively as a prerequisite for considering State aid to be compatible with the internal market:[61]

- the aid must “promote” a project, meaning to take action which contributes to the implementation of the project;
- the project must be specific, precise and clearly defined;
- the project must be important both quantitatively and qualitatively, with an emphasis on the qualitative aspect;
- the project must be 'of common European interest' and as such be of benefit to the whole of the Union.

(86) Thus, allowing State aid based on Article 107(3)(b) TFEU requires a thorough and critical assessment of that measure’s effect on competition and trade, on both the national and the Energy Community’s market. The Commission’s failure to assess the effects of the measure on competition on the market is particularly important considering the fact that *EPS* holds a dominant position in both generation and supply of electricity in the Republic of Serbia and that granting State aid in considerable amounts to an undertaking in such a position is likely to greatly affect small private generators and suppliers on the market, potentially even forcing them to leave the market in the future or discouraging the entry of new competitors.

(87) Thus, allowing State aid based on Article 107(3)(b) TFEU requires a thorough and critical assessment of that measure’s effect on competition and trade, on both the national and the Energy Community’s market. The Commission’s failure to assess the effects of the measure on competition on the market is particularly important considering the fact that *EPS* holds a dominant position in both generation and supply of electricity in the Republic of Serbia and that granting State aid in considerable amounts to an undertaking in such a position is likely to greatly affect small private generators and suppliers on the market, potentially even forcing them to leave the market in the future or discouraging the entry of new competitors.

(88) Based on the above legal assessment, the Secretariat submits that by the Commission either not assessing or incorrectly assessing the compatibility of State aid measures, the Republic of Serbia has failed to comply with its obligations under the Treaty, in particular Articles 18 and 19 thereof.

[61] See e.g. Commission decision, State aid N157/2009; State aid N576/98 - United Kingdom; State aid N420/08 – United Kingdom; State aids SA.36558 and SA.38371 – Denmark; State aid SA.36662 – Sweden.

ON THESE GROUNDS

The Secretariat of the Energy Community respectfully proposes that the Ministerial Council of the Energy Community declares in accordance with Article 91(1)(a) of the Treaty establishing the Energy Community that

> by the Commission for State Aid Control either not assessing or incorrectly assessing the compatibility of certain State aid measures, the Republic of Serbia has failed to comply with its obligations under the Energy Community Treaty, in particular Articles 18 and 19 thereof.

On behalf of the Secretariat of the Energy Community

Vienna, 19 May 2017

Janez Kopač

Director

Dirk Buschle

Deputy Director/ Legal Counsel

List of Annexes

ANNEX 1	Decision on the establishment of the public enterprise for generation, distribution and trade of electricity (Official Gazette of the Republic of Serbia No. 12/05 and 54/10)*
ANNEX 2	Law on State Aid Control (Official Gazette of the Republic of Serbia No. 51/09)
ANNEX 3	Decision on the establishment of the Commission for State Aid Control (Official Gazette of the Republic of Serbia No. 112/09)*
ANNEX 4	Regulation on Rules for State Aid Granting (Official Gazette of the Republic of Serbia No. 13/10, 100/11, 91/12, 37/13, 97/13 and 119/14)
ANNEX 5	Request for information in Case ECS-14/11, dated 11.11.2014
ANNEX 6	Letter in Case ECS-11/14, dated 24.04.2015
ANNEX 7	Opening Letter in Case ECS-14/11, dated 14.07.2016
ANNEX 8	Reply to Opening Letter in Case ECS-11/14, dated 13.10.2016
ANNEX 9	Reasoned Opinion in Case ECS-11/14, dated 28.02.2017
ANNEX 10	Public Property Law (Official Gazette of the Republic of Serbia No. 72/2011, 88/2013 and 105/2014)*
ANNEX 11	Law on Ratification of the Guarantee Agreement (EPS, Project II) between Serbia and Montenegro and the European Bank for Reconstruction and Development (Official Gazette of the Republic of Serbia, No. 5/2004)*
ANNEX 12	Law on provision of guarantees of the Republic of Serbia to the German financial institution KFW upon mandate of “Electric Power Industry of Serbia” for financing the project for the purpose of mining equipment for the needs of open pit “Tamnava – West Field” (Official Gazette of the Republic of Serbia, No. 34/2006)*

ANNEX 13 Law on the Ratification of the Guarantee Agreement (EPS Kolubara project) between the Republic of Serbia and the European Bank for Reconstruction and Development (Official Gazette of the Republic of Serbia, No. 8/2011)*

ANNEX 14 Amendments to the Decision on the establishment of the public enterprise for production, distribution and trade of electricity (Official Gazette of the Republic of Serbia No. 54/2010)*

ANNEX 15 Ratification of Guarantee Agreement between the Republic of Serbia and the KfW (Official Gazette of the Republic of Serbia No. 112/2012)*

* in Serbian (the Secretariat can provide translation upon request)

"Službeni glasnik RS", br. 12/2005, 54/2010

Na osnovu člana 4. stav 2. Zakona o javnim preduzećima i obavljanju delatnosti od opšteg interesa ("Službeni glasnik RS", br. 25/00 i 25/02) i člana 171. stav 1. Zakona o energetici ("Službeni glasnik RS", broj 84/04),

Vlada Republike Srbije donosi

ODLUKU

O OSNIVANJU JAVNOG PREDUZEĆA ZA PROIZVODNJU, DISTRIBUCIJU I TRGOVINU ELEKTRIČNE ENERGIJE

Član 1.

Radi obezbeđivanja uslova za redovno i sigurno snabdevanje električnom energijom tarifnih kupaca na teritoriji Republike Srbije, osniva se Javno preduzeće za proizvodnju električne energije, distribuciju električne energije i upravljanje distributivnim sistemom i trgovinu električnom energijom.

Javno preduzeće iz stava 1. ovog člana snabdeva električnom energijom i druge kupce električne energije pod uslovima utvrđenim zakonom.

Član 2.

Poslovno ime Javnog preduzeća za proizvodnju električne energije, distribuciju električne energije i upravljanje distributivnim sistemom i trgovinu električnom energijom jeste: Javno preduzeće "Elektroprivreda Srbije", Beograd (u daljem tekstu: Javno preduzeće).

Skraćeno poslovno ime Javnog preduzeća je: JP EPS, Beograd.

Član 3.

Sedište Javnog preduzeća je u Beogradu, Ulica carice Milice broj 2.

Član 4.

Delatnosti Javnog preduzeća su:

1) proizvodnja električne energije;

2) distribucija električne energije;

3) upravljanje distributivnim sistemom;

4) trgovina električnom energijom;

5) proizvodnja, prerada i transport uglja;

6) proizvodnja pare i tople vode u kombinovanim procesima;

7) iskorišćavanje i upotreba voda;

8) trgovina na veliko čvrstim, tečnim i gasovitim gorivima i sličnim proizvodima, metalima i metalnim rudama i ostala trgovina;

9) usluge u rečnom i jezerskom saobraćaju;

10) istraživanje i razvoj;

11) projektovanje, izgradnja i održavanje energetskih, rudarskih i drugih objekata;

12) projektovanje, izgradnja, održavanje i eksploatacija telekomunikacionih objekata i uređaja;

13) inženjering.

Javno preduzeće može da obavlja i druge delatnosti utvrđene statutom, u skladu sa zakonom.

Član 5.

Javno preduzeće obavlja poslove spoljnotrgovinskog prometa iz okvira registrovanih delatnosti.

Javno preduzeće obavlja usluge u spoljnotrgovinskom prometu, i to:

1) posredovanje i zastupanje u prometu robe i usluga;

2) izvođenje investicionih radova u inostranstvu i ustupanje investicionih radova stranom licu u zemlji;

3) telekomunikacione usluge;

4) usluge kontrole kvaliteta i kvantiteta u izvozu i uvozu robe;

5) naučnoistraživačke i istraživačko-razvojne usluge i usluge pružanja i korišćenja informacija i znanja u privredi i nauci;

6) usluge atestiranja i druge usluge u spoljnotrgovinskom prometu u okviru registrovanih delatnosti.

Član 6.

Sredstva za osnivanje i rad Javnog preduzeća čine pokretne i nepokretne stvari, novčana sredstva, hartije od vrednosti, imovinska prava i druga sredstva kojima posluje Javno preduzeće za proizvodnju, prenos i distribuciju električne energije i proizvodnju uglja "Elektroprivreda Srbije" (u daljem tekstu: JP "Elektroprivreda Srbije"), osnovano Zakonom o elektroprivredi ("Službeni glasnik RS", br. 45/91, 53/93, 67/93, 48/94, 69/94 i 44/95) i sredstva koja čine ulog JP "Elektroprivreda Srbije" u javnim i drugim oblicima preduzeća koja je ono osnovalo (u daljem tekstu: zavisna preduzeća), osim:

1) sredstava kojima je JP "Elektroprivreda Srbije" osnovalo Javno preduzeće za prenos električne energije "Elektroistok", Beograd, i sredstava koja je to javno preduzeće steklo poslovanjem;

2) dela sredstava koja je koristilo JP "Elektroprivreda Srbije" za obavljanje delatnosti upravljanja prenosnim sistemom;

3) udela JP "Elektroprivreda Srbije" u preduzeću "Elektroenergetski koordinacioni centar", d.o.o., Beograd.

Sredstva iz stava 1. ovog člana utvrđena su bilansom stanja sredstava na dan 31. decembra 2004. godine.

Član 7.

Sredstva iz člana 6. ove odluke čine imovinu Javnog preduzeća.

Sredstva koja su navedena u Spisku sredstava Javnog preduzeća "Elektroprivreda Srbije", Beograd, koji je odštampan uz ovu odluku i čini njen sastavni deo, kao i druga evidentirana sredstva koja su u funkciji završetka izgradnje TE "Kolubara B" i izgradnje TE "Nikola Tesla B3", u svojini su Javnog preduzeća.

Javno preduzeće može sredstva iz stava 2. ovog člana, da unese kao ulog u privredna društva koja će osnovati sa strateškim partnerima radi završetka izgradnje TE "Kolubara B" i izgradnje TE "Nikola Tesla B3", u realizaciji Strategije razvoja energetike Republike Srbije do 2015. godine i programom za njeno ostvarivanje.

Javno preduzeće upravlja i raspolaže svojom imovinom u skladu sa zakonom i ovom odlukom.

Tekst pre izmene

Član 8.

Javno preduzeće je dužno da u skladu sa zakonom, planovima rada i razvoja i programima poslovanja, obezbedi uslove za sigurno i redovno snabdevanje tarifnih kupaca električnom energijom i odgovorno je za obezbeđivanje potrebnih količina električne energije utvrđenih bilansom potreba za električnom energijom tarifnih kupaca na teritoriji Republike Srbije.

Javno preduzeće je dužno da preduzima mere i aktivnosti kojima se obezbeđuje razvoj proizvodnih i distributivnih energetskih kapaciteta i kapaciteta za proizvodnju uglja i njihovo redovno održavanje i nesmetano funkcionisanje, u skladu sa zakonima i drugim propisima kojima se uređuju uslovi obavljanja energetskih delatnosti i uslovi i način obavljanja delatnosti od opšteg interesa.

Član 9.

Planovima rada i razvoja i programima poslovanja Javnog preduzeća, utvrđuju se potrebe za električnom energijom na teritoriji Republike Srbije sa podacima o: kapacitetima i uslovima za obezbeđivanje i distribuciju potrebnih količina električne energije za snabdevanje tarifnih kupaca; načinu obezbeđivanja nedostajućih količina električne energije za potrebe tih kupaca; uslovima i načinu obezbeđivanja potrebnih količina uglja i drugih energenata za proizvodnju električne energije; drugim uslovima kojima se obezbeđuje ostvarivanje Energetskog bilansa Republike Srbije.

Član 10.

Javno preduzeće ne može da otuđi objekte i druge nepokretnosti, postrojenja i uređaje koji su u funkciji obavljanja delatnosti proizvodnje i distribucije električne energije i delatnosti upravljanja distributivnim sistemom, kao i objekte i postrojenja za proizvodnju, preradu i transport uglja.

Pribavljanje i otuđenje imovine veće vrednosti koja je u neposrednoj funkciji obavljanja delatnosti proizvodnje i distribucije električne energije, upravljanja distributivnim sistemom i proizvodnje, prerade i transporta uglja, kao i otuđenje objekata, uređaja i postrojenja iz stava 1. ovog člana koje se vrši radi njihove zamene zbog dotrajalosti, modernizacije ili tehničko-tehnoloških unapređenja, vrši se uz saglasnost Vlade Republike Srbije (u daljem tekstu: Osnivač).

Član 11.

Osnivač i Javno preduzeće mogu pojedina prava i obaveze u obavljanju delatnosti proizvodnje, distribucije i trgovine električnom energijom za potrebe tarifnih kupaca urediti ugovorom, u skladu sa zakonom.

Član 12.

U slučaju poremećaja u poslovanju Javnog preduzeća, Osnivač preduzima mere kojima će obezbediti uslove za nesmetan rad i poslovanje Javnog preduzeća u obavljanju delatnosti od opšteg interesa, u skladu sa zakonom.

Član 13.

Javno preduzeće posluje po tržišnim uslovima, u skladu sa zakonom.

Poslovni rezultat Javnog preduzeća utvrđuje se u vremenskim periodima, na način i po postupku utvrđenim zakonom.

Član 14.

Dobit Javnog preduzeća utvrđuje se i raspoređuje u skladu sa zakonom, ovom odlukom i statutom.

Odluku o raspoređivanju dobiti donosi upravni odbor Javnog preduzeća, uz saglasnost Osnivača.

Član 15.

Organi Javnog preduzeća su upravni odbor, generalni direktor i nadzorni odbor.

Član 16.

Upravni odbor ima predsednika i deset članova koji se imenuju na period od pet godina.

Predsednika i članove upravnog odbora imenuje i razrešava Osnivač.

Aktom o imenovanju upravnog odbora određuje se zamenik predsednika upravnog odbora iz reda članova upravnog odbora.

Predsednika i šest članova upravnog odbora predlaže ministar nadležan za poslove energetike.

Četiri člana upravnog odbora predlažu se iz reda zaposlenih u Javnom preduzeću na način utvrđen statutom.

Član 17.

Upravni odbor Javnog preduzeća:

1) utvrđuje poslovnu politiku Javnog preduzeća;

2) donosi statut;

3) donosi planove rada i razvoja i programe poslovanja;

4) usvaja finansijske izveštaje;

5) odlučuje o raspodeli dobiti i pokriću gubitka;

6) odlučuje o povećanju i smanjenju osnovnog kapitala Javnog preduzeća;

7) donosi odluke o ulaganju kapitala;

8) odlučuje o statusnim promenama;

9) odlučuje o osnivanju zavisnih privrednih društava;

10) odlučuje o pitanjima iz delokruga skupštine zavisnog privrednog društva utvrđenim zakonom, ako aktom o osnivanju tog društva nije drukčije određeno;

11) donosi odluke o raspolaganju nepokretnostima i drugim sredstvima, u skladu sa zakonom, ovom odlukom i statutom;

12) donosi odluke o davanju garancija, avala, jemstava, zaloga i drugih sredstava obezbeđenja za poslove koji nisu iz okvira delatnosti od opšteg interesa;

13) odlučuje o promeni poslovnog imena, sedišta i delatnosti Javnog preduzeća i donosi odluke o organizovanju i ukidanju ogranka Javnog preduzeća sa ovlašćenjima u pravnom prometu;

14) donosi opšte akte Javnog preduzeća za koje zakonom, ovom odlukom ili statutom Javnog preduzeća nije utvrđena nadležnost drugog organa;

15) donosi poslovnik o svom radu;

16) odlučuje o drugim pitanjima za koja je zakonom, ovom odlukom ili statutom utvrđeno da su u delokrugu upravnog odbora.

Odluke iz stava 1. tač. 2), 3), 5), 6), 7), 8), 9), 12) i 13) ovog člana upravni odbor donosi uz saglasnost Osnivača.

Član 18.

Generalnog direktora Javnog preduzeća imenuje i razrešava Osnivač.

Generalni direktor se imenuje na period od pet godina.

Statutom Javnog preduzeća bliže se uređuju uslovi za imenovanje i razrešenje generalnog direktora.

Član 19.

Generalni direktor Javnog preduzeća obavlja sledeće poslove:

1) organizuje i vodi poslovanje Javnog preduzeća;

2) zastupa Javno preduzeće;

3) stara se o zakonitosti rada i odgovara za zakonitost rada Javnog preduzeća;

4) predlaže poslovnu politiku, planove rada i razvoja i programe poslovanja i preduzima mere za njegovo sprovođenje;

5) predlaže upravnom odboru donošenje odluka i drugih akata iz njegovog delokruga;

6) izvršava odluke upravnog odbora;

7) donosi opšte akte za čije donošenje je statutom ovlašćen generalni direktor;

8) odlučuje o pojedinačnim pravima, obavezama i odgovornostima zaposlenih u skladu sa zakonom i kolektivnim ugovorom;

9) odlučuje o drugim pitanjima u skladu sa zakonom i statutom Javnog preduzeća;

10) obavlja i druge poslove utvrđene zakonom, ovom odlukom i statutom.

Član 20.

Nadzorni odbor ima predsednika i četiri člana koji se imenuju na period od pet godina.

Predsednika i članove nadzornog odbora imenuje i razrešava Osnivač.

Predsednika i dva člana nadzornog odbora predlaže ministar nadležan za poslove energetike.

Dva člana nadzornog odbora predlažu se iz reda zaposlenih u Javnom preduzeću na način utvrđen statutom.

Član 21.

Nadzorni odbor vrši nadzor nad poslovanjem Javnog preduzeća, pregleda finansijske izveštaje, daje mišljenje o predlogu za raspodelu dobiti i pokriće gubitaka i obavlja druge poslove utvrđene zakonom i statutom.

O rezultatima nadzora, nadzorni odbor obaveštava Osnivača najmanje jednom godišnje.

Član 22.

Javno preduzeće zastupa generalni direktor, bez ograničenja ovlašćenja.

Generalni direktor može u okviru svojih ovlašćenja, dati drugom licu pismeno punomoćje za zastupanje Javnog preduzeće.

Generalni direktor, uz saglasnost upravnog odbora, može dati i opozvati prokuru, u skladu sa zakonom.

Član 23.

U poslovima spoljnotrgovinskog prometa, Javno preduzeće zastupa generalni direktor, bez ograničenja ovlašćenja.

U poslovima spoljnotrgovinskog prometa Javno preduzeće mogu zastupati i druga lica, u skladu sa statutom.

Član 24.

Javno preduzeće dužno je da organizuje obavljanje delatnosti na način kojim se obezbeđuje efikasnost i racionalnost u poslovanju.

Statutom, opštim aktima i drugim aktima Javnog preduzeća bliže se uređuje unutrašnja organizacija Javnog preduzeća, delokrug rada organa, organizovanje obavljanja delatnosti po ograncima i prava i obaveze ogranaka u pravnom prometu i druga pitanja od značaja za rad i poslovanje Javnog preduzeća, u skladu sa zakonom i ovom odlukom.

Član 25.

Javno preduzeće može osnovati zavisna privredna društva za obavljanje delatnosti iz predmeta svog poslovanja, u skladu sa propisima kojima se uređuje pravni položaj privrednih društava, propisima kojima se uređuju uslovi i način obavljanja delatnosti od opšteg interesa i ovom odlukom.

Član 26.

Javno preduzeće, pri osnivanju privrednih društava iz člana 25. ove odluke, polazi od načela:

1) potrebe i mogućnosti organizovanja pojedine delatnosti na određenom području;

2) organizovanja po funkcionalnoj povezanosti delatnosti i poslova;

3) tehničko-tehnološke i ekonomske povezanosti;

4) racionalnog korišćenja sredstava za obavljanje delatnosti, prirodnih bogatstava i dobara od opšteg interesa, a prema njihovoj prirodi i nameni;

5) razvijanja ekonomsko-finansijskih odnosa na tržišnim principima;

6) efikasnosti upravljanja distributivnim sistemom;

7) ostvarivanja potrebnog stepena koordinacije u obavljanju delatnosti od opšteg interesa i izvršavanju poslova od zajedničkog interesa za Javno preduzeće i zavisna privredna društva;

8) racionalnog korišćenja i raspolaganja imovinom i obezbeđivanja uslova za uredno obavljanje delatnosti od opšteg interesa.

Član 26a

Kada Javno preduzeće ulaže kapital sa domaćim ili stranim licem u osnivanje drugog društva kapitala, radi izgradnje energetskih objekata i obavljanja delatnosti od opšteg interesa iz predmeta svog poslovanja (zajedničko ulaganje), kao i u postojeće privredno društvo koje obavlja energetske ili druge delatnosti, na odluku o tom ulaganju saglasnost daje osnivač.

Pored davanja saglasnosti iz stava 1. ovog člana, osnivač utvrđuje osnovne elemente ugovora o poveravanju obavljanja delatnosti od opšteg interesa kada je ulog Javnog preduzeća u osnivanje privrednog društva radi izgradnje energetskih objekata i obavljanja delatnosti od opšteg interesa, manjinski u odnosu na ukupno unete uloge.

Tekst pre izmene

Član 27.

Javno preduzeće je dužno da u obavljanju delatnosti obezbeđuje potrebne uslove za zaštitu i unapređenje životne sredine i da sprečava uzroke i otklanja posledice koje ugrožavaju životnu sredinu.

Način obezbeđivanja uslova iz stava 1. ovog člana, utvrđuje Javno preduzeće u zavisnosti od uticaja delatnosti koje obavlja na životnu sredinu.

Član 28.

Javno preduzeće počinje sa radom danom registracije u registar privrednih subjekata.

Danom početka rada Javno preduzeće preuzima sredstva, prava, obaveze i zaposlene JP "Elektroprivreda Srbije", osim dela sredstava, prava, obaveza i zaposlenih koje preuzima energetski subjekt osnovan odlukom Vlade Republike Srbije za obavljanje delatnosti prenosa električne energije i upravljanja prenosnim sistemom.

Član 29.

Vlada Republike Srbije će imenovati generalnog direktora, predsednika i članove upravnog odbora Javnog preduzeća najkasnije do 15. juna 2005. godine.

Tri člana predstavnika zaposlenih u prvi saziv upravnog odbora Javnog preduzeća predlaže generalni direktor JP "Elektroprivreda Srbije", a jednog člana Glavni odbor Sindikata radnika Elektroprivrede Srbije.

Upravni odbor doneće statut Javnog preduzeća u roku od pet dana od dana imenovanja.

Član 30.

Vlada Republike Srbije imenovaće predsednika i članove nadzornog odbora u roku od 30 dana od dana početka rada Javnog preduzeća.

Član 31.

Generalni direktor JP "Elektroprivreda Srbije" organizovaće pripremu statuta Javnog preduzeća i drugih akata neophodnih za registraciju osnivanja Javnog preduzeća i obavljanje drugih poslova od značaja za obezbeđenje uslova za početak rada Javnog preduzeća.

Član 32.

Do donošenja planova rada i razvoja i programa poslovanja i akata donetih za njihovo ostvarivanje, akata o organizaciji i sistematizaciji radnih mesta i drugih akata Javnog preduzeća od značaja za izvršenje poslova utvrđenih zakonom i drugim propisima i za obezbeđivanje nesmetanog rada elektroenergetskih objekata, primenjivaće se akti JP "Elektroprivreda Srbije", koji su na snazi na dan početka rada Javnog preduzeća.

Član 33.

Javno preduzeće preuzima osnivačka prava u zavisnim preduzećima, osim osnivačkih prava u Javnom preduzeću za prenos električne energije "Elektroistok", Beograd, i u preduzeću "Elektroenergetski koordinacioni centar" d.o.o. Beograd.

Javno preduzeće je dužno da organizaciju, rad i poslovanje preduzeća u kojima preuzima osnivačka prava uskladi sa propisima kojima se uređuje pravni položaj privrednih društava i propisima kojima se uređuju uslovi i način obavljanja energetskih delatnosti od opšteg interesa u roku od šest meseci od dana početka rada, a zavisna preduzeća sa sedištem na teritoriji Kosova i Metohije u roku od tri meseca od dana kada se steknu uslovi za usklađivanje njihove organizacije, rada i poslovanja sa propisima kojima se uređuje pravni položaj privrednih društava i propisima kojima se uređuju uslovi i način obavljanja energetskih delatnosti od opšteg interesa.

U postupku usklađivanja organizacije, rada i poslovanja preduzeća iz stava 2. ovog člana, Javno preduzeće će se pridržavati načela za osnivanje zavisnih privrednih društava utvrđenih ovom odlukom.

Postojeća zavisna preduzeća nastavljaju sa radom u skladu sa aktima o njihovom osnivanju i drugim aktima kojima se uređuje njihov rad i poslovanje do usklađivanja njihove organizacije, rada i poslovanja u smislu stava 2. ovog člana.

Član 34.

Danom registracije Javnog preduzeća u registar privrednih subjekata briše se iz registra privrednih subjekata Javno preduzeće za proizvodnju, prenos i distribuciju električne energije i proizvodnju uglja "Elektroprivreda Srbije".

Član 35.

Ova odluka stupa na snagu 1. jula 2005. godine.

05 broj 023-396/2005-1
U Beogradu, 27. januara 2005. godine

Vlada Republike Srbije

Potpredsednik,
Miroljub Labus, s.r.

Spisak sredstava Javnog preduzeća "ELEKTROPRIVREDA SRBIJE" Beograd

Projekat TE "KOLUBARA B"

ZEMLJIŠTE

Red. Br.	Broj katastarske parcele	Katastarska opština	Ukupna površina katastarske parcele [ha a m^2]	Br. LN	Br. ZKUL
1.	460	Kalenić	54 73 40	189	
2.	962	Poljane	33 48 69	374	
3.	904/1	Stepojevac	25 57 05		1895

GRAĐEVINSKI OBJEKTI

Red. broj	Broj katastarske pariele	Naziv Katastarske Opštine	Vrsta i naziv objekta	Spratnost	Površina objekta [ha a m^2]	Br. LN	Br. ZKUL
1			Spoljna rasveta van ograđenog prostora				
2			Električna instalacija od TS 6 / 0,4 do objekata				
3			Trafo st. 6/04 kV snage 630 kVA za napajanje gradilišta, komada 7.				
4			Kablovski vodovi VN od TS 35/6 kV do TS-2				
5			Kablovski vod TS-2 do TS-1				
6			Kablovski vodovi od TS-2 do TS-3 TS-4 TS-5 TS-6 i TS-7				
7	460	Kalenić	Upravna zgrada investitora	Prizemlje	32 31	189	
8	460	Kalenić	Upravna zgrada izvođača radova broj 1	Prizemlje	2 67	189	
9	460	Kalenić	Upravna zgrada izvođača radova broj 2	Prizemlje	2 67	189	
10	460	Kalenić	Upravna zgrada izvođača radova broj 3	Prizemlje	2 67	189	
11	460	Kalenić	Portirnica broj 1	Prizemlje	50	189	

12			Spoljna rasveta u ograđenom prostoru				
13			Instalacije grom. zaštite za pomoćne, dodatne *i* ost. Zgrade				
14			Instalacije uzemljenja za pomoćne, dodatne i ost. zgrade				
15			Pristupni put do termoelektrane				
16			Parkinzi				
17			Most na pristupnom putu				
18	460	Kalenić	Ambulanta	Prizemlje	1 91	189	
19	460	Kalenić	Garaža i servis	Prizemlje	4 36	189	
20			Industrljski kolosek broj 1				
21			Industrijski kolosek broj 2				
22	460	Kalenić	Restoran	Prizemlje	12 93	189	
23	460	Kalenić	Zatvoreno skladište	Prizemlje	50 00	189	
24	460	Kalenić	Otvoreno skladište	Prizemlje	36 51	189	
25	460	Kalennć	Mašinska radionica	Prizemlje	23 42	189	
26	460	Kalenić	Garderoba broj 1	Prizemlje	3 05	189	
27	460	Kalenić	Garderoba broj 2	Prizemlje	3 05	189	
28	460	Kalenić	Objekat za stanovanje radnika	Prizemlje	98	189	
29	460	Kalenić	Objekat za stanovanje radnika	Prizemlje	98	189	
30	460	Kalenić	Objekat za stanovanje radnika	Prizemlje	98	189	
31	460	Kalenić	Objekat za stanovanje radnika	Prizemlje	98	189	
32	460	Kalenić	Objekat za stanovanje radnika broj 1	Prizemlje	3 72	189	
33	460	Kalenić	Objekat za stanovanje radnika broj 2	Prizemlje	3 73	189	
34	460	Kalenić	Objekat za stanovanje radnika broj 3	Prizemlje	3 72	189	
35	460	Kalenić	Objekat za stanovanje radnika broj 4	Prizemlje	3 72	189	
36	460	Kalenić	Objekat za stanovanje radnika broj 5	Prizemlje	3 72	189	
37	460	Kalennć	Objekat za stanovanje radnika broj 6	Prizemlje	3 73	189	
38	460	Kalenić	Objekat za stanovanje radnika broj 7	Prizemlje	3 73	189	
39	460	Kalenić	Objekat za stanovanje radnika broj 8	Prizemlje	3 73	189	
40	460	Kalenić	Objekat za stanovanje radnika broj 9	Prizemlje	3 73	189	
41	460	Kalenić	Objekat za stanovanje radnika broj 10	Prizemlje	3 73	189	
42	460	Kalenić		Prizemlje	3 72	189	

			Objekat za stanovanje radnika broj 11				
43	460	Kalenić	Objekat za stanovanje radnika broj 12	Prizemlje	3 87	189	
44	460	Kalenić	Objekat za stanovanje radnika broj 13	Prizemlje	3 80	189	
45	904/1	Stepojevac	Objekat za stanovanje radnika broj 14	Prizemlje	3 82		1895
46	904/1	Stepojevac	Objekat za stanovanje radnika broj 15	Prizemlje	3 81		1895
47	460	Kalenić	Fekalna crpna stanica-PUTOH	Prizemlje	5 00	189	
48			Spoljna fekalna kanalizacija za dod. zgrade i prostorije				
49			Izolacioni aparat, komada 2.				
50			Bunar za vodu za protivpožarnu zaštitu				
51			Unutrašnja hidrantska mreža u objektima				
52			Spoljni vodovod pitke vode				
53			Muljna pumpa za fekalije				
54			Ograde i kapije kruga i Upravne zgrade TE Kolubara B				
55			Automatska rampa WILL 6 sa opremom				

OPREMA

Red. broj	NAZIV	OPIS
1	Garnitura mehaničarskog alata	Set ključeva i odvijača
2	Alat za brizganje kapa D38	Alat za brizganje plastičnih kapa ∅38 za zaštitu cevnog sistema kotla. Proizvođač "Milan Blagojević" - Lučani
3	Alat za brizganje kapa D51	Alat za brizganje plastičnih kapa ∅51 za zaštitu cevnog sistema kotla. Proizvođač "Milan Blagojević" - Lučani
4	Radioničke i skladišne police i regali	Metalni ormani i regali, komada 33
5	Kotlarnica sa inst. za centr. gr. upravnih zgrada, garaže i magacina	Sastoji se iz: 4 kom el. kotla svaki snage 90 KW (9 grejača x 10 KW); izmenjivača toplote voda-voda, toplotne snage 720KW, grejne površine 72m^2; cirkulacionih pumpi (tip: GHR 502 A -R, 950\U;2800min-1 2 kom. GHR 512, 172 W; 1400min -1... 2kom. GHR 852, 435 W: 1400min -1... 4kom.
6	Kotlarnica sa inst. za centr. Gr. restorana i magacina i radionice	GHR 802, 790 W; 1400min -1... 2kom.). Odgovarajuća armatura i instalacija (sa Al

		radijatorima visine 600mm koji greju ukupno 3.401 m^2 prostora. Sastoji se iz: 2 kom el. kotla svaki snage 60 KW (6 grejača x 10 KW); izmenjivača toplote voda-voda, toplotne snage 360 KW; cirkulacionih pumpi (tip: GHR 801, 790 W; 2800min -1... 1 kom. GHR502 A-R.950 W: 2800min -1... 2kom. GHR 851, 435 W; 1400min -1... 1 kom.). Odgovarajuća armatura i instalacija (sa Al radijatorima visine 600mm koji greju ukupno 6.097 m^2 prostora.
7	Kotlarnica sa inst. za ientr.gr. radničkog naselja	Sastoji se iz: 2 kom el. kotla svaki snage 180 KW (15 grejača x 12 KW). 1 kom. elek. kotla snage 90 KW (9 grejača x 10KW); izmenjnvača toplote voda-voda, toplotne snage 720 KW; grejne površine 72m2; cirkulacionih pumpi (tip: GHR 502 A-R, 950 W; 2800min -1... 4kom. Odgovarajuća armatura i instalacija (sa Al radijatorima visine 600mm koji greju ukupno 6.314 m^2 prostora.
8	Viljuškar nosivosti 8 tona	Nosivost 8t; tip V8-IM; proizvođač; LITOSTROJ; fabrički broj 67.035/543; godina proizvodnje 1987; broj motora 871001811; nosivost 8t.
9	Kompresor za vazduh E-4	1 boca C2H2 i 1 boca ∅2 sa manometrima i brenerom.
10	Pumpa za vodu Tomos MP 500	Proizvođač: Energoinvest, Doboj; Q=150 l/min; P=10 bar; n=1400 min-1; godina proizvodnje 1987; fabr. broj 105755
11	Kran - nosivosti 20 t	Elektro mostna dizalica. tip EMD, nosivost: 20t; raspon 14,8m; fabrički broj 1236/88; pogonska klasa 2; brzina dizanja kuke 5/0,5 m/min; kretanje mačke 16m/min; kretanje mosta 25m/min; visina dizanja 5m; snaga elektro motora: za glavno dizanje 23 KW; za kretanje mačke 2,2 KW i za kretanje mosta 2x2,2 KW; zaštita IP44; ukupna težina krana sa trolnim vodom 22810kg,
12	Kran POTAIN Md 1000	Toranjski kran tip MD-1000; Proizvođač POTAIN/MIN; God. proizvodnje 1983; serijski broj: 100953; nosivost krana 50 t na kraku od 19.3,m; Max. dužina dohvata strele 50m i nosivosti 15t; Max. visina krana 148,4m; Broj nastavaka 22, dužine 5,78m po nastavku. Težina krana sa max. visinom od 148,4 m i max. strelom od 53m je cca 240t.
13	Stolice	Komada 240
14	Mašine i aparati za održavanje čistoće	Usisivači, komada 3
15	Motokultivator DMK-10L	God. proizvodnje 2005; broj motora 2180634; dizel motor
16	Vučna prikolica 0,5 t	Priključno sredstvo uz motokultivator, tip 41110, nosivosti 500kg. Fabrički broj 0002. Godina proizvodnje 2005.
17	Čistač (freza) za sneg IMT	Priključno sredstvo uz motokultivator; fabrički broj 50300001. Godina proizvodnje 2005.
18		

	Samohodna kosačica za travu	Proizvođač: Proizvod Agrija: tip 861, prečnik 50 cm. Godina proizvodnje 2001
19	Motorna kosačica alpina star 55d sa dodatnom oprem.	Proizvodjač Alpina; tip Star 55D, fabrički broj PA 03D1459. Godina proizvodnje 2004.
20	Ostala neenergetska sredstva	Motorna testera 1 kom. Ručna kosačica-komada 1, kontejneri za smeće komada 4
21	Ukrasni predmeti	Umetnička slika, komada 1
22	Peći i grejalice	TA peći, komada 2
23	Računarska mreža	Oprema i instalacija lokalne računarske mreže
24	Fotokopir aparat KANON IR 2016	Fotokopir aparat. komada 1
25	Ormari, komode plakari i vitrine	Kancelarijski ormani, komada 116
26	Radni stolovi	Stolovi, komada 253
27	Garniture za sedenje	Fotelje, komada 84
28	Oprema za kancelariju	Čelične kase-komada 2, čiviluci-komada 23
29	Telefonski aparati i fax mašine	Telefaks KANON T-25, kom 1 Telefaks PANASONIK, kom 1
30	Personalni računari	Računari, komada 29, LAP-TOP komada 3
31	Printerski sistem	Štampači za računare, komada 8
32	Aparati za umnožavanje i fotokopiranje	Fotokopir aparat, komada 2 Digitalna kamera, komada 1
33	Razne kancelarijske mašine	Računarske mašine - komada 3; pisaće mašine komada 1 Mašina za koričenje - komada 1
34	Razni prenosni aparati i uređaji	Radni sto - komada 1, aparat za zavarivanje 1 kom Brusilica - 1 komad
35	Protiv požarna centrala BSL 80	Tip BSL 32, godina proizvodnje 1988, proizvođač ELIND-Valjevo. Fabrički broj 321 33, napon napajanja 220 V/24 V
36	Protivpožarana instalacija u objektima	Sastoji se iz optičkih detektora 206 komada, tip ELPAS-CERBERUS (radni napon 18 ÷ 24 VDC, struja napajanja 100 mA, radna temperatura - 200C do 600C, vlažnost sredine <95%, mehanička zaštita IP 43), površine prekrivanja do 120 m2; 1 komad optičkog detektora u "S" izvedbi (u prostoriji gde su AKU baterije); 27 kom, termičkih detektora i 72 ručna detektora (tip RJP-1). Ovi detektori su povezani sa protiv požarnom centralom kablovima TK 39 P 15 x 4 x 0,8 mm2 cca 2.200 m i IY (St) -Y 2 x 08 mm^2 cca 6.000 m kao i 5 razvodnih ormanatip R02 i R03.
37	Bunarska pumpa sa pratećom opremom	Proizvođač LOWARA, Italija - potapajuća; tip: 16GS55T/A; fabr. broj 02669; 0= 4,5 ÷ 5 l/s; H=60-80m; broj obrtaja: 2800min-1; el. motor (tip 40S55 T40/A; P= 5,5 kW; 380V; 13,5 A i IP68). Prateća oprema: orman sa SOFT STARTEROM, grejačem i ostalo.
38	Spoljni vodovod PP zaštite	Spoljni vodovod protiv požarne zaštite nije izveden kao posebna instalacija već je pitki vodovod u funkciji i protiv požarne zaštite. Spoljni hidranti su T komadima neposredno priključeni na spoljni vodovod pitke vode.
39	Nivelir "ZEISS" NI 007/360	Geodetski instrument
40		Instrument za merenje PH vrednosti

	Elkometar 456, MkZ F1 Basic integral	
41	Alat i inventar	Vaga -Porto komada 1, ručna kolica komada 1
42	Digitalna telefonska centrala GTD 1000	Tip: GTD 1000; digitadna; kapacitet: Opremljena sa 300 lokala sa mogućnošću proširenja do 1000 lokala, 20 javnih pretplatničkih brojeva PTT -a, 12 poprečnih veza unutar kompanije.
43	Digitalna telefonska centrala PANASONIC 616	Tip: KH-T7730; kapaciteta za 12 sporednih telefona, za 4 javna pretplatnička broja i 2 lokala sa KATC.
44	Spoljni telefonski kabal Vreoci - Kolubara b	Veza ČATC Vreoci do KATC TE Kolubara B; Tip:TD 17 PV; kapacitet: 100x4x0,9; ukupna dužina 14.663m, položen u zemlju.
45	Mini lokalne telefonske centrale	Telefonska garnitura FONIT4, EI PUPIN, komada 1
46	Video nadzor gradilišta	Sastoji se iz 13 komada kamera proizvođača Erer Foius (Nemačka), osetljivosti 0,04 lux / F=1,2 predajnika dometa do 1200m, 8-20VAC/DC, 20mA, digitalnog video rekordera -EDSR 1600, 3 komada monitora, instalacija (koaksijalni kablovi cca 300m i HYY-Jx3 x 1,5m^2 cca 550 m) RG 59 -B/uCu i Računara PC P4 (Intel Celeron 2,4 GHz)
47	Kontejner	Prenosni kontejner za smeštaj radnika obezbeđenja

SREDSTVA U PRIPREMI

Red. broj	NAZIV	OPIS
1	Prohodni elektro kanapi za Blok 1 i Blok 2	3 komada prohodna kanala dimenznja otvora 2,0x2,0 m dužine 72m za polaganje elektro kablova i cevovoda za oba bloka (505m^3 betona i 40 t armature)
2	Spoljna fekalna kanalizacija	Fekalna kanalizacija u krugu pogonskih objekata od azbestno-cementnih cevi ∅ 200mm dužine 782m.
3	Spoljna kišna kanalizacija	Kišna kanalizacija u krugu pogonskih objekata i oko upravne zgrade investitora je od azbestno-cementnih cevi različitog prečnika (∅ 150, ∅ 200, ∅ 250, ∅ 300, ∅ 400, ∅ 500, ∅ 800 i ∅ 900), dužine 2.655m.
4	Mašinska sala Blok 1 i Blok 2	Armirano-betonski temelji fundirani na "franki" šipovima ∅ 600mm kom. 494, podrumska kota -4,60m, stubovi i zidovi za nošenje armirano betonske ploče na koti ± 0,00 kao i ploča na koti ± 0,00 od reda "2" do reda "18"; -Temelji napojnih pumpi (3 kom. po bloku); -Temelji kondenz pumpi za oba bloka; - Kada za nošenje osnovne ploče temelja turbine za oba bloka, pobijeno 2 x 92kom "franki" šipa ∅ 600mm L=7,0m; Čelična konstrukcija ukupne težine 3.322.144 kg. Ukupna količina zavrtnjeva je 25.390 kg u kvalitetu 10.9 i 8.8. Materijal za izradu ove čelične konstrukcije je u kvalitetu St 52-3N; St 37-3N; St 52-3; St 37-3; i RSt 37-2.
5	Liftovski tornjevi Blok 1 i Blok 2	2 Armirano betonska tornja dimenzija 7,2 x 9,0 m visine 88m, za udradnju teretnog lifta nosivosti

		3000 kg i putničkog lifta nosivosti 530 kg, fundirani na betonskoj ploči 10,7 x 10,7 x 2.0m i bušenim šipovima D=1200mm L=16m kom. 16+18=34
6	Električna instalacija u liftovskom tornju Blok 1 i Blok 2	Tri razvodne table, sa kablovima PP41-Y-A 3x95 +50mm^2 L=120m i PP41-Y-A 3x70+35mm^2 L=260m, PPOO-Y-A 3 x 35+16mm^2 L=80m, PPO-Y-A 3x70+35mm^2 L=200m, PPO-Y-A 3x95+50mm^2 L=220m.
7	Instalacije gromobranske zaštite liftovskog tornja Blok 1 i Blok 2	Bakarno uže Cu 70mm^2 dužine 100 m i pocinkovana traka Fe/Zn 25x4mm^2, dužine 640 m.
8	Uzemljenje GPO Blok 1 i Blok 2	Uzemljenje povezano trakom Fe/Zn 25x4mm^2. Bakarno uže kao prstenasti uzemljivač oko objekta je dužine 120m, a pocinkovane trake 120m.
9	Dimnjak za Blok 1 i Blok 2	Temelj dimnjaka za oba bloka prstenastog preseka širine stope 13,7m i visine 5,0m; - Zapremina temelja 2.986m3 (259 t armature); -Temelj fundiran na bušenim šipovima ∅ 1200mm kom. 114 L=14,0m
10	Putevi u krugu termoelektrane	2252m puta sa asfaltnim zastorom od 6 cm, 1040m sa šljunčanim zastorom d=30cm i 100m sa tucaničkim zastorom d=20cm. Širina puteva je 6,0m.
11	Platoi za skladištenje opeme	Platoi za skladištenje čelične konstrukcije i opreme od šljunčanog zastora d~30cm sa tucaničkim putevima za kretanje dizalice ~ 23,0x. (67.000m^3 šljunka i 4.200m^3 tucanika);- Armirano betonski plato za skladištenje rezervnih delova P=574m^2.
12	Rashladni toranj za Blok 1 i Blok 2	Pripremni radovi
13	Rezervoar čistog turbo ulja Bloka 1	Tip: horizontalni, prema JUS M.33.022; zapremine 50m3; Ispitni pritisak 2 bar; materijal Č.0361, težina 9.250 kg; fabr. Broj 31 06 86 / 90
14	Rezervoar zaprljanog turbo ulja Bloka 1	Tip: horizontalni, prema JUS M.33.022; zapremine 50m3; Ispitni pritisak 2 bar; materijal 4.0361, težina 9.250 kg; fabr. Broj 310676/ 90.
15	Rezervoar čistog turbo ulja Bloka 2	Tip: horizontalni, prema JUS M.33.022; zapremine 50m3; Ispitni pritisak 2 bar; materijal Č.0361, težina 9.250kg; fabr. Broj 31 06 85/90
16	Rezervoar zaprljanog turbo ulja Bloka 2	Tip: horizontalni, prema JUS M.33.022; zapremine 50m3; Ispitni pritisak 2 bar; materijal Č.0361, težina 9.250 kg; fabr. Broj 310678/90.
17	Jedinstven sistem upravljanja za MRU za Blok 1 i Blok 2	Tip: MOD-300 sistem: isporučilac Combustion Enginering Jnc, Utilitu, USA; Jedinstven integrisan sistem upravljanja sa opremom; god. Isporuke 1990;
18	Trafoispravljači	12 kom. tup; FGEG 1200/92 SP. godina proizvodnje 1991, proizvođač FSG Drezden, snage 93,6 KVA, 50Hz, U-V 352 V, 380V, sek. 55KV, 120mA, tmax =40 oC.ulje 820 kg, težina 1890 kg
19	Glavna noseća konstrukcija kotla	

		Ukupno 3.148.257 kg od čega 31.482 kg VV zavrtnjeva M30 klase 10.9. Namontirano 1.309.219 kg. Materijal St. 52-3N (DIN)
20	Bandaži isparivača	Ukupna težina 723.543 kg. Sastoje se iz toplih i hladnih bandaža ugaonih veza za horizontalnu i vertikalnu dilataciju isparivača kotla. Mater. bandaža RSt. 37-2, St 52-3, St 37-3)
21	Bunkerski tablasti zatvarač 1	Dimenzije 2200x1000x420, težine 630 kg, materijal R:St 37-2
22	Bunkerski tablasti zatvarač 2	Dimenzije 2200x1000x420, težine 630 kg, materijal R:St 37-2
23	Bunkerski tablasti zatvarač 3	Dimenzije 2200x1000x420, težine 630 kg, materijal R:St 37-2
24	Bunkerski tabdasti zatvarač 4	Dimenzije 2200x1000x420, težine 630 kg, materijal R:St 37-2
25	Bunkerski tablasti zatvarač 5	Dimenzije 2200x1000x420, težine 630 kg, materijal R:St 37-2
26	Bunkerski tablasti zatvarač 6	Dimenzije 2200x1000x420, težine 630 kg, materijal R:St 37-2
27	Bunkerski tablasti zatvarač 7	Dimenzije 2200x1000x420, težine 630 kg, materijal R:St 37-2
28	Bunkerski tablasti zatvarač 8	Dimenzije 2200x1000x420, težine 630 kg, materijal R:St 37-2
29	Mlin za ugalj broj 1	Delovi mlina: N 270-45, ventilatorski mlin, proizvođač -Minelkotlogradnja, fabrički broj 312, kapacitet 23,1 kg/s (za Hd =6700 KJ/kg), snaga pogonskog el. motora 1.300 MW. specif. potrošnja energije za mlevenje 12 KWx/t; kućište mlina-donji deo (6.200x3.500x2.800; 20.883 kg, mat.R.St 37-2; St.37-2); kućište mlina-gornji deo (6.000x2.500x1.800, 17.355 kg, mat. R.St. 37-2, St. 37-2); usisni šaht (2.400x3.100x3.000, 10.100 kg, mat.R.St. 37-2, St. 37-2); levak za mlin (5.400x3.100x3.000, 10.600 kg. mat. R.St. 37-2, St.37-2); podni šaht (8 setova, 6.930 kg. mat.R.St.37-2. St. 37-2); prečistač zadnji deo (3.900x3.300x3.450, 12.100 kg, mat. R.St. 37-2, St. 37-2): prečistač prednji deo (2.100x3.300x3.300, 7.700 kg, mat. R.St. 37-2, St. 37-2): upuštena kragna (4.000x3.850x795, 6.465 kg, mat. R.St. 37-2, St. 37-2); kolica (3.850x2.500x1.950, 3.688 kg., mat. R.St. 37-2, St. 37-2); zaštitnik udarnog kola (2.350x2.350x1.150, 1.217 kg., mat. R.St. 37-2, St, 37-2); priključak za zaptivni vazduh (1.250x870x450, 111 kg, mat. R.St. 37-2); poklopac na strani duplog ležaja (2.000 kg. mat. R.St. 37-2); gornji deo vrata (4.700x3.800x2.650, 6.337 kg, mat. R.St. 37-2, St.37-2); donji deo vrata (3.000x2.900x2.750. 3.208,5 kg, mat.R.St. 37-2, St. 37-2).
30	Mlin za ugalj broj 2	Delovi mlina: N 270-45, ventilatorski mlin, proizvođač - Minelkotlogradnja, fabrički broj 312, kapacitet 23,1 kg/s (za Hd =6700 KJ/kg), snaga pogonskog el. motora 1.300 MW, specif. potrošnja energije za mlevenje 12 KWx/t; kućište mlina-donji deo (6.200x3.500x2.800; 20.883 kg, mat. R.St 37-2; St.37-2); kućište mlina-gornji deo (6.000x

		2.500x1.800, 17.355 kg, mat, R.St. 37-2. St. 37-2): usisni šaht (2.400x3.100x3.000, 10.100 kg, mat.R.St. 37-2. St. 37-2); levak za mlin (5.400x3.100x3.000, 10.600 kg, mat. R.St. 37-2. St.37-2); podni šaht (8 setova, 6.930 kg, mat. R.St.37-2, St. 37-2); prečistač zadnji deo (3.900x3.300x 3.450, 12.100 kg. mat. R.St. 37-2, St. 37-2); prečistač prednji deo (2.100x3.300x3.300, 7.700 kg. mat. R.St. 37-2, St. 37-2); upuštena kragna (4.000x3.850x795, 6.465 kg, mat. R.St. 37-2, St. 37-2); kolica (3.850x2.500x1.950, 3.688 kg., mat. R.St. 37-2, St. 37-2); zaštitnik udarnog kola (2.350x2.350x1.150, 1.217 kg., mat. R.St. 37-2, St. 37-2); priključak za zaptivni vazduh (1.250x870x450, 111 kg, mat. R.St. 37-2); poklopac na strani duplog ležaja (2,000 kg, mat. R.St. 37-2); gornji deo vrata (4,700x3.800x2.650, 6.337 kg. mat. R.St. 37-2. St.37-2); donji deo vrata (3.000x2.900x2.750, 3.208,5 kg, mat. R.St. 37-2, St. 37-2).
31	Mlin za ugalj, broj 3	Delovi mlina: N270-45, ventilatorski mlin, proiz. Minelkotlogradnja, fabrički broj 312, kapacitet 23,1 kg/s (za Hd =6700 KJ/kg), snaga pogonskog el. motora 1.300 MW, specif. potrošnja energije za mlevenje 12 KWx/t; kućište mlina-donji deo (6.200x3.500x2.800; 20.883 kg, mat. R.St 37-2; St.37-2); kućište mlina-gornji deo (6.000x2.500x1.800, 17.355 kg, mat. R.St. 37-2, St. 37-2); usisni šaht (2.400x3.100x3.000, 10.100 kg, mat. R.St. 37-2, St. 37-2); levak za mlin (5.400x3.100x3.000, 10.600 kg. mat. R.St. 37-2, St.37-2); podni šaht (8 setova, 6.930 kg, mat. R.St.37-2. St. 37-2); prečistač zadnji deo (3.900x3.300x3.450, 12.100 kg. mat. R.St. 37-2, St. 37-2); prečistač prednji deo (2.100x3.300x3.300, 7.700 kg, mat. R.St. 37-2, St. 37-2); upuštena kragna (4.000x3.850x795, 6.465 kg, mat. R.St. 37-2, St. 37-2); kolica (3.850x2.500x1.950, 3.688 kg., mat. R.St. 37-2, St. 37-2); zaštitnik udarnog kola (2.350x2.350x1.150, 1.217 kg., mat. R.St. 37-2, St. 37-2); priključak za zaptivni vazduh (1,250x870x450, 111 kg, mat.R.St. 37-2): poklopac na strani duplog ležaja (2.000 kg, mat. R.St. 37-2); gornji deo vrata (4.700x3.800x2.650, 6.337 kg, mat. R.St. 37-2, St.37-2); donji deo vrata (3.000x2.900x2.750, 3.208,5 kg. mat. R.St. 37-2. St. 37-2).
32	Mlin za ugalj broj 4	Delovi mlina:N 270-45,ventilatorski mlin, proizvođač -Minelkotlogradnja, fabrički broj 312, kapacitet 23,1 kg/s (za Hd =6700 KJ/kg), snaga pogonskog el. motora 1.300 MW, specif. potrošnja energije za mlevenje 12 KWx/t; kućište mlina-donji deo (6.200x3.500x2.800; 20.883 kg, mat. R.St 37-2; St.37-2); kućište mlina-gornji deo (6.000x2.500x1.800. 17.355 kg. mat. R.St. 37-2, St. 37-2); usisni šaht (2.400x3.100x3.000, 10.100 kg. mat. R.St. 37-2, St. 37-2); levak za mlin (5.400x3.100x3.000, 10.600 kg. mat. R.St. 37-2.

		St.37-2); podni šaht (8 setova, 6.930 kg, mat.R.St.37-2, St. 37-2); prečistač zadnji deo (3.900x3.300x3.450, 12.100 kg. mat. R.St. 37-2, St. 37-2); prečistač prednji deo (2.100x3.300x3.300, 7.700 kg, mat. R.St. 37-2, St. 37-2): upuštena kragna (4.000x3.850x795, 6.465 kg, mat. R.St. 37-2, St. 37-2); kolica (3.850x2.500x1.950, 3.688 kg., mat. R.St. 37-2, St. 37-2); zaštitnik udarnog kola (2.350x2,350x1.150, 1.217 kg., mat. R.St, 37-2, St. 37-2); priključak za zaptivni vazduh (1.250x870x450. 111 kg. mat. R.St. 37-2); poklopac na strani duplog ležaja (2.000 kg, mat.R.St. 37-2); gornji deo vrata (4.700x3.800x2.650, 6.337 kg, mat. R.St. 37-2. St.37-2); donji deo vrata (3.000x2.900x2.750. 3.208.5 kg, mat.R.St. 37-2, St. 37-2).
33	Mlin za ugalj broj 5	Delovi mlina: N 270-45, ventilatorski mlin, proiz. Minelkotlogradnja, fabrički broj 312, kapacitet 23,1 kg/s (za Hd =6700 KJ/kg), snaga pogonskog el. motora 1.300 MW, specif. potrošnja energije za mlevenje 12 KWx/t; kučište mlina-donji deo (6.200x3.500x2.800; 20.883 kg. mat. R.St 37-2; St.37-2); kućište mlina-gornji deo (6.000x2.500x1.800, 17.355 kg, mat. R.St. 37-2, st. 37-2); usisni šaht (2.400x3.100x3.000, 10.100 kg, mat. R.St. 37-2, St. 37-2); levak za mlin (5.400x3.100x3.000, 10.600 kg. mat. R.St. 37-2, St.37-2); podni šaht (8 setova, 6.930 kg, mat. R.St.37-2, St. 37-2); prečistač zadnji deo (3.900x3.300x3.450, 12.100 kg. mat. R.St. 37-2, St. 37-2); prečistač prednji deo (2.100x3.300x3.300, 7.700 kg, mat. R.St. 37-2, St. 37-2); upuštena kragna (4.000x3.850x795, 6.465 kg, mat. R.St. 37-2, St. 37-2); kolica (3.850x2.500x1.950. 3.688 kg., mat. R.St. 37-2, St. 37-2); zaštitnik udarnog kola (2.350x2.350x 1.150, 1.217 kg., mat. R.St. 37-2, St. 37-2); priključak za zaptivni vazduh (1,250x870x450, 111 kg, mat.R.St, 37-2): poklopac na strani duplog ležaja (2.000 kg, mat.R.St. 37-2); gornji deo vrata (4.700x3.800x2.650, 6.337 kg, mat. R.St. 37-2, St.37-2); donji deo vrata (3.000x2.900x2.750, 3.208.5 kg, mat.R.St. 37-2, St. 37-2).
34	Mlin za ugalj broj 6	Delovi mlina: N 270-45, ventilatorski mlin, proizvođač -Minelkotlogradnja, fabrički broj 312, kagtacitet 23,1 kg/s (za Hd =6700 KJ/kg), snaga pogonskog el. motora 1.300 MW, specif. potrošnja energije za mlevenje 12 KWx/t; kućište mlina-donji deo (6.200x3.500x2.800; 20.883 kt, mat. R.St 37-2; St.37-2); kućište mlina-gornji deo (6.000x2.500x1.800, 17.355 kg, mat. R.St. 37-2, St. 37-2); usisni šaht (2.400x3.100x3.000, 10.100 kg, mat. R.St. 37-2, St. 37-2); levak za mlin (5.400x3.100x3.000. 10.600 kg. mat. R.St. 37-2, St.37-2); podni šaht (8 setova, 6.930 kg, mat.R.St.37-2, St. 37-2); prečistač zadnji deo (3.900x3.300x3.450, 12.100 kg. mat. R.St. 37-2, St. 37-2); prečistač prednji deo (2.100x3.300x3.300, 7.700 kg, mat. R.St. 37-2,

		St. 37-2): upuštena kragna (4.000x3.850x795, 6.465 kg, mat. R,St. 37-2, St, 37-2); kolica (3.850x2.500x1.950. 3.688 kg., mat. R.St. 37-2, St. 37-2); zaštitnik udarnog kola (2.350x2.350x1.150, 1.217 kg., mat. R.St. 37-2, St. 37-2); priključak za zaptivni vazduh (1.250x870x450, 111 kg, mat. R.St. 37-2); poklopac na strani duplog ležaja (2.000 kg, mat. R.St. 37-2); gornji deo vrata (4.700x3.800x2.650, 6.337 kg, mat. R.St. 37-2, St.37-2); donji deo vrata (3.000x2.900x 2.750, 3.208,5 kg, mat. R.St. 37-2. St. 37-2).
35	Mlin za ugalj broj 7	Delovi mlina: N 270-45, ventilatorski mlin, proizvođač Minelkotlogradnja, fabrički broj 312, kapacitet 23,1 kg/s (za Hd =6700 KJ/kg), snaga pogonskog el. motora 1.300 MW. specif. potrošnja energije za mlevenje 12 KWx/t; kućište mlina-donji deo (6.200x3.500x2.800; 20.883 kg, mat. R.St 37-2; St.37-2); kućište mlina-gornji deo (6.000x2.500x1.800, 17.355 kg, mat. R.St. 37-2, St, 37-2); usisni šaht (2.400x3.100x3.000, 10.100 kg, mat. R.St. 37-2, St. 37-2); levak za mlin (5.400x3.100x3.000, 10.600 kg. mat. R.St. 37-2. St.37-2); podni šaht (8 setova, 6.930 kg, mat. R.St.37-2, St. 37-2); prečistač zadnji deo (3.900x3.300x3.450, 12.100 kg. mat. R.St. 37-2, St. 37-2): prečistač prednji deo (2.100x3.300x3.300, 7.700 kg, mat. R.St. 37-2, St. 37-2): upuštena kragna (4.000x3.850x795, 6.465 kg, mat. R.St. 37-2, St. 37-2); kolica (3.850x2.500x1.950. 3.688 kg., mat. R.St. 37-2, St. 37-2); zaštitnik udarnog kola (2.350x2.350x1.150, 1.217 kg., mat. R.St. 37-2, St, 37-2); priključak za zaptivni vazduh (1.250x870x450, 111 kg, mat. R.St, 37-2); poklopac na strani duplog ležaja (2.000 kg, mat. R.St. 37-2); gornji deo vrata (4.700x3.800x2.650, 6.337 kg, mat. R.St. 37-2, St.37-2); donji deo vrata (3.000x2.900x2.750, 3.208,5 kg, mat. R.St. 37-2, St. 37-2).
36	Mlin za ugalj broj 8	Delovi mlina: N 270-45. ventilatorski mlin. proiz. Minelkotlogradnja, fab. broj 312, kapacitet 23,1 kg/s (za Hd=6700KJ/kg), snaga pogonskog el.motora 1,300 MW, specif. potrošnja energije za mlevenje 12 KWx/t: kućište mlina-donji deo (6.200x3.500x2,800; 20.883 kg, mat. R.St 37-2; St.37-2); kućište mlina-gornji deo (6.000x2.500x1.800, 17.355 kg, mat. R.St. 37-2, St. 37-2); usisni šaht (2.400x3.100x3.000, 10.100 kg, mat. R.St. 37-2, St. 37-2); levak za mlin (5.400x3.100x3.000, 10.600 kg. mat. R.St. 37-2. St.37-2); podni šaht (8 setova, 6.930 kg, mat. R.St.37-2, St. 37-2); prečistač zadnji deo (3.900x3.300x3.450, 12.100 kg, mat. R.St. 372. St.37-2); prečistač prednji deo (2.100x3.300x3.300, 7.700kg, mat. R.St. 37-2, St. 37-2): upuštena kragna (4.000x3.850x795, 6.465 kg, mat. R.St. 37-2, St. 37-2); kolica (3.850x2.500x1.950. 3.688 kg., mat. R.St. 37-2,

		St. 37-2); zaštitnik udarnog kola (2.350x2.350x1.150, 1.217 kg., mat. R.St. 37-2, St. 37-2); priključak za zaptivni vazduh (1.250x870x450, 111 kg, mat.R.St. 37-2); poklopac na strani duplog ležaja (2.000 kg,mat.R.St.37-2); gornji deo vrata (4.700x3.800x2.650, 6.337 kg, mat. R.St. 37-2, St. 37-2); donji deo vrata (3.000x2.900x2.750, 3.208,5 kg, mat. R.St.37-2,St.37-2).
37	Kanal ugljene prašine br. 1	Delovi kanala: stope, štucne za kanale, račve, međudelovi, paniiri, ramovi, oslonci i vezivni materijal u težini od 55.639 kg, (materijal St. 37-2). Proizvođač Minelkotlogradnja.
38	Kanal ugljene prašine br.2	Delovi kanala: stope, štucne za kanape, račve, međudelovi, panciri, ramovi, oslonci i vezivni materijal u težini od 55.639 kg, (materijal St, 37-2). Proizvođač Minelkotlogradnja.
39	Kanal ugljene prašine br.3	Delovi kanala: stope, štucne za kanale, račve, međudelovi, panciri, ramoai, oslonci i vezivni materijal u težini od 55.639 kg, (materijal St. 37-2). Proizvođač Minelkotlogradnja.
40	Kanal ugljene prašine br.4	Delovi kanala: stope, štucne za kanale, račve, međudelovi, panciri, ramovi, oslonci i vezivni materijal u težini od 55.639 kg, (materijal St. 37-2). Proizvođač Minelkotlogradnja.
41	Kanal ugljene prašine br.5	Delovi kanala: stope. štucne za kanale, račve, međudelovi, panciri, ramovi, oslonci i vezivni materijal u težini od 55.639 kg, (materijal St. 37-2). Proizvođač Minelkotlogradnja.
42	Kanal ugljene prašine br.6	Delovi kanala: stope, štucne za kanale, račve, međudelovi, panciri, ramovi, oslonci i vezivni materijal u težini od 55.639 kg, (materijal St. 37-2). Proizvođač Minelkotlogradnja.
43	Kanal ugljene prašine br.7	Delovi kanala: stope, štucne za kanale, račve, međudelovi, panciri, ramovi, oslonci i vezivni materijal u težini od 55.639 kg, (materijal St. 37-2). Proizvođač Minelkotlogradnja,
44	Kanal ugljene prašine br.8	Delovi kanala: stope, štucne za kanale, račve, međudelovi, panciri, ramovi, oslonci i vezivni materijal u težini od 55.639 kg, (materijal St. 37-2). Proizvođač Minelkotlogradnja.
45	Kanal tople recirkulacije br. 1	Tip kanala: kružni, snabdeveni sa unutrašnje strane prstenovima za nošenje ozida: isporučilac: Minelkotlogradnja, izrađeni su od čeličnog lima (R.St. 37-2) debljine 6 mm; ukupno 40.757 kg.
46	Kanal tople recirkulacije br.2	Tip kanala: kružni, snabdeveni sa unutrašnje strane prstenovima za nošenje ozida; isporučilac: Minelkotlogradnja, izrađeni su od čeličnog lima (R.St. 37-2) debljine 6 mm; ukupno 40.757 kg.
47	Kanal tople recirkulacije br.3	Tip kanala: kružni, snabdeveni sa unutrašnje strane prstenovima za nošenje ozida: isporučilac: Minelkotlogradnja, izrađeni su od čeličnog lima (R.St. 37-2) debljine 6 mm; ukupno 40.757 kg.
48	Kanal tople recirkulacnje br.4	Tip kanala: kružni, snabdeveni sa unutrašnje strane prstenovima za nošenje ozida; isporučilac: Minelkotlogradnja, izrađeni su od čeličnog lima (R.St. 37-2) debljine 6 mm; ukupno 40.757 kg.

49	Kanal tople recirkulacije br.5	Tip kanala: kružni, snabdeveni sa unutrašnje strane prstenovima za nošenje ozida: isporučilac: Minelkotlogradnja, izrađenisu od čeličnog lima (R.St, 37-2) debljine 6 mm; ukupno 40.757 kg.
50	Kanal tople recirkulacije br.6	Tip kanala: kružni, snabdeveni sa unutrašnje strane prstenovima za nošenje ozida; isporučilac: Minelkotlogradnja, izrađeni su od čeličnog lima (R.St, 37-2) debljine 6 mm; ukupno 40.757 kg.
51	Kanal tople recirkulacije br.7	Tip kanala: kružni, snabdeveni sa unutrašnje strane prstenovima za nošenje ozida; isporučilac: Minelkotlogradnja, izrađeni su od čeličnog lima (R.St. 37-2) debljine 6 mm; ukupno 40.757 kg.
52	Kanal tople recirkulacije br.8	Tip kanala: kružni, snabdevenn saunutrašnje strane prstenovima za nošenje ozida; isporučilac: Minelkotlogradnja, izrađeni su od čeličnog lima (R.St, 37-2) debljine 6 mm; ukupno 40.757 kg.
53	Gorionik gasa i mazuta br. 1	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert indus. inc. Kanada: kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10,5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se sastoji iz: gasnih upaljača firme Limelite, ormana za el. komandu sa potrebnim el. priborom (fab. montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priklj. kanalima za vazduh. Ukupna težina ovog seta gorionnka je 376 kg.
54	Gorionik gasa i mazuta br. 2	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10,5 bar. temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za el. Kom. sa potrebnim el. priborom (fab. montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Težina seta gorionika je 376kg.
55	Gorionik gasa i mazuta br.3	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10,5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0.13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim elektrnčnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
56	Gorionik gasa i mazuta br.4	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert indus. inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10,5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se sastoji iz: gasnih upaljača

		firme Limelite, ormana za el.komandu sa potrebnim el. priborom (fabrnčki montirani), sa potrebnim spojnim vodovnma i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Težina ovogseta gorionikaje 376kg.
57	Gorionik gasa i mazuta br.5	Tip; R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert indus. inc. Kanada; kapacitet 0,87kg/s; pritisak mazuta ispred gorionika 10,5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Ukupna težina ovog seta gornonika je 376 kg.
58	Gorionik gasa i mazuta br.6	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10.5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnnm kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
59	Gorionik gasa i mazuta br.7	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s: pritisak mazuta ispred gorionika 10,5 bar, temp. Mazuta 125 oC. Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
60	Gorionik gasa i mazuta br.8	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapaiitet 0,87 kg/s; pritnsak mazuta ispred gorionika 10.5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za el. komandu sa potrebnim el. priborom (fab. montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vaz. Priguš. i prik. kanalima za vaz. Ukupna tež. seta gorionika je 376 kg.
61	Ekonomajzer - gornji deo	Sastoji se iz ulazne komore težine 15.604 kg. (mat. A-106 C/ASTM, ∅406,4x52mm), konvektivnih cevi

		težine 505,852 kg,(mat. A-178 C/ASTM, ∅ 57,2x6.5mm).
62	Ekonomajzer - donji deo	Sastoji se iz izlazne komore težine 13.429 kg.(mat. A-106 C/ASTM, ∅406,4x52mm), konvektivnih cevi težine 593.389 kg.(mat. A-178 C, ∅ 57,2x6,5mm).
63	Ekonomajzer - povezni cevovod	Sastoji se od cevovoda (mat. A-106 C, ∅406,4x52mm), i pripadajućih ovešenja i oslonaca ukupne težine 9.508kg.
64	Gornji bubanj-separator pare	Sastoji se od 2 kom. ovesa bubnja ukupne težine 21.863 kg, samog bubnja 1 komad težine 166.018 kg (mat. A-299/ASTM; ∅2134x178mm), i unutrašnjih delova bubnja 1 set težine 6.639 kg.
65	Donji bubanj isparivača	Sastoji se od 2 kom. donjih bubnjeva mat, A-299/ASTM (∅1067x105mm), svaki težak po 51.279 kg i unutrašnjih delova bubnja težine 408 kg / set kao i poveznog cevovoda ukupne težine 11.832 kg. (mat. A-299/ASTM).
66	Ovesi i oslonci isparivača	Sastoji se od ankera i opruga za nošenje panela isparivača i poveznog cevovoda isparivač-bubanj ukupne težine 17.237kg.
67	Povezni cevovod između gornjeg i donjeg bubnja kotla 1	Sastoji se od 4 cevovoda ukupne težine 72.454kg (mat. SA-106C/ASTM, ∅324x33mm).
68	Povezni cevovod isparivač -gornji bubanj kotla 1	Ukupna težina ovog cevovoda ("riser tubes") je 53.228 kg (mat. SA-106C/ASTM, ∅152.4x13,7mm)
69	Paneli isparivača iznad +43m kotla 1	Ukupna težina 316.617 kg (mat. SA-210 A1 /ASTM, ∅38,1 x4,2mm), membranski zid sa korakom cevi 50,8mm.
70	Paneln isparivača ispod + 43m do + 16,8m kotla 1	Ukupne težine 202.992 kg (mat. SA-210 A1, ∅38,1x4,2mm, unutrašnjo ožljebljene cevi) membranski zid sa korakom cevi 50,8mm.
71	Paneli isparivača-levak kotla 1	Ukupna težina 62,289 kg (mat, SA-210 A1, ∅38.1x4,2mm). Membranski zid sa korakom cevi 50.8mm.
72	Ovesi pregrejača pare kotla 1	Sastoje se od ovesa, ankera, opruga, oslonca ukupne težine 70.330kg.
73	Pregrejač pare sa komorama PP1	Sastoji se iz: Ulazne komore težine 9.091kg (mat, A-106C /ASTM, ∅323,9x39mm). Izlazne komore težine 10.433 kg (mat. A-335 P11/ASTM, ∅323,9x44mm), konvektivnog dela pregrejača težine 606.914 kg(mat. A-210A1. ∅50,8x5,1; A-210 A1. ∅54x6.1; A-213 T11, ∅54x5,4 i ∅54x5,7) ovesnih cevi težine 33.744 kg (mat. A-335 P11, ∅323,9x44) i poveznog cevovoda sa ovesima težine 58.944kg.
74	Pregrejač pare -pločasti sa komorama PP2	Sastoji se iz: Ulazne komore ovesnih cevi težine 9.435kg (mat. A-335 P11, ∅323,9x46mm); Izlazne komore težine 16.194 kg (mat. A-335 P11 ∅323,9x46mm); konvektivnog dela pregrejača (mat. A-213 P11, ∅50,8 x 6,1; ∅50,8x7,2; mat.

		A-213 T22, ∅50,8x10) i pločastog pregrejača (mat. A-213 P11, ∅50,8 x 6.1, i ∅50,8 x9,1) ukupne težine 71,848 kg.
75	Pregrejač pare sa komorama PP3	Sastoji se iz: Ulazne komore težine 12.429kg (mat. A-335 P11, ∅323,9x44mm: Izlazne komore težine 33.112 kg (mat. A-387- 22CLI, ∅508x98,4mm), i konvektivnog dela pregrejača težine 259.911 kg (mat. A-213 P11, ∅50,8 x 5,4; A-213-TP347H, ∅50,8x5,1 i ∅50,8x5,6)
76	Ubrizgavanje iza PP1	Sastoji se iz cevovoda (mat. A-335 P11. ∅ 323,9x44) sa mlaznicama za ubrizgavanje vode i unutrašnjom zaštitom cevovoda, odgovarajućom armaturom (pregradni i regulacioni ventili), Bu -pass ventila i pratećim cevovodom. Ukupna težina 3.048 kg.
77	Ubrizgavanje iza PP2	Sastoji se iz cevovoda (mat. A-335 P11, ∅ 323,9x44) sa mlaznicama za ubrizgavanje vode i unutrašnjom zaštitom cevovoda, odgovarajućom armaturom (pregradni i regulacioni ventnli) bu -pass ventil i pratećeg cevovoda. Ukupna težina 28.937 kg.
78	Međupregrejač pare sa komorama MP1	Sastoji se iz: Ulazne komore težine 20.344 kg (mat. A-106 B, ∅406,4x30,6); Izlazne komore težine 16.556 kg (mat. A-335 P11; ∅406,4x32); konvektivnog dela međupregrejača težine 495.141 kg (mat. A-210 A1, ∅54x3,8 i ∅54x4.2; A-213 T11, ∅54x3,8 i ∅54x4,2)
79	Međupregrejač pare sa komorama MP2	Sastoji se iz: Ulazne komore težine 11.930 kg (mat. A-335 P11; ∅323, 9x44); Izlazne komore težine 23.000 kg (mat. A-387-22 CLI. ∅508x98,4) konvektivnog dela međupregrejača težine 79.551 kg (mat. A-213 T11, 057.2 x 3,8; A-213 T22, ∅57.2x4,2; A-213-TP 304 X, ∅57,2 x 4,2)
80	Ubrizgavanje iza MP1	Sastoji se iz cevovoda ukupne težine 14.813 kg (mat. A-335 P11, 0∅ 406.4 x 32) sa mlaznicama za ubrizgavanje vode i unutrašnjom zaštitom cevovoda, odgovarajućom armaturom (pregradni i regulacioni ventili) bu-pass ventile i pratećeg cevovoda.
81	Parovod sveže pare Bloka 1	Ukupna težina cevovoda sa ovesima je 149.994 kg, od čega je težina ovesa 20.860kg. Dimenzije cevovoda su ∅396,7x62; ∅ 355,6x56,7; ∅295,4x46,7 a materijal prema ASTM je A-335-P22.
82	Parovod međupregrejane pare Bloka 1	Ukupna težina cevovoda sa ovesima je 110.254 kg od toga je težina ovesa 17.700 kg. Dimenzije cevovoda su ∅ 558,8x29,8 mm a materijal prema AC TM je A-335-P22.
83	Parovod hladne pare Bloka 1	Ukupna težina cevovoda sa ovesima je 71.758 kg, od toga je težina ovesa 12.460. Dimenzije cevovoda su ∅558,8x30,9,0558,8x29,8mm a materijal prema ASTM je A-106Gr.B.

84	Povezni cevovod kotla Bloka 1	Ukupna težina cevovoda je 43.606 kg. Materijal prema ASTM je A-106/C;A-335 P11.
85	Fina armatura kotla 1	Sastoji se iz armataure za odmuljivanje kotla, odzračivanje i drenažu kotla i ostalo u ukupnoj težini od 11.832 kg.
86	Cirkulacione pumpe sa elektro motorima	Sastoje se iz 3 seta pumpi, tip 16 BEXW, ser.br. 60187-K 60188-K, 60189-K; proizvođač Ingersoll Rand, Kanada; napor pumpe 7,44 bar; ulazna temp. 360 0C; ulazni pritisak 194 bar; snaga el. motora 205 KW; brzina 1450 min-1, motor sa potopljenim statorom; nominalni protok 982.3 m3/h: Stepen efikasnosti 84%. Ukupna težina 3 pumpe 28.298 kg.
87	Cevovod recirkulacije EKO-a Bloka 1	Težina cevovoda 6.101 kg. Dimenzije cevovoda ∅141x7,1 mm a materijal A-106 C.
88	Prateći cevovod kotla 1	Ukupna težina 2.719 kg. Materijal A-106 C a dimenzije ∅56,2 x 4,2 mm.
89	Ubrizgavanje hemikalija	Ukupna težina 2.890 kg. Sastoji se iz sistema za doziranje amonijaka, sistema za doziranje hidrazina i sistema za doziranje fosfata. Svaki sistem se sastoji od odgovarajućeg rezervoara od nerđajućeg čelika sa mešalicom, ventilom sigurnosti, pokazivačima nivoa, odgovarajućim cevovodima i armaturom, filterima, dozir pumpama, meračem hemikalija.
90	Kanali toplog vazduha	Ukupno 237.770 kg ovih kanala, od čega komora sekundarnog vazduha 16 kom. težine 99.892 kg a ostalo su kanali sekundarnog vazduha (kanali, kolena, štucne, klapne, međukomadi). Materijal kanala je R ST 37-2, a debljina čeličnog lima 6 mm.
91	Kompenzatori kanala toplog vazduha	Ukupna težina: 13.246 kg; tip kompenzatora: mehovni, omega; materijal kompenzatora; inoh materijal. R St 37-2.
92	Kompenzatori kanala dimnog gasa	Ukupna težina: 27.139 kg: tip kompenzatora: mehovni, omega; materijal: inoh materijal, R St. 37-2.
93	Zagrejač vazduha br.1	Ukupna težina: 388.531 kg; tip Ljungstrom regenerativni zagrejač vazduha; proizvođač Brown Boveri Howden, Kanada; Model: 30-1/2-VI-66/74; grejna površina 29.600 m^2; mat. hladnog saća; "CorTen" (materijal A588/ASTM; C=0,09; Cr=0,63; Ni=0,3; Cu=0,56); el. motorni pogon: 18,63 KW (1500 min -1. 400 V, 3 faze); pomoćni pogoni: vazdušni motor, duvanje čađi: 1 duvač čađi sa jednom mlaznicom i el.pogonom, 2 stacionarna uređaja za ispiranje vodom sa više mlaznica.
94	Zagrejač vazduha br.2	Ukupna težina: 388.531 kg; tip Ljungstrom regenerativni zagrejač vazduha; proizvođač Brown Boveri Howden, Kanada; Model: 30-1/2-VI-66/74; grejna površina 29.600 m^2; mat. hladnog saća; "CorTen" (materijal A588/ASTM; C=0,09: Cr=0,63; Ni=0,3; Cu=0,56); el.motorni pogon: 18,63 KW (1500 min -1, 400 V, 3 faze); pomoćni pogoni: vazdušni motor, duvanje čađi: 1 duvač čađi sa

		jednom mlaznicom i el. pogonom, 2 stacionarna uređaja za ispiranje vodom sa više mlaznica.
95	Parni duvači gara kotao 1	Tip: IK-525: Proizvođač: DIAMOND Canapower; god. proizvodnje 1988; broj duvača: 38 kom. dugih uvlačivih duvača i 6 kom. polu-uvlačivih duvača, sa kompletnim regulacionim sistemom, vreme duvanja: 10,6min: pritisak duvanja pare 16 bar; protok pare:2,28 kg/s. Ukupna težina 44 seta je 59.835kg.
96	Vodeni duvači gara kotao 1	Tip: IK-1M-WL; Proizvođač: DIAMOND Canapower; god. proizvodnje 1988; broj duvača 32 kom., sa kompletnim regulacionim sistemom i pumpom. Vreme duvanja: 8min; pritisak duvanja 10bar; protok vode: 1.13 kg/s. Ukupna težina 32 seta je 7.840kg.
97	Bajpas stanica VP Bloka 1	Ukupna težina ove stanice je 16.997 kg; Proizvođač: sulzer, Kanada 1 set; kapacitet ventila: 175 kg/s; parametri pare ispred: 180 bar/540 0C; parametri pare iza ventila: 42 bar/330 0C; Količina vode za ubrizgavanje: 27,2 kg/s; parametri vode za ubrizgavanje; 195 bar/160 0C. Bu-pass sistem VP se sastoji iz: *Bu-pass ventil VP, tip ARS 160 sa hidrauličnim servo motorom ASM 320-11 KSK. regulisanog modula AV5 i A/M stanice aparata za brzo otvaranje SBE 116-1; *glavnog regulatora pritiska *armature za ubrizgavanje E45S sa hidrauličnim servo motorom ASM 100-10 KSK, regulacionog AV5 i temp. predajnika sa A/M stanicom. * regulacionog kola pritiska vode za ubrizgavanje sa ventilom E45S i hidrauličnim cervo motorom ASM 100-10 KSK, regulacionog modula i A/M stanicom. * centralno locirane opreme sa jedinicom za snabdevanje uljem i regulacionom ormanom.
98	Obilazni cevovod oko Bu-pass VP Bloka 1	Ukupna težina ovog cevovoda je 2.120 kg. Dimenzije cevovoda su: ∅ 168,3x21,95 mm; ∅ 114x17,1 mm; ∅ 114x11,15 mm: ∅ 114x17,1 mm; Materijal cevovoda je A-106 C i A-106 B prema ACTM.
99	Elektro napojna pumpa ENP-1	Napojna pumpa sa sastoji se iz seta: pred pumpe (booster), glavne napojne pumpe i hidraulične spojnice VOIGHT i prateće opreme. * Booster pumpa: proizvođač Ingersoll Rand; tip. 8x10x23 A, jednostepena sa vertikalno podeljenim kućištem, napor pumpe 9,9 bar: p-ulaz=5 bar; p-izlaz=14,9bar; kapacitet pumpe 678,8 kg/h; * Glavna pumpa Proizvođač Ingersoll Rand; tip: 65 CHTA-4, četvorostepena sa vertikalno podeljenim cilindiričnim kućištem, unutrašnjom oplatom, napor pumpe 246 bar; p-izlaz=211,6 bar; kapacitet pumpe 678,8 kg/h. Hidrulična sponica Proizvođač:VOITH; tip R15K-550; Ukupna težina I seta je 21.990 kg.
100	Elektro napojna pumpa ENP-2	

		Napojna pumpa sa sastoji se iz seta: pred pumpe (booster), glavne napojne pumpe i hidraulične spojnice VOIGHT i prateće opreme. * Booster pumpa: proizvođač Ingersoll Rand; tip.8x10x23 A, jednostepena sa vertikalno podeljenim kućištem, napor pumpe 9,9 bar; p-ulaz=5 bar; p-izlaz=14,9 bar; kapacitet pumpe 678,8 kg/h; * Glavna pumpa Proizvođač Ingersoll Rand; tip 65CHTA-4, četvorostepena sa vertikalno podeljenim cilindričnim kućištem, unutrašnjom oplatom, napor pumpe 246 bar; p-izlaz=211.6 bar; kapacitet pumpe 678,8 kg/h. Hidraulična spojnica Proizvođač: VOITH; tip:R15K-550; Ukupna težina seta je 21.990 kg.
101	Elektro napojna pumpa ENP-3	Napojna pumpa sa sastoji se iz seta: pred pumpe (booster), glavne napojne pumpe i hidraulične spojnice VOIGHT i prateće opreme. * Booster pumpa: proizvođač Ingersoll Rand; tip.8x10x23 A, jednostepena sa vertikalno podeljenim kućištem, napor pumpe 9,9 bar; p-ulaz=5 bar; p-izlaz=14,9 bar: kapacitet pumpe 678,8 kg/h: * Glavna pumpa Proizvođač Ingersoll Rand; tip 65CHTA-4, četvorostepena sa vertikalno podeljenim cilindričnim kučištem, unutrašnjom oplatom, napor pumpe 246 bar; p-izlaz=211,6 bar; kapacitet pumpe 678,8 kg/h. Hidraulična spojnica Proizvođač: VOITH; tip: R15K-550; Ukupna težina seta je 21.990 kg,
102	Cevovod napojne vode Bloka 1	Ukupna težina napojnog cevovoda je 92.376 kg. Dimenzije cevovoda su: ∅ 406,4 x 48,5mm; ∅ 273 x 33mm; a materijal A-106 C/ASTM
103	Ovesi i oslonci cevovoda napojne vode Bloka 1	Ukupna težina ovesa, oslonca i kompenzacionih zatezača je 8.800kg. Sastoji se iz opruga, hidrauličnih kompenzatora, vešaljki, uški i oslonaca.
104	Zaštitno kontrolni sistem ložišta (FSSS)	1 set zaštitno kontrolnog sistema ležišta. Sastoji se iz: logičkog Hardver-a; Modicon opreme za programiranje i softver; Panelnog umetka sa kablovskim konektorima; skenera za plamen i glave skenera; i ostale prateće opreme (razvodne kutije, kablova, lokalnih instrumenata i ostalo), Sistem obezbeđuje zaštitu od neispravnog funkcionisanja ložnog uređaja i pratećih sistema za vazduh, sistem izvršava brojne operacije logičke regulacije da bi obavio potpunu zaštitu u najčešćim kritičnim sistuacijama. Ukupna težina 1 setaje 12.150 kg.
105	Gorionik mazuta br. 1	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10,5 bar, temp. Mazuta 125 oC. Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0.13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom,

		vazdušnim prigušnicama i priključnim kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
106	Gorinik mazuta br.2	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10,5 bar, temp. Mazuta 125 oC. Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i prnključnim kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
107	Gorionik mazuta br. 3	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10.5 bar, temp. Mazuta 125 oC. Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0.13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
108	Gorionik mazuta br. 4	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10.5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
109	Gorionik mazuta br. 5	Tip: R-tip sa parom za raepršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10,5 bar, temp. Mazuta 125 oC. Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
110	Gorionik mazuta br.6	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert ildustries inc. Kanada; kapaiitet 0,87 kg/s; pritnsak mazuta ispred gorionika 10.5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%;

		pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnnm priborom (fabričkn montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnnm kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
111	Gorionik mazuta br.7	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10.5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
112	Gorionik mazuta br.8	Tip: R-tip sa parom za raspršivanje, proizvođač: G.E. Gilbert industries inc. Kanada; kapacitet 0,87 kg/s; pritisak mazuta ispred gorionika 10,5 bar, temp. Mazuta 125 oC, Opseg regulacije 45-100%; pritisak pare 11,5 bar, potrošnja pare 0,13 kg/S. Oprema gorionika se takođe sastoji iz: gasnih upaljača firme Limelite, ormana za električnu komandu sa potrebnim električnim priborom (fabrički montirani), sa potrebnim spojnim vodovima i armaturom, buster ventilatorom, vazdušnim prigušnicama i priključnim kanalima za vazduh. Ukupna težina ovog seta gorionika je 376 kg.
113	Ekonomajzer - gornji deo	Sastoji se iz ulazne komore težine 15.604 kg.(mat. A-106 C/ASTM, ∅406,4x52mm), konvektivnih cevitežine 505.852 kg. (mat. A-178 C/ASTM, ∅ 57,2x6,5mm).
114	Ekonomajzer - donji deo	Sastoji se iz izlazne komore težile 13.429 kg. (mat. A-106 C/ASTM, ∅406,4x52mm), konvektivnih cevitežine 593.389 kg.(mat. A-178 C, ∅ 57,2x6,5mm).
115	Ekonomajzer-povezni cevovod	Sastoji se od cevovoda (mat. A-106 C, ∅406,4x52mm), i pripadajućih ovešenja i oslonaca ukupne težine 9.508kg.
116	Gornji bubanj-separator pare	Sastoji se od 2 kom. ovesa bubnja ukupne težine 21.863 kg. samog bubnja 1 komad težine 166.018 kg (mat. A-299/ASTM; ∅2134x178mm), i unutrašnjih delova bubnja 1 set težine 6.639 kg.
117	Donji bubanj isparivača	Sastoji se od 2 kom. donjih bubnjeva mat. A-299/ASTM (∅1067x105mm), svaki težak po 51.279 kg i unutrašnjih delova bubnja težine 408 kg / set kao i poveznog cevovoda ukupne težine 11.832 kg, (mat. A-299/ASTM).
118		

	Povezni cevovod između gornjeg i donjeg bubnja kotla 2	Sastoji se od 4 cevovoda ukupne težine 72.985kg (mat. SA-106C/ASTM ∅324x33mm).
119	Povezni cevovod isparivač -gornji bubanj kotla 2	Ukupna težina ovog cevovoda ("riser tubes") je 52.356 kg(mat. SA-106C/ASTM. ∅152.4xh13,7mm)
120	Paneli isparivača iznad+43m kotla 2	Ukupna težina 97.985 kg (mat. SA-106C/ASTM, ∅273x50,8mm), 4 kom, gornje izlazne komore.
121	Paneli isparivača ispod + 43m do + 16,8m kotla 2	Ukupne težine 61.845 kg (mat. SA-210 A1, ∅38,1x4.2mm, unutrašnjo ožljebljene cevi jmembranski zid sa korakom cevi) 50,8mm.
122	Pregrejač pare sa komorama PP1	Sastoji se iz: Ulazne komore težine 9.091 kg (mat. A-106C /ASTM, ∅323,9x39mm). Izlazne komore težine 10.433 kg(mat. A-335 P11/ASTM, ∅323.9x44mm), konvektivnog dela pregrejača težine 606.914 kg (mat. A-210A1, 050,8x5.1; A-210 A1, ∅54x6,1; A-213 T11, ∅54x5,4 i ∅54x5,7) ovesnih cevi težine 33.744 kg (mat. A-335 P11, ∅323, 9x44) i poveznog cevovodasa ovesima težine 58.944kg.
123	Pregrejač pare - pločasti sa komorama PP2	Sastoji se iz: Ulazne komore ovesnih cevi težine 9.435kg (mat, A-335 P11. ∅323,9x46mm); Izlazne komore težine 16.194 kg (mat. A-335 P11 ∅323,9x46mm); konvektavnog dela pregrejača (mat. A-213 T11, ∅50,8 x 6,1; ∅50,8x7,2: mat. A-213 T22, ∅50,8x10) i pločastog pregrejača (mat. A-213 T11, ∅50,8 x 6,1, i ∅50.8x9,1) ukupne težine 71.848 kg.
124	Pregrejač pare sa komorama PP3	Sastoji se iz: Ulazne komore težine12.429kg (mat. A-335 P11, ∅323,9x44mm; Izlazne komore težine 33.112 kg (mat. A-387- 22CLI, ∅508x98,4mm), i konvektivnog dela pregrejača težine 259.911 kg (mat. A-213 T11, ∅50,8 x 5,4; A-213-TP347H, ∅50,8x5.1 i ∅50,8x5,6)
125	Ubrizgavanje iza PP1	Sastoji se iz cevovoda (mat. A-335 P11, ∅ 323,9x44) sa mlaznicama za ubrizgavanje vode i unutrašnjom zaštitom cevovoda, odgovarajućom armaturom)pregradni i regulacioni ventili) bu -pass ventil i pratećim cevovodom. Ukupna težina 3.048 kg.
126	Ubrizgavanje iza PP2	Sastoji se iz cevovoda (mat, A-335 P11, ∅ 323,9x44) sa mlaznicama za ubrizgavanje vode i unutrašnjom zaštitom cevovoda, odgovarajućom armaturom (pregradni i regulacioni ventili) bu -pass ventil i pratećeg cevovoda. Ukupna težina 28.937 kg.
127	Međupregrejač pare sa komorama MP1	Sastoji se iz: Ulazne komore težine 20.344 kg (mat. A-106 B, ∅406,4x30,6); Izlazne komore težine 16.556 kg(mat. A-335 P11; ∅406,4x32); konvektivnog dela međupregrejača težine 495.141

		kg (mat. A-210 A1, ∅54 x 3,8 i ∅54x4,2; A-213 T11, ∅54x3,8 i ∅54x4,2)
128	Međupregrejač pare sa komorama MP2	Sastoji se iz: Ulazne komore težine 11.930 kg (mat. A-335 P11; ∅323,9x44); Izlazne komore težine 23.000 kg (mat. A-387-22 CLI, ∅508x98,4) konvektivnog dela međupregrejača težine 79,551 kg (mat. A-213 T11, ∅57.2 x 3,8: A-213 T22, ∅57.2x4,2; A-213-TP 304 X, ∅57,2 x 4,2)
129	Ubrizgavanje iza MP 1	Sastoji se iz cevovoda ukupne težine 14.813 kg (mat. A-335 P11, ∅ 406,4 x 32) sa mlaznicama za ubrizgavanje vode i unutrašnjom zaštitom cevovoda, odgovarajućom armaturom (pregradni i regulacioni ventili) bu-pass ventile i pratećeg cevovoda.
130	Parovod sveže pare Bloka 2	Ukupna težina cevovoda sa ovesima je 149.994 kg. od čega je težina ovesa 20.860kg. Dimenzije cevovoda su ∅396,7x62; ∅ 355,6x56,7: ∅295,4x46,7 a materijal prema ASTM je A-335-P22.
131	Parovod međupregrejane pare Bloka 2	Ukupna težina cevovoda sa ovesima je 110.254 kg od toga je težina ovesa 17.700 kg. Dimenzije cevovoda su ∅ 558,8x29,8 mm a materijal prema ASTM je A-335-P22.
132	Parovod hladne pare Bloka 2	Ukupna težina cevovoda sa ovesima je 71.758 kg, od toga je težina ovesa 12.460. Dimenzije cevovoda su ∅558,8 x 30.9, ∅558,8x29,8mm a materijal prema ASTM je A-106Gr.B.
133	Povezni cevovod kotla 2	Ukupna težina cevovoda je 43.606 kg. Materijal prema ASTM je A-106/C; A-335 P11.
134	Fina armatura kotla 2	Sastoji se iz armature za odmuljivanje kotla, odzračivanje i drenažu kotla i ostalo u ukupnoj težini od 11.832 kg.
135	Cirkulacione pumpe sa elektro motorima	Sastoje se iz 3 seta pumpi, tip 16 BEXW, ser.br. 60187-K 60188-K, 60189-K; proizvođač Ingersoll Rand, Kanada; napor pumpe 7,44 bar; ulazna temp. 360 0C; ulazni pritisak 194 bar; snaga el. motora 205 KW; brzina 1450 min-1, motor sa potopljenim statorom; nominalni protok 982,3 m3/h; Stepen nevisnosti 84%. Ukupna težina 3 pumpe 28.298 kg.
136	Cevovod recirkulacije EKO-a kotla 2	Težina cevovoda 6.101 kg. Dimenzije cevovoda ∅141x7,1 mm a materijal A-106 C.
137	Prateći cevovod kotla 2	Ukupna težina 2.719 kg. Materijal A-106 C a dimenzije 056,2 x 4,2 mm.
138	Kompenzatori kanala toplog vazduha	Ukupna težina: 13.246 kt; tip kompenzatora: mehovni, omega; materijal kompenzatora; inox materijal, R St 37-2.
139	Kompenzatori kanala dimnog gasa	Ukupna težina: 27.139 kg; tip kompenzatora: mehovni, omega; materijal: inox materijal, R St. 37-2,
140	Zagrejač vazduha br. 1	Ukupna težina: 388.531 kg; tip Ljungstrom regenerativni zagrejač vazduha; proizvođač Bpown Boveri Howden, Kanada; Model: 30-1/2-VI-66/74;

		grejna površina 29.600 m^2; mat. hladnog saća: "CorTen" (materijal A588/ASTM; C=0,09; Cr=0,63; Ni=0,3; Cu=0,56); el. motorni pogon: 18,63 KW (1500 min-1,400 V, 3 faze); pomoćni pogoni: vazdušni motor, duvanje čađi: 1 duvač čađi sa jednom mlaznicom i el.pogonom, 2 stacionarna uređaja za ispiranje vodom sa više mlaznica.
141	Zagrejač vazduha br. 2	Ukupna težina: 388.531 kg; tip Ljungstrom regenerativni zagrejač vazduha; proizvođač Brown Boveri Howden, Kanada; Model: 30-1/2-VI-66/74; grejna površina 29.600 $m^2 m^2$; mat. hladnog saća; "CorTen" (materijal A588/ASTM; C=0,09; Cr=0,63; Ni=0,3; Cu=0,56); el.motorni pogon: 18,63 KW (1500 min -1, 400 V, 3 faze); pomoćni pogonn: vazdušni motor, duvanje čađi: 1 duvač čađi sa jednom mlaznicom i el.pogonom, 2 stacionarna uređaja za ispiranje vodom sa više mlaznica.
142	Parni duvači gara	Tip: IK-525; Proizvođač: DIAMOND Canapower; god. proizvodnje 1988; broj duvača: 38 kom. dugih uvlačivih duvača i 6 kom. polu-uvlačivih duvača., sa kompletnim regulacionim sistemom, vreme duvanja: 10,6min: pritisak duvanja pare 16 bar; protok pare:2,28 kg/s. Ukupna težina 44 seta je 59.835kg.
143	Vodeni duvači gara	Tip:IK-1 M-WJl; Proizvođač: DIAMOND Canapower; god.proizvodnje 1988; broj duvača: 32 kom. sa kompletnim regulacionim sistemom i pumpom. Vreme duvanja: 8min: pritisak duvanja 10bar; protok vode: 1,13 kg/s. Ukupna težina 32 seta je 7.840kg.
144	Bajpas stanica visokog pritiska Bloka 2	Ukupna težina ove stanice je 16.997 kg; Proizvođač: Sulzer. Kanada; 1 set; kapacitet ventila: 175 kg/s; parametri pare ispred ventila: 180 bar/540 0C; parametri pare iza ventila: 42 bar/330 0C; Količina vode za ubrizgavanje:27,2 kg/s; parametri vode za ubrizgavanje: 195 bar/ 160 0C. Bu-pass sistem VP se sastoji iz: - bu-pass ventil VP, tip ARS 160 sa hidrauličnim servo motorom ASM 320-11KSK, regulisanog modula AV5 i A/M stanice aparata za brzo otvaranje SBE 116-1; - glavnog regulatora pritiska - armature za ubrizgavanje E45S sa hidrauličnim servo motorom ASM 100-10 KSK, regulacionog modula AV5 i temp. predajnika sa A/M stanicom. - regulacionog kola pritiska vode za ubrizgavanje sa ventilom E45S i hidrauličnim servo motorom ASM100-10KSK, regulacionog modula i A/M stanicom; - centralno locirane opreme sa jedinicom za snabdevanje uljem i regulacionim ormanom.
145	Obilazni cevovod oko Bu-pass VP Bloka 2	Ukupna težina ovog cevovoda je 2.120 kg. Dimenzije cevovoda su ∅ 168,3x21,95 mm; ∅ **1**14x17,1 mm; ∅ 114x 11,15 mm; ∅ 114x17,1 mm; Materijal cevovoda je a-106 C i a-106 B prema ASTM
146		

	Elektro napojna pumpa ENP-1	Napojna pumpa se sastoji iz seta: pred pumpe (booster), glavne napojne pumpe i hidraulične spojnice VOIGHT i prateće opreme. * Booster pumpa: proizvođač Ingersoll Rand; tip. 8x10x23 A, jednostepena sa vertikalno podeljenim kućištem, napor pumpe 9,9 bar; p-ulaz=5 bar; p-izlaz= 14,9 bar; kapacitet pumpe 678,8 kg/h: * Glavna pumpa Proizvođač Ingersoll Rand; tip 65CHTA-4, četvorostepena sa vertikalno podeljenim cilindričnim kućištem, unutrašnjom oplatom, napor pumpe 246 bar; p-izlaz=211,6 bar; kapacitet pumpe 678,8 kg/h. Hidraulična spojnica Proizvođač: VOITH; tip: R15K-550; Ukupna težina 1 seta je 21.990 kg.
147	Elektro napojna pumpa ENP-2	Napojna pumpa sa sastoji se iz seta: pred pumpe (booster), glavne napojne pumpe i hidraulične spojnice VOIGHT i prateće opreme. * Booster pumpa: proizvođač Ingersoll Rand; tip.8x10x23 A, jednostepena sa vertikalno podeljenim kućištem, napor pumpe 9,9 bar; p-ulaz=5 bar; p-izlaz=14,9 bar; kapacitet pumpe 678,8 kg/h: * Glavna pumpa Proizvođač Ingersoll Rand; tip 65CHTA-4, četvorostepena sa vertikalno podeljenim cilindričnim kućištem, unutrašnjom oplatom, napor pumpe 246 bar: p-izlaz=211,6 bar; kapacitet pumpe 678,8 kg/h. Hidraulična spojnica Proizvođač: VOITH; tip:R15K-550; Ukupna težina 1 seta je 21.990 kg.
148	Elektro napojna pumpa ENP-3	Napojna pumpa se sastoji iz seta: pred pumpe (booster), glavne napojne pumpe i hidraulične spojnice VOIGHT i prateće opreme. * Booster pumpa: proizvođač Ingersoll Rand; tip.8x10x23 A, jednostepena sa vertikalno podeljenim kućištem, napor pumpe 9,9 bar; p-ulaz=5 bar; p-izlaz=14,9 bar; kapacitet pumpe 678.8 kg/h; * Glavna pumpa Proizvođač Ingersoll Rand; tip 65CHTA-4, četvorostepena sa vertikalno podeljenim cilindričnim kućištem, unutrašnjom oplatom, napor pumpe 246 bar; p-izlaz=211,6 bar; kapacitet pumpe 678,8 kg/h. Hidraulična spojnica Proizvođač: VOITH; tip:R15K-550; Ukupna težina 1 seta je 21.990 kg.
149	Cevovod napojne vode Bloka 2	Ukupna težina napojnog cevovoda je 91.376 kg. Dimenzije cevovoda su: ∅ 406,4 x 48.5 mm; ∅ 273 x 33 mm; a materijal A-106 C/ASTM
150	Ovesi i oslonci cevovoda napojne vode Bloka 2	Ukupna težina ovesa, oslonca i kompenzacionih zatezača je 8.800 kg. Sastoji se iz opruga, hidrauličnih kompenzatora, vešaljki, uški i oslonaca.
151	Zaštitno kontrolni sistem ložišta (FSSS)	1 set zaštitno kontrolnog sistema ložišta sastoji se iz: logičkog Hardvera; Modicon oprema za programiranje i softver; Panelnog umetka sa kablovskim konektorima; skenera za plamen i glave skenera; i ostale prateće opreme (razvodne kutije, kablova, lokalnih instrumenata i ostalo).

		Sistem obezbeđuje zaštitu od neispravnog funkcionisanja ložnog uređaja i pratećih sistema za vazduh, sistem izvršava brojne operacije logičke regulacije da bi obavio potlunu zaštitu u najčešćim kritičnim situacijama. Ukupna težina 1 seta je 12.150 kg.
152	Platforme za mlinove	Ukupna težina 43,673 kg čelične konstrukcije za svih 8 komada mlinova. Materijal ove čelične konstrukcije je R St 37-2 i St 37-2.
153	Noseća čelična konstrukcija rešetke za dogorevanje uglja	Ukupna težina 58.641 kg ove konstrukcije. Materijal ove čelične konstrukcije je R St 37-2 i S t 37-2.
154	Viseći podesti kotla 1	Ukupna težina 582.644 kg od čega 8.604 kg zavrtnjeva. Materijal po DIN St. 52-3 N, St 37-2; RSt. 37-2.
155	Konstrukcija fasade visećih podesta	Ukupno 91.909 kg čelične konstrukcije za nošenje fasade visećih podesta. Materijal ove čelične konstrukcije je RSt 37-2 i St 37-2.
156	Gazišta kotla 1	Toplo pocinkovana gazišta sa vezivnim materijalom, tip SP 340-34/38-3, dimenzija okca ≠ 3x40x40 i ≠ 3x30x30 ukupne težine 260.638 kg.
157	Stepeništa kotla 1	Toplo pocinkovana stepeništa sa vezivnim materijalom. tip SP 330-34/38-3 ukupne težine 35.542 kg.
158	Kanali dimnog gasa	Ukupno 289.256 kg i to deo kanala, prelaznog dela-kolena i vertikalnog cilindričnog dela prema luvu. Materijal kanala je prema JUS; Č. 1204; Č.0362 i RSt 37-2. Debljina lima je 6mm i 10mm.
159	Nosači kanala dimnog gasa	Ukupno 187,255 kg čelične konstrukcije nosača kanala dimnog gasa. Materijal ove čelične konstrukcije je R St 37-2 i St 37-2.
160	Platforme za mlinove	Ukupno 43.673 kg čelične konstrukcije za ove platforme. Materijal za izradu ove konstrukcije je RSt 37-2 i St 37-2,
161	Noseća čelična konstrukcija rešetke za dogorevanje uglja	Ukupno 58.641 kg ove konstrukcije. Materijal ove čelične konstrukcije je RSt 37-2 i St 37-2.
162	Glavna noseća konstrukcija kotla	- Ukupna težina čelične konstrukcije je 2.344.297 kg. - ukupna težina osnovnog materijala za izradu preostale čel. kon. je 749.648 kg. - ukupna težina dodatnog materijala za izradu je 24.462 kg. - 31.482 kg VV zavrtnjeva M30 klase 10.9. Materijal čel. konstrukcije je St. 52-3N(DIN)
163	Viseći podesti kotla2	Ukupno 574.200 kg čel. konstrukcije. Ukupno 8.604 kg zavrtnjeva(klasa 10.9).Materijal po DIN St.52-3N, St37-2; RSt.37-2.
164	Konstrukcija fasade visećih podesta	Ukupno 92.340 kg čelične konstrukcije za nošenje fasade visećih podesta. Materijal ove čelične konstrukcije je RSt37-2 i St37-2.
165	Gazišta kotla 2	Toplo pocinkovana gazišta sa vezivnim materijalom, tip SP 34034/38-3, dimenzija okca ≠ 3x40x40 i ≠ 3x30x30 ukupne težine 260.638kg.
166	Stepeništa kotla 2	

		Toplo pocinkovana stepeništa sa vezivnim materijalom, tip SP 330-34/38-3 ukupne težine 35,542 kg.
167	Bandaži isparivača	- Ukupna težina osnovnog materijala za izradu bandaža je 725.657kg. Materijal bandaža RST 37-2, ST 52-3, ST 37-3. - Montažni materijal za bandaže ukupne težine 26.071 kg. - Dodatni materijal za izradu 20.000 kg.
168	Nosači kanala dimnog gasa	Ukupno 187.255 kg čelične konstrukcije nosača kanala dimnog gasa. Materijal ove čelične konstrukcije je R St37-2 i St37-2.
169	Kotlarnica Blok 1 i Blok 2	Temelji zgrade kotlar.; temelji kotlova, temelji ventil. I temelji mlin.; - temelji zgrade fundirani na "franki" šipovima D=620 mm L=11,5 m, kom. 340; Temelji kotl. za oba bloka 2x4 kom. Dimenzija 16,7 x 16,7 x 3.0 m sa soklovima 3,0 x 4.0 m oovezani beton. gredama, fundirani na bušenim šipovi. D= 1200 mm L= 13,6 m kom. 288; Temelji ventilatora, 2 kom. po bloku temelja ventilatora dimnih gasova dimenzija 16.6 x 4,4 x 1,6m i 2 kom. po bloku temelja ventilatora svežeg vazduha dimenzija 20,6 x 4,8 x 2,0 m; temelji mlinova po 8 kom za svaki kotao (4 temelja nisu urađeni iznad kote + 0,00 do kote + 1,60 m). Čelična konstrukcija 4.166.348 kg. za kotlarnicu Blok 1, 3.661.940 kg, za kotlarnicu Blok 2, 20.747 kg pasarela za Blok 1, 15.490 kg, pasarela za Blok 2, 125.212 kg nosača fasade za Blok 1, 125.212 kg nosača fasade za Blok 2, 24.342 kg nosača cevovoda za oba bloka. Ukupna težina osnovnog materijala za izradu čel. kon. je 69.398 kg. Ukupna količina zavrtnjeva je 78.136 kg u kvalitetu 10.9 i 8.8. Materijal za izradu ovih čel. konstr. je St 52-3N; St 37-3N; St 37-2; RSt37-2; St 37-3.
170	Bunkerski trakt Blok 1 i Blok 2	Armirano-betonski temelji fundirani na "franki" šipovima D=600mm kom. 722 L= 10,25 m; -Podrumska kota -4,60m; Stubovi i zidovi za nošenje armirano beton. ploče na koti ± 0,00 kao i sama arm. bet. ploča na koti ± 0,00;-Čelična konstrukcija bunkerskog trakta sa bunkerima za ugalj ukupne težine 6.328.220kg. Ukupna količina zavrtnjeva je 40.210 kg u kvalitetu 10.9 i 8.8; Materijal za izradu ove čelične konstr. je u kvalitetu St 52-3N; St 37-3N; St 52-3; St 37-3; i RSt 37-2.
171	Aneks uz utovarnu stanicu uglja	Konstrukcija zgrade iza pretovarne stanice uglja u Tamnavi. Ukupno 205.270 kg. Materijal za izradu ove konstrukcije je R.St. 37-2; St. 37-2.
172	Kosi most	Materijal za izradu čelične konstrukcije kosog mosta u težini od 1.192.949 kg i 24.548,6kg dodatog materijala.
173	Monorej staze u kotlarnici Bl. i Bl.2	Monorej staze za servisiranje opreme mlinova. Ukupna težina materijala iznosi 25.000 kg.Materijal ove konstrukcije je u kvalitetu St 37-3 i RSt 37-2.
174	Blok transformator broj 2	1 komad trofazni transformator 10BAT 10; Proizvođač: ŠKODA; tip: ECI 432-1, Fabrički broj: 09992321, Standard IEC 76; Nazivna snaga:410MVA; frekvencija 50Hz; godina

		proizvodnje: 2000;sprega UNd5; tip hlađenja ODAF; Napon kratkog spoja 12,57%.Težina: ukupno 364t od čega jezgro sa namotajima 229,7t i trafo ulje 56t.
175	Teretni lift 3000 kg, br. 1	Tip lifta: teretni sa protiv tegom; nazivna nosivost 3000 kg, nazivna brzina 0,61 m/s; visina dizanja 79,1 m; broj stanica: 10+1; snaga elek. motora: 18,5 KW; stepen zaštite IP 21;reduktor tip: RME 310; prenos 31,998:1; regulator brzine:LM-FSV 037-048; kabina 1800x3300x2500mm; upravljački orman sa mikroprocesorom. Montiran pušten u pogon i atestiran.
176	Teretni lift 3000 kg, br.2	Tip lifta: teretni sa protiv tegom; nazivna nosivost 3000 kg;nazivna brzina 0.61 m/s; visina dizanja 79,1 m; broj stanica: 10+1; snaga elek. motora: 18,5 KW; stepen zaštite IP 21; reduktor tip: RME 310; prenos 31,998:1; regulator brzine: LM-FSV 037-048; kabina 1800x3300x2500mm; upravljački orman sa mikroprocesorom. Montiran pušten u pogon i atestiran.
177	Putnički lift 630 kg, br. 1	Tip lifta: putnički sa protiv tegom; nazivna nosivost 630 kg, nazivna brzina 1.6 m/s; visina dizanja 79,1 m; broj stanica: 10+1; snaga elek.motora: 7,5 KW; stepen zaštite IP 21; reduktor tip: RME 210; prenos: 42,75:1; frekventni regulator LM-FSV 016-024;
178	Putnički lift 630 kg, br.2	Tip lifta: putnički sa protiv tegom; nazivna nosivost 630 kg;nazivna brzina 1,6 m/s; visina dizanja 79.1 m; broj stanica: 10+1; snaga elek.motora: 7,5 KW; stepen zaštite IP 21; reduktor tip: RME 210; prenos: 42,75:1; frekventni regulator LM-FSV 016-024;
179	Putnički lift 630 kg u bunkerskom traktu	Tip lifta: putnički sa protiv tegom; nazivna nosivost 630 kg; nazivna brzina 1.6 m/s; visina dizanja 58 m: broj stanica: 10; snaga elek. motora: 7,5 KW; stepen zaštite IP 21; reduktortip: RME 210; regulator brzine: LM-FSV 016-024; Kabina: 1100x1400x2200mm. Mikroprocesno upravljanje. Lift je samo isporučen a nije montiran.
180	Blok transformator br. 1	1 komad trofazni transformator 10 BAT 10; Proizvođač: ŠKODA; tip: ECI 432-1, Fabrički broj: 0967322, Standard IEC 76; Nazivna snaga: 410MVA; frekvencija 50Hz; godina proizvodnje: 2000; sprega UNd5; tip hlađenja ODAF; Napon kratkog spoja 12,57%.Težina: ukupno 364t od čega jezgro sa namotajima 229,7t i trafo ulje 56t.

ZALIHE

Red. broj	NAZIV	OPIS
1	Frekv. regulator za lift	Rezervni deo

Projekat TE "NIKOLA TESLA B3

ZEMLJIŠTE

Red. Br.	Broj katastarske parcele	Katastarska Opština	Ukupna površina katastarske parcele [ha a m^2]	Br. LN	Br. ZKUL
1	106/1	Ušće	17 55	779	/
2	106/2	Ušće	7 50	779	/
3	107	Ušće	11 65	779	/
4	108/1	Ušće	71 43	779	/
5	108/2	Ušće	36 12	779	/
6	109	Ušće	71 90	779	/
7	110	Ušće	83 19	779	/
8	115/2	Ušće	1 05 49	779	/
9	117	Ušće	11 03	779	/
10	119	Ušće	42 95	779	/
11	121	Ušće	27 55	779	/
12	592/2	Ušće	64 25	779	/
13	593/3	Ušće	60 73	779	/
14	593/4	Ušće	8 45	779	/
15	599	Ušće	67 81	779	/
16	99/7	Ušće	1 17 09	410	/
17	104/1	Ušće	3 02 25	410	/
18	104/2	Ušće	21 90	410	/
19	112	Ušće	58 96	410	/
20	116	Ušće	3 22 51	410	/
21	120	Ušće	59 09	410	/
22	122	Ušće	24 17	410	/
23	123	Ušće	26 69	410	/
24	167	Ušće	1 18 13	410	/
25	168/2	Ušće	94 01	410	/
26	169/2	Ušće	52 98	410	/
27	170/2	Ušće	25 94	410	/
28	586/1	Ušće	65 83	410	/
29	587/1	Ušće	11 29	410	/
30	591/1	Ušće	61 76	410	/
31	600/2	Ušće	29 19	410	/
32	3263	Ušpe	16 92	410	/
33	3267	Ušće	51 16	410	/
34	3268	Ušće	49 15	410	/
35	3269	Ušće	1 19 60	410	/
36	3275	Ušće	1 33 67	410	/
37	3278	Ušće	50 40	410	/
38	3279	Ušće	90 88	410	/
39	3280	Ušće	84 18	410	/
40	3281	Ušće	98 82	410	/
41	3282	Ušće	1 44 60	410	/
42	3306	Ušće	96 15	410	/
43	3307	Ušće	1 00 16	410	/
44	3308	Ušće	44 67	410	/

45	3309	Ušće	6 20	410	/
46	3310	Ušće	38 26	410	/
47	3311	Ušće	30 45	410	/
48	3312	Ušće	10 92	410	/
49	3313/1	Ušće	1 07 69	410	/
50	3314	Ušće	11 13	410	/
51	3315	Ušće	6 56	410	/
52	3316	Ušće	34 07	410	/
53	3317	Ušće	59 69	410	/
54	3318	Ušće	56 30	410	/
55	3319	Ušće	2 64 01	410	/
56	3320	Ušće	39 86	410	/
57	3322	Ušće	56 69	410	/
58	3323	Ušće	31 85	410	/
59	3324	Ušće	2 50	410	/
60	3325	Ušće	1 60 65	410	/
61	3326	Ušće	2 90	410	/
62	3327	Ušće	8 90	410	/
63	3328	Ušće	20 63	410	/
64	3329	Ušće	8 50	410	/
65	3330	Ušće	10 67	410	/
66	3331	Ušće	4 95	410	/
67	3332	Ušće	10 72	410	/
68	3333	Ušće	87 97	410	/
69	3334	Ušće	85 97	410	/
70	3335	Ušće	3 40	410	/
71	3336	Ušće	1 40 28	410	/
72	3337	Ušće	78 02	410	/
73	3338	Ušće	83 02	410	/
74	3339	Ušće	84 22	410	/
75	3340	Ušće	87 82	410	/
76	3341	Ušće	17 62	410	/
77	3342	Ušće	16 50	410	/
78	3343	Ušće	16 50	410	/
79	3344	Ušće	6 60	410	/
80	3345	Ušće	52 85	410	/
81	3346	Ušće	90 90	410	/
82	3347	Ušće	34 76	410	/
83	3348	Ušće	1 12 03	410	/
84	3349	Ušće	70 51	410	/
85	3353	Ušće	26 33	410	/
86	3354	Ušće	26 41	410	/
87	3355	Ušće	49 44	410	/
88	3356	Ušće	16 57	410	/
89	3357	Ušće	18 88	410	/
90	3358	Ušće	18 07	410	/
91	3359	Ušće	19 48	410	/
92	3360	Ušće	20 21	410	/
93	3361	Ušće	52 80	410	/
94	3362	Ušće	55 67	410	/
95	3376	Ušće	1 21 35	410	/

96	3377	Ušće	37 99	410	/
97	3378	Ušće	12 45	410	/
98	3381	Ušće	10 40	410	/
99	3382	Ušće	10 40	410	/
100	3396	Ušće	42 38	410	/
101	3398	Ušće	19 49	410	/
102	3399	Ušće	13 39	410	/
103	3400	Ušće	27 99	410	/
104	3401	Ušće	1 02 96	410	/
105	3402	Ušće	21 39	410	/
106	3403	Ušće	26 79	410	/
107	3404	Ušće	48 98	410	/
108	3405	Ušće	51 18	410	/
109	3406	Ušće	35 19	410	/
110	3407	Ušće	17 69	410	/
111	3408	Ušće	13 76	410	/
112	3409	Ušće	23 99	410	/
113	3410	Ušće	98 36	410	/
114	3411	Ušće	90 77	410	/
115	3412	Ušće	15 44	410	/
116	3413	Ušće	16 15	410	/
117	3417	Ušće	13 52	410	/
118	3443	Ušće	32 89	410	/
119	3444	Ušće	29 13	410	/
120	3445	Ušće	33 29	410	/
121	99/3	Ušće	4 93 10	783	/
122	99/4	Ušće	4 19	784	/
123	99/5	Ušće	2 30 19	785	/
124	99/6	Ušće	2 05 25	786	/
125	104/3	Ušće	40 00	787	/
126	111/1	Ušće	1 11 48	792	/
127	115/1	Ušće	1 15 50	781	/
128	118	Ušće	2 53 56	793	/
129	129	Ušće	1 79 43	791	/
130	132	Ušće	38 32	788	/
131	133	Ušće	36 72	789	/
132	138	Ušće	35 18	790	/
133	590/1	Ušće	64 56	782	/
134	598/2	Ušće	40 43	794	/
135	3159/2	Ušće	19 90	324	/
136	3160/2	Ušće	28 70	324	/
137	3472	Ušće	1 59 70	324	/
138	125	Ušće	29 59	325	/
139	3152/2	Ušće	2 21 31	325	/
140	291/1	Dren	1 60 54	2479	/
141	291/2	Dren	19 76	2479	/
142	292/2	Dren	14 19	2479	/
143	292/3	Dren	11 08 67	2479	/
144	294	Dren	74 76	2479	/
145	428/3	Dren	1 21 37	2479	/
146	429/2	Dren	2 29	2479	/

147	430/1	Dren	1 28 62	2479	/
148	430/2	Dren	4 41	2479	/
149	431/1	Dren	1 16 02	2479	/
150	431/2	Dren	8 63	2479	/
151	432/1	Dren	3 24	2479	/
152	432/2	Dren	2 81	2479	/
153	433	Dren	21 95	2479	/
154	434/2	Dren	27 44	2479	/
155	436/3	Dren	44 38	2479	/
156	437	Dren	14 31	2479	/
157	438/1	Dren	11 64	2479	/
158	438/2	Dren	4 06	2479	/
159	439	Dren	4 84	2479	/
160	440/2	Dren	29 60	2479	/
161	442/2	Dren	16 33	2479	/
162	444/2	Dren	4 04	2479	/
163	444/3	Dren	47	2479	/
164	452/8	Dren	25 33	2479	/
165	453/1	Dren	7 26	2479	/
166	453/2	Dren	7 79	2479	/
167	454/1	Dren	31 10	2479	/
168	454/2	Dren	3 99	2479	/
169	455/1	Dren	33 99	2479	/
170	455/2	Dren	2 83	2479	/
171	456	Dren	30 37	2479	/
172	457	Dren	31 28	2479	/
173	458	Dren	3 74	2479	/
174	459	Dren	29 10	2479	/
175	460	Dren	29 78	2479	/
176	461	Dren	4 36	2479	/
177	462/1	Dren	15 15	2479	/
178	462/2	Dren	15 82	2479	/
179	464/1	Dren	75 20	2479	/
180	464/2	Dren	60 46	2479	/
181	467	Dren	1 11 87	2479	/
182	468	Dren	3 79	2479	/
183	469	Dren	80 38	2479	/
184	470	Dren	49 18	2479	/
185	471/1	Dren	23 93	2479	/
186	471/2	Dren	24 10	2479	/
187	472/1	Dren	53 90	2479	/
188	472/2	Dren	51 64	2479	/
189	473/2	Dren	36 08	2479	/
190	483/2	Dren	24 80	2479	/
191	484/2	Dren	7 99	2479	/
192	485/2	Dren	8 84	2479	/
193	273/2	Dren	1 86	895	/
194	274/2	Dren	37 67	895	/
195	275/2	Dren	1 79	895	/
196	276/2	Dren	1 58	895	/
197	288/2	Dren	55 24	895	/

198	289/1	Dren	1 37 47	895	/
199	444/4	Dren	1 34	895	/
200	3252/2	Dren	6 67	431	/
201	3265/2	Dren	5 64	431	/
202	3239/2	Dren	17 75	690	/
203	3257	Dren	53 22	690	/
204	1662/2	Grabovac	45 45	/	2867
205	1663	Grabovac	32 18	/	2867
206	1664/3	Grabovac	6 05	/	2867
207	1664/4	Grabovac	3 74	/	2867
208	1665/2	Grabovac	99 94	/	2867
209	1666/2	Grabovac	74 46	/	2867
210	1801	Grabovac	1 25 92	/	2867
211	1802	Grabovac	1 26 07	/	2867
212	1803	Grabovac	1 30	/	2867
213	1804	Grabovac	69 87	/	2867
214	1807	Grabovac	65 92	/	2867
215	1808	Grabovac	1 41 00	/	2867
216	1810/1	Grabovac	52 76	/	2867
217	1810/2	Grabovac	28 95	/	2867
218	1811	Grabovac	52 96	/	2867
219	1812	Grabovac	88 83	/	2867
220	1813	Grabovac	1 54 96	/	2867
221	1814	Grabovac	77 95	/	2867
222	1816	Grabovac	1 17 73	/	2867
223	1818	Grabovac	60 65	/	2867
224	1819	Grabovac	82 56	/	2867
225	1821	Grabovac	20 99	/	2867
226	1822	Grabovac	1 08 74	/	2867
227	1823	Grabovac	62 66	/	2867
228	1824	Grabovac	82 88	/	2867
229	1826	Grabovac	1 26 19	/	2867
230	1827	Grabovac	63 41	/	2867
231	1828	Grabovac	31 95	/	2867
232	1829	Grabovac	1 04 34	/	2867
233	1830	Grabovac	60 66	/	2867
234	1831	Grabovac	15 48	/	2867
235	1832	Grabovac	15 98	/	2867
236	1833	Grabovac	15 73	/	2867
237	1834	Grabovac	29 47	/	2867
238	1835	Grabovac	13 98	/	2867
239	1836	Grabovac	89 65	/	2867
240	1837	Grabovac	62 44	/	2867
241	1838	Grabovac	34 99	/	2867
242	1839	Grabovac	2 50	/	2867
243	1840	Grabovac	34 38	/	2867
244	1841	Grabovac	96 64	/	2867
245	1842	Grabovac	31 69	/	2867
246	1843	Grabovac	38 30	/	2867
247	1844	Grabovac	36 83	/	2867
248	1845	Grabovac	77 21	/	2867

249	1846	Grabovac	1 13 15	/	2867
250	1847	Grabovac	42 67	/	2867
251	1848	Grabovac	36 21	/	2867
252	1849	Grabovac	56 94	/	2867
253	1850	Grabovac	1 07 88	/	2867
254	1851	Grabovac	50 70	/	2867
255	1854	Grabovac	67 43	/	2867
256	1855	Grabovac	1 41 10	/	2867
257	1856	Grabovac	1 56 83	/	2867
258	1857	Grabovac	1 07 96	/	2867
259	1859	Grabovac	44 81	/	2867
260	1860	Grabovac	61 60	/	2867
261	1861	Grabovac	36 22	/	2867
262	1862	Grabovac	37 37	/	2867
263	1863	Grabovac	66 90	/	2867
264	1864	Grabovac	1 68 19	/	2867
265	1865/2	Grabovac	1 06 70	/	2867
266	2092	Grabovac	19 37	/	2867
267	2094	Grabovac	64 16	/	2867
268	2096	Grabovac	1 02 53	/	2867
269	2097	Grabovac	69 15	/	2867
270	2098	Grabovac	76 35	/	2867
271	2099	Grabovac	73 75	/	2867
272	2100	Grabovac	41 77	/	2867
273	2130/1	Grabovac	60 53	/	2867
274	2130/2	Grabovac	3 10	/	2867
275	2132	Grabovac	21 94	/	2867
276	2133	Grabovac	9 97	/	2867
277	2134	Grabovac	11 97	/	2867
278	2135	Grabovac	23 54	/	2867
279	2136	Grabovac	17 35	/	2867
280	2137	Grabovac	16 96	/	2867
281	2138	Grabovac	15 16	/	2867
282	2139/1	Grabovac	17 65	/	2867
283	2139/2	Grabovac	2 70	/	2867
284	2140	Grabovac	32 11	/	2867
285	2141	Grabovac	23 34	/	2867
286	2142	Grabovac	28 12	/	2867
287	2143/1	Grabovac	73 30	/	2867
288	2143/2	Grabovac	3 30	/	2867
289	2144	Grabovac	10 34	/	2867
290	2145	Grabovac	9 09	/	2867
291	2146	Grabovac	17 98	/	2867
292	2147	Grabovac	15 93	/	2867
293	2148	Grabovac	2 10	/	2867
294	2149	Grabovac	28 22	/	2867
295	2150/1	Grabovac	22 35	/	2867
296	2150/2	Grabovac	22 35	/	2867
297	2150/3	Grabovac	1 42	/	2867
298	2151	Grabovac	5 15	/	2867
299	2152	Grabovac	9 79	/	2867

300	2153	Grabovac	23 73	/	2867
301	2154	Grabovac	23 38	/	2867
302	2155	Grabovac	46 50	/	2867
303	2156/1	Grabovac	41 60	/	2867
304	2157/1	Grabovac	40 56	/	2867
305	2158/1	Grabovac	86 41	/	2867
306	2159	Grabovac	81 72	/	2867
307	2160	Grabovac	84 12	/	2867
308	2161	Grabovac	4 07	/	2867
309	2162	Grabovac	4 45	/	2867
310	2163	Grabovac	8 69	/	2867
311	2164	Grabovac	3 15	/	2867
312	2165	Grabovac	86 31	/	2867
313	2166	Grabovac	88 91	/	2867
314	2167/1	Grabovac	81 08	/	2867
315	2167/2	Grabovac	99 14	/	2867
316	2169	Grabovac	1 10 29	/	2867
317	2171	Grabovac	20 83	/	2867
318	2173	Grabovac	18 63	/	2867
319	2174	Grabovac	24 04	/	2867
320	2175/1	Grabovac	66 01	/	2867
321	2175/2	Grabovac	29 54	/	2867
322	2177	Grabovac	17 53	/	2867
323	2178	Grabovac	8 41	/	2867
324	2179	Grabovac	7 36	/	2867
325	2180	Grabovac	14 98	/	2867
326	2181	Grabovac	25 84	/	2867
327	2182	Grabovac	15 23	/	2867
328	2183	Grabovac	15 93	/	2867
329	2185	Grabovac	30 05	/	2867
330	2186	Grabovac	74 73	/	2867
331	2187	Grabovac	77 73	/	2867
332	2188	Grabovac	32 65	/	2867
333	2189	Grabovac	58 29	/	2867
334	2190	Grabovac	1 05 57	/	2867
335	2191	Grabovac	1 09 58	/	2867
336	2192	Grabovac	35 06	/	2867
337	2193	Grabovac	35 26	/	2867
338	2194	Grabovac	44 27	/	2867
339	2195	Grabovac	9 01	/	2867
340	2196	Grabovac	14 02	/	2867
341	2197	Grabovac	19 83	/	2867
342	2199	Grabovac	53 49	/	2867
343	2200	Grabovac	12 42	/	2867
344	2201	Grabovac	37 86	/	2867
345	2202	Grabovac	41 07	/	2867
346	2203	Grabovac	12 22	/	2867
347	2204	Grabovac	1 15 19	/	2867
348	2205	Grabovac	15 67	/	2867
349	2206	Grabovac	16 22	/	2867
350	2207	Grabovac	16 03	/	2867

351	2208	Grabovac	17 23	/	2867
352	2209	Grabovac	52 48	/	2867
353	2210	Grabovac	54 25	/	2867
354	2211	Grabovac	62 90	/	2867
355	2212	Grabovac	71 12	/	2867
356	2213	Grabovac	78 73	/	2867
357	2214/1	Grabovac	57 30	/	2867
358	2214/2	Grabovac	21 03	/	2867
359	2215	Grabovac	35 86	/	2867
360	2216	Grabovac	18 13	/	2867
361	2217	Grabovac	19 58	/	2867
362	2218	Grabovac	81 53	/	2867
363	2220	Grabovac	31 58	/	2867
364	2221	Grabovac	32 82	/	2867
365	2222	Grabovac	51 01	/	2867
366	2223	Grabovac	60 41	/	2867
367	2225	Grabovac	99 18	/	2867
368	2226/1	Grabovac	26 81	/	2867
369	2226/2	Grabovac	23 43	/	2867
370	2227/1	Grabovac	23 27	/	2867
371	2227/2	Grabovac	20 67	/	2867
372	2228	Grabovac	82 03	/	2867
373	2229	Grabovac	88 64	/	2867
374	2230	Grabovac	1 04 45	/	2867
375	2231	Grabovac	43 50	/	2867
376	2232	Grabovac	46 49	/	2867
377	2233	Grabovac	85 96	/	2867
378	2234	Grabovac	1 41 08	/	2867
379	2235/1	Grabovac	3 70	/	2867
380	2235/2	Grabovac	2 21 01	/	2867
381	2236/2	Grabovac	82 90	/	2867
382	2238/2	Grabovac	17 07	/	2867
383	2244/3	Grabovac	1 56	/	2867
384	2248/1	Grabovac	1 09 06	/	2867
385	2250	Grabovac	40 29	/	2867
386	2251	Grabovac	37 78	/	2867
387	2253	Grabovac	15 76	/	2867
388	2254	Grabovac	45 79	/	2867
389	2255	Grabovac	52 05	/	2867
390	2256	Grabovac	41 79	/	2867
391	2257	Grabovac	2 34 71	/	2867
392	2258	Grabovac	59 30	/	2867
393	2259	Grabovac	20 52	/	2867
394	2260	Grabovac	20 02	/	2867
395	2261	Grabovac	17 32	/	2867
396	2262/1	Grabovac	51 74	/	2867
397	2262/2	Grabovac	52 35	/	2867
398	2263	Grabovac	27 02	/	2867
399	2264/1	Grabovac	39 02	/	2867
400	2264/2	Grabovac	14 78	/	2867
401	2265	Grabovac	51 30	/	2867

402	2266	Grabovac	23 77	/	2867
403	2267	Grabovac	18 52	/	2867
404	2268/1	Grabovac	59 00	/	2867
405	2268/2	Grabovac	66 02	/	2867
406	2268/3	Grabovac	16 10	/	2867
407	2269/1	Grabovac	4 96	/	2867
408	2269/2	Grabovac	24 60	/	2867
409	2269/3	Grabovac	3 97	/	2867
410	2270	Grabovac	1 35 12	/	2867
411	2271	Grabovac	1 44 13	/	2867
412	2272	Grabovac	32 72	/	2867
413	2273	Grabovac	33 43	/	2867
414	2274	Grabovac	32 47	/	2867
415	2275	Grabovac	34 48	/	2867
416	2276	Grabovac	97 96	/	2867
417	2277	Grabovac	54 97	/	2867
418	2278	Grabovac	28 39	/	2867
419	2279	Grabovac	84 80	/	2867
420	2280	Grabovac	85 60	/	2867
421	2281	Grabovac	29 60	/	2867
422	2282	Grabovac	29 40	/	2867
423	2283	Grabovac	29 20	/	2867
424	2284	Grabovac	9 30	/	2867
425	2285	Grabovac	4 34	/	2867
426	2286	Grabovac	4 34	/	2867
427	2287	Grabovac	9 84	/	2867
428	2288	Grabovac	27 60	/	2867
429	2289	Grabovac	23 40	/	2867
430	2290	Grabovac	4 40	/	2867
431	2291	Grabovac	2 24 39	/	2867
432	2292	Grabovac	58 40	/	2867
433	2293	Grabovac	28 60	/	2867
434	2294	Grabovac	29 80	/	2867
435	2295	Grabovac	60 60	/	2867
436	2296	Grabovac	26 80	/	2867
437	2297	Grabovac	74 00	/	2867
438	2298	Grabovac	87 40	/	2867
439	2300	Grabovac	88 31	/	2867
440	2302/1	Grabovac	38 30	/	2867
441	2302/2	Grabovac	38 29	/	2867
442	2303	Grabovac	31 17	/	2867
443	2304	Grabovac	50 67	/	2867
444	2305	Grabovac	49 77	/	2867
445	2306	Grabovac	1 17 89	/	2867
446	2307	Grabovac	89 81	/	2867
447	2308	Grabovac	77 92	/	2867
448	2309	Grabovac	53 45	/	2867
449	2310	Grabovac	67 93	/	2867
450	2311	Grabovac	61 97	/	2867
451	2312	Grabovac	41 46	/	2867
452	2313	Grabovac	76 67	/	2867

453	2314	Grabovac	24 98	/	2867
454	2315	Grabovac	29 72	/	2867
455	2316	Grabovac	2 10 71	/	2867
456	2317	Grabovac	2 12 15	/	2867
457	2318	Grabovac	35 23	/	2867
458	2319	Grabovac	34 73	/	2867
459	2320	Grabovac	34 78	/	2867
460	2321	Grabovac	48 78	/	2867
461	2322	Grabovac	26 59	/	2867
462	2323	Grabovac	33 53	/	2867
463	2324	Grabovac	31 03	/	2867
464	2325	Grabovac	29 04	/	2867
465	2326	Grabovac	64 47	/	2867
466	2327	Grabovac	18 64	/	2867
467	2328	Grabovac	19 49	/	2867
468	2329	Grabovac	2 71 87	/	2867
469	2330	Grabovac	2 73 12	/	2867
470	2331	Grabovac	50 48	/	2867
471	2332	Grabovac	47 48	/	2867
472	2333	Grabovac	69 47	/	2867
473	2334	Grabovac	25 24	/	2867
474	2335	Grabovac	69 97	/	2867
475	2336	Grabovac	52 42	/	2867
476	2337	Grabovac	20 99	/	2867
477	2338	Grabovac	28 07	/	2867
478	2339	Grabovac	50 12	/	2867
479	2340	Grabovac	34 79	/	2867
480	2341	Grabovac	16 99	/	2867
481	2342	Grabovac	61 22	/	2867
482	2343/1	Grabovac	15 54	/	2867
483	2343/2	Grabovac	25 44	/	2867
484	2344	Grabovac	80 22	/	2867
485	2345	Grabovac	85 96	/	2867
486	2346/1	Grabovac	45 14	/	2867
487	2346/2	Grabovac	17 58	/	2867
488	2347/1	Grabovac	29 37	/	2867
489	2347/2	Grabovac	9 46	/	2867
490	2348	Grabovac	38 23	/	2867
491	2349	Grabovac	1 26 95	/	2867
492	2350	Grabovac	1 35 94	/	2867
493	2351	Grabovac	69 20	/	2867
494	2352	Grabovac	69 43	/	2867
495	2353/1	Grabovac	1 02 01	/	2867
496	2353/2	Grabovac	1 01 10	/	2867
497	2354	Grabovac	92 46	/	2867
498	2355	Grabovac	79 47	/	2867
499	2357	Grabovac	87 76	/	2867
500	2358	Grabovac	55 90	/	2867
501	2359	Grabovac	96 42	/	2867
502	2360	Grabovac	35 81	/	2867
503	2366	Grabovac	6 47	/	2867

504	2367	Grabovac	21 54	/	2867
505	2368	Grabovac	57 85	/	2867
506	2372	Grabovac	84 15	/	2867
507	2373/2	Grabovac	82 01	/	2867
508	2375/2	Grabovac	37 87	/	2867
509	2376	Grabovac	25 29	/	2867
510	2378/2	Grabovac	48 65	/	2867
511	2386/2	Grabovac	64 74	/	2867
512	2387/2	Grabovac	7 21	/	2867
513	2391	Grabovac	39 32	/	2867
514	2393	Grabovac	38 07	/	2867
515	2394	Grabovac	43 33	/	2867
516	2396	Grabovac	1 44 26	/	2867
517	2397	Grabovac	1 07 69	/	2867
518	2398/2	Grabovac	51 77	/	2867
519	2400/2	Grabovac	31 79	/	2867
520	2401	Grabovac	36 57	/	2867
521	2402	Grabovac	46 68	/	2867
522	2403	Grabovac	85 90	/	2867
523	2404	Grabovac	48 59	/	2867
524	2405	Grabovac	20 04	/	2867
525	2406	Grabovac	23 29	/	2867
526	2407	Grabovac	72 13	/	2867
527	2408	Grabovac	36 57	/	2867
528	2409/2	Grabovac	63 70	/	2867
529	2410/2	Grabovac	45	/	2867
530	2416/2	Grabovac	11 88	/	2867
531	2484/2	Grabovac	6 00	/	2867
532	2491	Grabovac	26 96	/	2867
533	2492/2	Grabovac	5 40	/	2867
534	2493/2	Grabovac	1 87	/	2867
535	2499/2	Grabovac	1 03	/	2867
536	2500	Grabovac	7 35	/	2867
537	2501	Grabovac	21 72	/	2867
538	2502	Grabovac	33 70	/	2867
539	2503	Grabovac	6 59	/	2867
540	2504/2	Grabovac	3 03	/	2867
541	2505/3	Grabovac	4 17	/	2867
542	2506	Grabovac	3 01	/	2867
543	2507	Grabovac	33 45	/	2867
544	2508	Grabovac	78 89	/	2867
545	2509	Grabovac	14 56	/	2867
546	2511/2	Grabovac	2 51	/	2867
547	2512/2	Grabovac	1 55	/	2867
548	25 13/2	Grabovac	36 72	/	2867
549	2514/1	Grabovac	41 77	/	2867
550	2515/2	Grabovac	30 47	/	2867
551	2516/1	Grabovac	5 56	/	2867
552	2516/2	Grabovac	85	/	2867
553	2517/1	Grabovac	1 23 84	/	2867
554	2517/2	Grabovac	9 40	/	2867

555	2518	Grabovac	69 12	/	2867
556	2519/1	Grabovac	68 62	/	2867
557	2519/2	Grabovac	22 94	/	2867
558	2520	Grabovac	2 27	/	2867
559	2521/1	Grabovac	2 21	/	2867
560	2521/2	Grabovac	80	/	2867
561	2522/1	Grabovac	29 07	/	2867
562	2522/2	Grabovac	9 50	/	2867
563	2523/2	Grabovac	84 26	/	2867
564	2524	Grabovac	1 08 00	/	2867
565	2525	Grabovac	47 17	/	2867
566	2526	Grabovac	1 19 71	/	2867
567	2527	Grabovac	63 86	/	2867
568	2528/1	Grabovac	62 02	/	2867
569	2528/2	Grabovac	60 81	/	2867
570	2529	Grabovac	4 71	/	2867
571	2530	Grabovac	24 29	/	2867
572	2531	Grabovac	24 76	/	2867
573	2532	Grabovac	73 73	/	2867
574	2533	Grabovac	94 92	/	2867
575	2534	Grabovac	90 16	/	2867
576	2535	Grabovac	17 78	/	2867
577	2536	Grabovac	45 08	/	2867
578	2537	Grabovac	43 33	/	2867
579	2538	Grabovac	40 82	/	2867
580	2539	Grabovac	49 09	/	2867
581	2540	Grabovac	3 57	/	2867
582	2541	Grabovac	57 85	/	2867
583	2544	Grabovac	59 36	/	2867
584	2545	Grabovac	9 72	/	2867
585	2546	Grabovac	12 72	/	2867
586	2547	Grabovac	1 10	/	2867
587	2548	Grabovac	1 01 18	/	2867
588	2549/2	Grabovac	73 16	/	2867
589	2550/2	Grabovac	22 28	/	2867
590	2551/2	Grabovac	11 33	/	2867
591	2552/2	Grabovac	28 68	/	2867
592	2553/2	Grabovac	14 22	/	2867
593	2554/2	Grabovac	7 88	/	2867
594	1817	Grabovac	1 68	/	2079
595	1853	Grabovac	66 18	/	2079
596	1858	Grabovac	66 84	/	2079
597	1865/1	Grabovac	44 09	/	2079
598	2095	Grabovac	16 44	/	2079
599	2101	Grabovac	23 79	/	2079
600	2102	Grabovac	41 77	/	2079
601	2103	Grabovac	52 36	/	2079
602	2104	Grabovac	43 57	/	2079
603	2105	Grabovac	79 55	/	2079
604	2131/1	Grabovac	58 94	/	2079
605	2131/2	Grabovac	2 10	/	2079

606	2156/2	Grabovac	2 36	/	2079
607	2157/2	Grabovac	2 40	/	2079
608	2158/2	Grabovac	5 10	/	2079
609	2168	Grabovac	1 29 27	/	2079
610	2172	Grabovac	22 84	/	2079
61 1	2198	Grabovac	29 05	/	2079
612	2224	Grabovac	1 01 97	/	2079
613	2237/3	Grabovac	68 74	/	2079
614	2237/4	Grabovac	16 93	/	2079
615	2240/2	Grabovac	3 08 86	/	2079
616	2243/2	Grabovac	17 54	/	2079
617	2244/1	Grabovac	21 39	/	2079
618	2245/2	Grabovac	38 39	/	2079
619	2246/1	Grabovac	30 25	/	2079
620	2246/2	Grabovac	21 55	/	2079
621	2247	Grabovac	1 13 10	/	2079
622	2248/2	Grabovac	24 81	/	2079
623	2249	Grabovac	11 26	/	2079
624	2252	Grabovac	23 77	/	2079
625	2356	Grabovac	1 04 76	/	2079
626	2361	Grabovac	1 49 52	/	2079
627	2362	Grabovac	20 54	/	2079
628	2364	Grabovac	17 43	/	2079
629	2365	Grabovac	15 53	/	2079
630	2369	Grabovac	51 59	/	2079
631	2377/2	Grabovac	25 68	/	2079
632	2377/3	Grabovac	1 31	/	2079
633	2385/2	Grabovac	37 69	/	2079
634	2388/2	Grabovac	4 16	/	2079
635	2389/2	Grabovac	37 73	/	2079
636	2390/1	Grabovac	61 80	/	2079
637	2392	Grabovac	40 82	/	2079
638	2399/2	Grabovac	25 61	/	2079
639	2489/2	Grabovac	1 25	/	2079
640	2490/2	Grabovac	49 00	/	2079
641	2515/1	Grabovac	32 52	/	2079
642	2555/2	Grabovac	1 00	/	2079
643	2176	Grabovac	5 66	/	875
644	2219	Grabovac	21 00	/	875
645	2299	Grabovac	6 10	/	875
646	2301	Grabovac	40 98	/	875
647	2363	Grabovac	17 79	/	875
648	2370	Grabovac	2 03	/	875
649	2374/2	Grabovac	3 56	/	875
650	2382/2	Grabovac	1 99	/	875
651	2395	Grabovac	12 39	/	875
652	2543	Grabovac	62 43	/	875
653	6942/2	Grabovac	2 11 61	/	875
654	6943	Grabovac	1 71 27	/	875
655	6944	Grabovac	73 43	/	875
656	6945/2	Grabovac	98 70	/	875

657	6948/2	Grabovac	20	/	875
658	6978	Grabovac	54 10	/	875
659	6985/2	Grabovac	5 55	/	875
660	6916/3	Grabovac	4 43 27	/	873
661	2371/2	Grabovac	14 84	/	876
662	6921/2	Grabovac	7 66	/	876

GRAĐEVINSKI OBJEKTI

Red. Br.	Vrsta i naziv objekta	Katastarska opština	Br. LN ili ZKUL	Broj katastarske parcele
1	Pregradni nasip između Kaseta 3 i 2, L≈1.800m, zatravnjen	Dren	2479	291/1, 291/2, 292/2, 292/3
		Grabovac	2867	1803, 1804, 1807, 1808, 1810/1, 1811, 1812, 1813, 1818, 1819, 1830, 1837. 1849, 1850, 1856, 1857, 1859, 1860, 1861, 1862, 1863, 1864, 2094, 2096, 2097, 2098, 2099, 2137, 2138, 2178, 2179, 2182, 2183, 2186, 2187, 2190, 2191, 2196, 2197, 2204, 2303
			2079	1858, 1865/1, 2095
			875	6942/2, 6943, 6945/2
2	Inicijalni - obodni nasip sa krunom na koti 82mnm, dužine L≈3.759m, površine poprečnog preseka $A \approx 19,25m^2$ sa obrađenom krunom, unutrašnjom i spoljnom kosinom, zatravnjen	Dren	2479	291/1, 292/3, 294, 430/1, 431/1, 433, 437, 438/1, 438/2, 439, 458, 461, 462/2, 464/1, 464/2, 467, 468, 469, 472/1, 472/2
			895	288/2, 289/1
			431	3252/2, 3265/2
			690	3239/2
		Grabovac	2867	1816, 1819, 1821, 1822, 1823, 1824, 2234, 2235/2, 2236/2, 2248/1, 2250, 2251, 2373/2, 2375/2, 2378/2, 2386/2, 2398/2, 2400/2, 2401, 2402, 2408, 2409/2, 2491, 2501, 2502, 2507, 2508, 2513/2, 2514/1, 2515/2, 2516/1, 2517/1, 2518, 2522/1, 2522/2, 2523/2, 2524, 2525, 2528/1, 2528/2, 2530, 2531, 2532, 2544, 2545, 2546, 2548
			2079	1817, 2237/3, 2240/2, 2246/1, 2246/2, 2247, 2249, 2377/2, 2385/2, 2390/1, 2399/2, 2490/2, 2515/1
			875	2374/2, 2382/2, 2543, 6942/2, 6945/2, 6985/2
			873	6916/3
			876	2371/2, 6921/2
3	Obodni kanal, dužine	Dren	2479	291/1, 292/3, 428/3, 430/1, 431 /1,433, 434/2, 436/3,

	L≈3.877m, poprečnog preseka A≈10m2 mašinski iskop sa izvedenim nagibom dna korita			440/2, 442/2, 452/8, 462/1, 462/2, 464/1, 467, 473/2, 483/2, 485/2
			895	288/2, 289/1, 444/4
			431	3252/2, 3265/2
			690	3239/2
		Grabovac	2867	1665/2, 1666/2, 2235/2, 2236/2, 2238/2, 2250, 2373/2, 2375/2, 2378/2, 2386/2, 2398/2, 2400/2, 2401, 2402, 2409/2, 2416/2, 2491, 2500, 2501, 2502, 2503, 2506, 2508, 2509, 2513/2, 2514/1, 2516/2, 2523/2, 2524, 2525, 2528/1, 2529, 2530, 2545, 2546, 2547, 2548
			2079	2237/3, 2237/4, 2240/2, 2244/1, 2245/2, 2246/2, 2249, 2377/2, 2385/2, 2389/2, 2399/2, 2490/2
			875	2374/2, 2382/2, 2543, 6942/2, 6945/2, 6985/2
			873	6916/3
			876	2371/2, 6921/2
4	Ograda u dužini od L≈3.960m, visine 2m, žičano-pletena mreža i stubovi	Dren	2479	292/3, 428/3, 429/2, 434/2, 436/3, 440/2, 442/2, 444/3, 452/8, 462/1, 464/1, 473/2, 483/2, 484/2, 485/2
			895	274/2, 288/2, 444/4
			431	3252/2, 3265/2
			690	3239/2
		Grabovac	2867	1663, 1665/2, 1666/2, 2235/2, 2236/2, 2238/2, 2373/2, 2375/2, 2378/2, 2386/2, 2387/2, 2398/2, 2400/2, 2401, 2409/2, 2416/2, 2484/2, 2491, 2492/2, 2493/2, 2500, 2504/2, 2505/3, 2509, 2511/2, 2512/2, 2513/2, 2523/2, 2524, 2529, 2530, 2549/2
			2079	2237/3, 2237/4, 2240/2, 2243/2, 2244/1, 2245/2, 2246/2, 2385/2, 2388/2, 2389/2, 2399/2, 2489/2, 2490/2
			875	2374/2, 2382/2, 2543, 6942/2, 6945/2, 6985/2
			873	6916/3
			876	2371/2, 6921/2
5	Asfaltni put, širine 5 m, dužine L≈3.660m	Dren	2479	291/1, 292/3, 428/3, 430/1, 431/1, 433, 436/3, 437, 438/1, 439, 462/2, 464/1, 464/2, 467, 468, 469, 473/2

			895	288/2, 289/1
			431	3252/2, 3265/2
			690	3239/2
		Grabovac	2867	1821, 1822, 1823, 1824, 2235/2, 2236/2, 2248/1, 2250, 2251, 2373/2, 2375/2, 2378/2, 2386/2, 2398/2, 2400/2, 2401, 2402, 2409/2, 2491, 2501, 2502, 2507, 2508, 2513/2, 2514/1, 2516/2, 2517/2, 2522/2, 2523/2, 2524, 2525, 2528/1, 2528/2, 2530, 2545, 2546, 2548
			2079	2237/3, 2237/4, 2240/2, 2245/2, 2246/2, 2249, 2377/2, 2385/2, 2389/2, 2390/1, 2399/2, 2490/2, 2515/1
			875	2374/2, 2382/2, 2543, 6942/2, 6945/2, 6985/2
			876	2371/2, 6916/3, 6921/2
6	Vetrozaštitni pojas, P≈17xa70a43m^2	Dren	2479	292/3, 428/3, 429/2, 430/1, 434/2, 436/3, 440/2, 442/2, 444/3, 452/8, 462/1, 462/2, 464/1, 467, 473/2, 483/2, 484/2, 485/2
			895	274/2, 288/2, 444/4
			431	3252/2, 3265/2
			690	3239/2
		Grabovac	2867	1663, 1665/2, 1666/2, 2235/2, 2236/2, 2238/2, 2250, 2373/2, 2375/2, 2378/2, 2386/2, 2387/2, 2398/2, 2400/2, 2401, 2409/2, 2416/2, 2484/2, 2491, 2492/2, 2493/2, 2500, 2501, 2502, 2503, 2504/2, 2505/3, 2506, 2509, 2511/2, 2512/2, 2513/2, 2514/1, 2516/2, 2523/2, 2524, 2525, 2529, 2530, 2549/2
			2079	2237/3, 2237/4, 2240/2, 2243/2, 2244/1, 2245/2, 2246/2, 2377/2, 2385/2, 2388/2, 2389/2, 2399/2, 2489/2, 2490/2
			875	2374/2, 2382/2, 2543, 6942/2, 6945/2, 6985/2
			876	2371/2, 6921/2
			873	6916/3
7	Drenaža - osnovna - u obodnom nasipu, L≈3.759m	Dren	2479	291/1, 292/3, 294, 430/1, 431/1, 433, 437, 438/1, 438/2, 439, 458, 461, 462/2, 464/1, 464/2, 467, 468, 469, 472/1, 472/2
			895	288/2, 289/1

			431	3252/2, 3265/2
			690	3239/2
		Grabovac	2867	1816, 1819, 1821, 1822, 1823, 1824, 2234, 2235/2, 2236/2, 2248/1, 2250, 2251, 2373/2, 2375/2, 2378/2, 2386/2, 2398/2, 2400/2, 2401, 2402, 2408, 2409/2, 2491, 2501, 2502, 2507, 2508, 2513/2, 2514/1, 2515/2, 2516/1, 2517/1, 2518, 2522/1, 2522/2, 2523/2, 2524, 2525, 2528/1, 2528/2, 2530, 2531, 2532, 2544, 2545, 2546, 2548
			2079	1817, 2237/3, 2240/2, 2246/1, 2246/2, 2247, 2249, 2377/2, 2385/2, 2390/1, 2399/2, 2490/2, 2515/1
			875	2374/2, 2382/2, 2543, 6942/2, 6945/2, 6985/2
			873	6916/3
			876	2371/2, 6921/2
8	Drenaža 1-ovog prstena, kota ≈78,5m u kaseti 3, 27,00m od osnovne drenaže u dužini L≈3673m	Dren	2479	291 /1, 292/3, 294, 430/1, 431/1, 432/1, 432/2, 437, 438/2, 458, 461, 464/2, 467, 469, 472/1, 472/2
			895	289/1
			431	3265/2
			690	3239/2
		Grabovac	2867	1816, 1819, 1821, 1822, 1823, 1824, 2234, 2235/2, 2236/2, 2248/1, 2250, 2251, 2372, 2373/2, 2375/2, 2386/2, 2400/2, 2401, 2402, 2403, 2408, 2491, 2501, 2502, 2507, 2508, 2514/1, 2515/2, 2516/1, 2517/1, 2518, 2521 /1, 2521/2, 2522/1, 2522/2, 2524, 2525, 2528/1, 2528/2, 2531, 2532, 2544, 2548
			2079	1817, 2237/3, 2240/2, 2246/1, 2247, 2248/2, 2249, 2377/2, 2377/3, 2385/2, 2390/1, 2399/2, 2515/1
			875	2374/2, 2382/2, 2543, 6942/2, 6945/2, 6985/2
			876	2371/2
9	Prelivne šahte R', R" i R'" (3 kom), do kote≈88,00m sa cevovodom ∅1.300mm do obodnog kanala sa šahtom pored obodnog kanala	Dren	2479	438/1, 438/2, 440/2, 457, 459
			690	3239/2
		Grabovac	2867	2159, 2165, 2166, 2171, 2175/2, 2210, 2211, 2212, 2213, 2214/1, 2214/2, 2215, 2216, 2217, 2218, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2300,

				2316, 2317, 2336, 2337, 2349, 2350, 2351, 2352, 2353/1, 2353/2
			875	6944, 6945/2
10	Kolektor od šahte pored obodnog kanala do crpne stanice 1, L≈1.000m, ∅1.300mm	Dren	2479	292/3, 428/3, 430/1, 434/2, 436/3, 440/2
			895	274/2, 288/2, 289/1
11	Armirano-betonski temelji za fiksne oslonce cevovoda, dimenzija 3x5x2m, 13 kom	Dren	2479	438/1, 464/1, 468
		Grabovac	2867	1821, 2235/2, 2373/2, 2398/2, 2409/2, 2507, 2528/2
			2079	2240/2, 2246/1
12	Armirano-betonski temelji za klizne oslonce cevovoda, dimenzija 1x3x1,5m, 300 kom	Dren	2479	291/1, 292/3, 428/3, 430/1, 431/1, 433, 437, 438/1, 439, 462/2, 464/1, 464/2, 467, 468, 469, 473/2
			895	288/2, 289/1
			431	3252/2, 3265/2
			690	3239/2
		Grabovac	2867	1819, 1821, 1822, 1823, 1824, 2235/2, 2236/2, 2248/1, 2250, 2251, 2373/2, 2375/2, 2378/2, 2386/2, 2398/2, 2400/2, 2401, 2402, 2409/2, 2491, 2501, 2502, 2507, 2508, 2513/2, 2514/1, 2516/1, 2516/2, 2517/2, 2522/2, 2523/2, 2524, 2525, 2528/1, 2528/2, 2530, 2545, 2546, 2548
			2079	2237/3, 2237/4, 2240/2, 2246/1, 2246/2, 2249, 2377/2, 2385/2, 2390/1, 2399/2, 2490/2, 2515/1
			875	2374/2, 2382/2, 2543, 6942/2, 6945/2, 6985/2
			876	2371/2, 6921/2
			873	6916/3

NAPOMENA:
Svi gore navedeni objekti su izgrađeni u okviru Deponije pepela kao jedinstvenog objekta i za njih postoje građevinske dozvole:

- 351-453/82 od 05.06.1984. godine,
- 351-1488 od 09.11.1984. godine,
- 351-488 od 03.07.1985. godine,
- 351-1569 od 18.11.1985. godine,
- 351-1046 od 25.12.1987. godine.

Dozvole su kao i upotrebna dozvola, broj 351-1168 od 29.10.1987. godine, izdate od strane SO Obrenovac. Pobrojani objekti su prikazani na situaciji - katastarsko-topografskom planu.

OPREMA

Red. broj	NAZIV	OPIS

1	Portalni kran - otvoreno skladište	Mosna dizalica, proizvođač "Min" Niš, II klasa, nosivost 30/10t, raspon mosta 76,5m; Staze portalnog krana. L≈150,00m
2	Pepelovodi	Spiralno varene cevi ∅560 x 8mm; Materijal: Č.0361; Pepelovod, ∅560mm, L≈500m

REPUBLIC OF SERBIA

Ministry of Finance

LAW
ON STATE AID CONTROL

Published in
"Official Gazette of the Republic of Serbia" No. 51/09

Belgrade, July 2009

LAW
ON STATE AID CONTROL

Scope and Subject of the Law

Article 1

This Law shall regulate the general terms and procedure for the state aid control with a view to ensure protection of free competition on the market, through implementation of the principles of the market economy and encouraging the economic development, transparency in the state aid granting, as well as fulfilling undertaken obligations related to international agreements that contain provisions on state aid.

Provisions of this Law shall not apply to agricultural and fisheries products.

Meaning of Terms

Article 2

The terms used in this Law shall have the following meaning:

1) *state aid* is any actual or potential public expenditure or realised decrease in public revenue which confers to state aid beneficiary a more favourable market position in respect to the competitors and as a result causes or threatens to cause distortion of the market competition.

2) *state aid grantor* is the Republic of Serbia, the autonomous province and local self-government unit, through their competent bodies, and any legal person managing and/or having disposal over public funds and allocating the state aid in any form whatsoever.

3) *state aid beneficiary* is any legal or natural person which, in their business operations concerning production and/or trade of goods and/or providing of services on the market, use state aid in any form whatsoever .

4) *complete state aid notification* is the set of all data and information listed in the state aid notification, including such as the state aid applicant is required to provide to the Commission for State Aid Control (hereinafter referred to as: the Commission) at its request, based on which the Commission can make decisions within ex ante and ex post control of state aid.

Unallowed State Aid

Article 3

Regardless of the form in which it was granted, any state aid that distorts or threatens to distort market competition, other than different rule has not been layed down by this Law, or is contrary to internationally ratified treaties, shall be deemed unallowed.

Allowed State Aid

Article 4

In accordance with this Law, state aid shall be allowed when:
1) having a social character and granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the goods, namely products concerned;
2) granted to make good the damage caused by natural disasters or other exceptional occurrences.

State Aid that may be considered to be allowed

Article 5

In accordance with this Law, state aid may be considered to be allowed when granted:

1) to promote the economic development of areas of the Republic of Serbia where the standard of living is abnormally low or where there is serious unemployment;

2) to remedy a serious disturbance in the economy of the Republic of Serbia or to promote the execution of an important project of the Republic of Serbia;

3) to facilitate the development of certain economic activities or of certain economic areas in the Republic of Serbia, where such aid does not adversely affect or threaten to affect the market competition;

4) to promote protection and preservation of culture heritage.

Commission

Article 6

The control of state aid, in line with this Law, will be accomplished by the Commission, setting up by the Government upon the proposal of: the ministry responsible for finances; the ministry responsible for economy and regional development; the ministry responsible for infrastructure; the ministry responsible for environmental protection; the Commission for Protection of Competition.

The representative of the ministry responsible for finances (hereinafter referred to as: the Ministry) shall at the same time be the Chairperson of the Commission, and the representative of the Commission for Protection of Competition shall be the Deputy Chairperson.

The Commission shall be composed of five members.

A person who is a citizen of the Republic of Serbia may be nominated for the member of the Commission, provided such person has at least a university degree and possess expert knowledge in the field of state aid, competition, and/or EU legislation.

Member of the Commission shall be remunerated for its engagement in the Commission, as determined by the Government.

The Commission shall adopt its rules of procedure.

The Commission shall be operationally independent.

Financial and Technical Requirements for the activities of the Commission

Article 7

Funds for the activities of the Commission shall be provided from the budget of the Republic of Serbia.

The Ministry shall provide the premises and other technical requirements for the activities of the Commission.

Commission' Member Appointment and Mandate Cessation

Article 8

Member of the Commission shall be appointed for a period of five years and can be reappointed, at the proposal of the same proposer.

Mandate of the Commission member shall cease:
1) upon expiry of the period for which he/she is appointed;
2) if he/she acts contrary to the provisions hereof;
3) if he/she does not respect the provisions of the Commission's Rules of Procedure;
4) if unconditionally sentenced to a prison term of at least six months;
5) at personal request, by submitting a letter of resignation.

Competency of the Commission

Article 9

The Commission:
1) within ex ante control shall decide on whether notified state aid is allowed;
2) within ex post control shall decide on whether granted state aid is allowed;
3) shall make decisions and conclusions in the procedure of ex ante or ex post control;
4) shall submit to the Government an annual report on state aid granted in the Republic of Serbia;
5) in performance of its responsibilities, to cooperate with the Supreme Audit Institution, the Republic authority for budget inspection, the autonomous province department, namely department of the local self-government unit responsible for budget inspection, and with other domestic and international authorities, organizations, and institutions;
6) shall publish on its Internet page decisions that it adopts in the procedure of ex ante and ex post control, the annual report on state aid granted in the Republic of Serbia after it has been adopted by the Government, as well as other data and information that it deems to be relevant to the application of this Law;
7) shall perform other tasks in accordance with this Law.

Specialist, Administrative and Technical Activities for the Commission

Article 10

Specialist, administrative and technical activities for the Commission shall be performed by the Ministry, in particular:

1) Collect and process the notifications and other data about state aid;

2) Prepare the decision of the Commission in the procedures of ex ante and ex post control;

3) Keep records of state aid;

4) Prepare proposal of annual report on state aid granted in the Republic of Serbia, to be submitted by the Commission to the Government;

5) cooperate with the Supreme Audit Institution, the Republic authority for budget inspection, the autonomous province department, namely department of the local self-government unit responsible for budget inspection, and with other domestic and international authorities, organizations, and institutions in the field of state aid control.

In addition to the tasks referred to in paragraph 1 of this Article, the Ministry also performs the tasks of preparing legal acts, regulating state aid control, as well as proposals of amendments thereto and other tasks in accordance with this Law.

State Aid Notification

Article 11

State aid grantor shall be under obligation to, before granting the state aid, notify the state aid to the Commission.

Proposer of the regulation constituting the grounds for state aid granting shall, before forwarding it for adoption, notify the draft and/or the proposal of such regulation to the Commission.

In the event of any changes to the notified state aid after the notification referred to in paragraphs 1 and 2 of this Article, the state aid grantor and/or the proposer of the regulation shall notify such change to the Commission.

The state aid grantor or proposer of the regulation shall be entitled to withdraw the notification, in the capacity of a state aid applicant, before the Commission makes its decision.

The state aid applicant from paragraph 4 of this Article shall be responsible for the truthfulness and correctness or accuracy of information, in the sense of a complete state aid notification.

State Aid Scheme and Individual State Aid

Article 12

State aid shall be notified as:

1) a state aid scheme, or
2) individual state aid

State aid scheme is a set of all acts constituting the grounds for state aid granting to beneficiaries which are not previously designated (known), and drafts and /or proposals of regulations which will constitute the grounds for state aid granting after their adoption to beneficiaries which are not previously designated (known), and which are, in accordance with Article 11 paragraph 2 of this Law, subject to mandatory previous notification to the Commission, before they are forwarded for adoption.

The individual state aid is the state aid granted:

1) based on the state aid grantor's act, to the previously designated beneficiary, and which is not based on a state aid scheme, or
2) based on the state aid scheme, for which the Commission has already taken decision according to article 13 paragraph 5 of this Law, with the obligation of previous notification before the state aid is granted to individual beneficiary.

Ex ante control

Article 13

The Commission shall commence the ex ante control upon receipt of a complete state aid notification.

If the Commission finds that the notification from paragraph 1 of this Article does not concern state aid, it shall adopt a decision where this is stated and shall inform the submitting party accordingly.

If it finds that the notification does concern the state aid, the Commission shall decide whether notified state aid is allowed within a period that cannot be longer than 60 days as of the date of receipt of the complete notification.

If the applicant from paragraph 2 of this Article shall not provide or refuse to provide the Commission with all of the requested information which constitutes a complete state aid notification in the sense of this Law, the Commission shall adopt a decision denying the state aid notification as incomplete and send it to the applicant.

If upon receiving the complete notification, the Commission shall determine that the notified state aid is not contrary to the provisions of this Law, it shall adopt a decision which deems the state aid as allowed and send it to the applicant.

If upon receiving the complete notification, the Commission shall determine that the notified state aid is fully or partially contrary to the provisions of this Law, it shall adopt a conclusion with which the applicant is assigned a deadline for correcting non-compliance, with proposed measures, for achieving compliance.

If the applicant fails to act on the Commission's proposal, the Commission shall adopt a decision deeming the notified state aid as unallowed and send it to the applicant.

The decision that the Commission shall adopt in ex ante control shall be sent to the state aid applicant within a period that cannot be longer than 30 days as of the date when the decision is adopted.

Communicating with the State Aid Beneficiary

Article 14

Prior to granting of state aid, the state aid grantor shall be required to send to the state aid beneficiary a copy of the Commission's decision that is relevant to the particular beneficiary, or to inform the beneficiary of the manner and place where information can be received as to the content of such decision.

Standstill Clause

Article 15

Until the adoption of the Commission's decision from Article 13 of this Law, namely until the conclusion of the ex ante control, notified state aid cannot be granted.

If the Commission shall adopt the decision as per Article 13 paragraph 7 of this Law, the state aid to which such decision relates, cannot be granted.

Ex Post Control

Article 16

The Commission shall conduct ex post control based on its own information or based on the information obtained from whatsoever source that suggests that it concerns the state aid that has been granted and/or is in use or has been used contrary to the provisions of this Law.

Within further procedure of ex post control, the Commission shall order the state aid grantor to submit additional information and fix the deadline for submittal of such information.

The Commission shall conduct ex post control and take the decision referred to in Article 13 of this Law based on the additional information, namely based on the available information, if the state aid grantor fails to act pursuant to the Commission's order as per paragraph 2 of this Article.

Before the decision referred to in paragraph 3 of this Article is taken, the Commission may order that the state aid grantor suspends further granting of state aid, if it finds that any further granting of such aid would cause more serious distortion to market competition.

Rights of Interested Parties

Article 17

Any person with legal interests can file a request with the Commission for initiating the ex post control.

After verifying the information in the request, the Commission shall adopt a decision in the sense of Article 13 of this Law and inform the party that filed the request about it.

Repayment of State Aid

Article 18

If, within the ex post control, the Commission finds any flaws, it shall fix a deadline within which the state aid grantor shall be under obligation to remedy such flaws.

If the state aid grantor fails to remedy the flaws within the specified deadline and fails to inform the Commission about it in writing, within 5 days after the expiry of deadline referred to in paragraph 1 of this Article, the Commission shall take the decision on unallowed state aid.

By its decision referred to in paragraph 2 of this Article, the Commission shall order the state aid grantor to, without delay, take measures to recover the state aid amount that was granted, increased by default interest prescribed by law, from the day of using such aid until the date of recovering the used amount. By the same decision the state aid grantor shall be ordered to immediately discontinue further granting of the unused portion of state aid.

After expiry of the period of ten years after the day when the state aid was granted, the Commission shall not be able to order the recovery of state aid.

Informing Competent Authorities and Departments

Article 19

About taking the decision referred to in Article 18 paragraph 2 of this Law, the Commission shall inform the Supreme Audit Institution, the Republic authority for budget inspection, the autonomous province department, namely department of the local self-government unit responsible for budget inspection.

About the measures taken as referred to in paragraph 1 of this Article, the Commission shall submit the information to the Government.

Finality of the Commission's Decision. Administrative dispute

Article 20

The Commission's decision referred to in Article 13 paragraphs 2, 4, 5 and 7, Article 16 paragraph 3 and Article 18 paragraph 2 of this Law shall be final and an administrative dispute can be initiated against it.

An administrative dispute can be initiated even if the Commission shall not adopt a decision within the period specified in Article 13 paragraph 3 of this Law.

The lawsuit by which the administrative dispute was instigated shall not stay the execution of the Commission's decision referred to in paragraph 1 of this Article.

Participation in State Aid Control Procedure

Article 21

In the state aid control procedure, a member of the Commission shall respect the provisions of the law governing the prevention of the conflict of interest in discharge of public functions.

A member of the Commission who is at the same time a representative of the state aid grantor, or the proposer of the regulation constituting the grounds for state aid granting, may provide additional information within the state aid control procedure but shall not have the right to take part in the decision-making process.

A representative of the state aid grantor, or the proposer of the regulation constituting the grounds for state aid granting who is not a member of the Commission shall be entitled to participate in the state aid control procedure to provide additional information but shall not have the right to take part in the decision-making process.

The Commission may also invite representatives of other authorities, organizations and professional associations to provide further information of relevance for decision-making, but they shall not have the right to take part in the decision-making process.

Confidentiality of Information

Article 22

Members of the Commission and persons employed with the Ministry shall be under obligation to, even after termination of their mandates, namely termination of their employment, keep confidential the information obtained within the state aid control procedure that the state aid grantor or beneficiary have designated as professional secrecy.

Information referred to in paragraph 1 of this Article shall not be disclosed or communicated to third persons without explicit written consent of the person whom they concern, unless the competent authority is required by law to do so.

Reporting

Article 23

Based on the information collected from the state aid grantors, the Ministry shall prepare the proposal of annual report on the state aid granted in the Republic of Serbia, which the Commission shall submit to the Government.

The Ministry shall specify in more detail the methodology for annual report drafting, deadline for submittal of data to the Ministry, and deadline for submittal of the proposal of annual report referred to in paragraph 1 of this Article.

The regulations within the competence of the Government

Article 24

The Government shall specify in more detail the manner and procedure for state aid scheme and individual state aid notification, including the rules for granting, namely assessing whether notified or granted state aid is allowed.

Transitional and Final Provisions

Article 25

Provisions for implementing this Law shall be adopted by the date of its application.

Until the date of application of this Law the Government shall set up the Commission.

Within a period that cannot exceed one year as of the date of commencement of the application of this Law, the Government shall adopt a programme of compliance of state aid schemes and individual state aid with this Law, which are effective until that time and continue to be so after the date of commencement of the application of this Law.

The Commission shall adopt its rules of procedure within 30 days after the Commission's setting up date.

Entering into Force of this Law

Article 26

This Law shall enter into force on the eighth day from the date of its publication in the "Official Gazette of the Republic of Serbia", and shall apply as of January 1, 2010.

Na osnovu člana 6. Zakona o kontroli državne pomoći („Službeni glasnik RS”, broj 51/09), i člana 43. stav 1. Zakona o Vladi („Službeni glasnik RS”, br. 55/05, 71/05 – ispravka, 101/07 i 65/08),

Vlada donosi

ODLUKU
o obrazovanju Komisije za kontrolu državne pomoći

1. Radi obavljanja poslova utvrđenih Zakonom o kontroli državne pomoći, obrazuje se Komisija za kontrolu državne pomoći (u daljem tekstu: Komisija) u sastavu:

– predsednik

Inga Šuput-Đurić, pomoćnik ministra finansija;

– zamenik predsednika

Milica Petrović, viši stručni saradnik, Komisija za zaštitu konkurencije;

– članovi:

1) Jasmina Roskić, rukovodilac Grupe, Ministarstvo ekonomije i regionalnog razvoja,

2) Jasmina Radonjić, rukovodilac Grupe, Ministarstvo za infrastrukturu,

3) Branislav Đelić, savetnik, Ministarstvo životne sredine i prostornog planiranja.

2. Komisija donosi Poslovnik u roku od 30 dana od dana početka primene Zakona o kontroli državne pomoći.

3. Članovi Komisije primaju mesečnu naknadu za rad u Komisiji u visini od jedne neto prosečne zarade po zaposlenom u Republici Srbiji iz prethodna tri meseca, prema podacima organizacije nadležne za poslove statistike, a predsednik – u visini te zarade uvećane za 50% počev od prve sednice Komisije na kojoj se razmatraju pitanja iz njene nadležnosti.

4. Ovu odluku objaviti u „Službenom glasniku Republike Srbije”.

05 broj 02-8571/2009-2

U Beogradu, 29. decembra 2009. godine

Vlada

Prvi potpredsednik Vlade –
zamenik predsednika Vlade,
Ivica Dačić, s.r.

REGULATION

ON RULES FOR STATE AID GRANTING

("Official Gazette of RS", no. 13/2010, 100/2011, 91/2012, 37/2013, 97/2013 and 119/14)

I BASIC PROVISIONS

Article 1

This Regulation shall govern in more detail rules for state aid granting, and for assessing whether notified or granted state aid is allowed. The legislation of the Republic of Serbia is harmonized with contents of instruments of interpretation that were adopted by institutions of European community with regard to state aid.

Article 1a

State aid grantor is obliged, when granting state aid to a predetermined user, to adhere to this regulation, as well as the rules on state aid granting contained in the confirmed international contracts that are not included in this regulation.

A document that is the basis for state aid granting to non-predetermined users has to be in accordance with this regulation when it comes to conditions for state aid granting.

Article 2

Some of the expressions used herein have the following meaning:

1) *enterprise* (state aid beneficiary) is taken to mean any legal or natural entity that, irrespective of its legal form or manner of financing, uses state aid in any form for performing production activities and for sales of goods and services in the market, except for an enterprise in the process of privatization;

Items 2) - 4) *(deleted)*

5) *enterprise in difficulties* is an enterprise incapable of preventing losses from own resources or resources it could obtain from its owners/shareholders, creditors or other sources and which, without state intervention, would jeopardize its survival short term or midterm.

An enterprise is deemed to be in difficulties:

(1) in case of a limited liability enterprise, if the amount of subscribed capital was reduced by more than 50%, out of which in the past 12 months it lost over one quarter of share capital;

(2) in case of an enterprise where at least one person is fully liable for its debts, if the capital presented in financial statements was reduced by more than 50%, out of which in the past 12 months over one quarter of capital was lost;

(3) if it meets the criteria for initiating bankruptcy procedure.

If none of the conditions set out in paragraph 1, of this point are fulfilled, an enterprise can be deemed to be in difficulties if there are obvious indicators that the enterprise is in difficulties, such as loss growth, total revenue drop, stocks' increase, redundant capacities, reduced cash flow, debt rise, interest cost rise and reduction or zero net value of property. The enterprise is deemed to be in most serious difficulties if it is incapable of paying (insolvent) or if a bankruptcy procedure was initiated in it.

In any event, state aid can be granted to an enterprise in difficulties only if it proves that it cannot recover using its own funds, funds of its owners/shareholders, creditors or funds from other sources in the market.

A newly founded enterprise in operation for a period below three years shall not be deemed to be in difficulties in this period, unless it is a small or medium enterprise fulfilling conditions for initiating bankruptcy procedure;

6) *large investment project* is taken to mean investments into fixed assets with eligible costs exceeding EUR 50 million;

7) *reference rate* is interest rate used for calculating and discounting state aid, defined by the ministry in charge of finance operations and published by Commission for State Aid Control on its webpage;

8) *eligible costs* are costs for which state aid grant is allowed;

9) *state aid amount* (intensity) is the amount of state aid as a percentage of eligible costs;

10) *initial investment* is investment in tangible and intangible assets in the following cases:

(1) starting new business activity,

(2) expanding existing activity,

(3) diversification of existing production program by new, additional products,

(4) significant changes in overall production process of existing activity,

(5) acquisition of assets directly related to the enterprise, provided that the enterprise is shut down or would have been shut down if it had not been acquired by independent investor under market conditions;

11) *tangible assets* are taken to mean assets relating to: land, buildings, constructions, plants, machines and equipment;

12) *intangible assets* are property created by transfer of technology, acquisition of patent rights, licenses, know-how or non-patented technical knowledge;

13) *cost of salary* is total amount that the state aid beneficiary actually pays for work of employees, including gross salary, i.e. salary with tax and contributions for compulsory social insurance paid from the salary, as well as contributions paid to the salary;

14) *operating state aid* is aid intended for covering a part of an enterprise's current expenditures (costs of salaries, transportation, lease, etc.);

15) *disadvantaged worker* is a person who:

1) has not been employed full-time in the past six months;

2) has not finished secondary education nor acquired professional qualification;

3) over 50 years of age;

4) lives as a single adult with one or more dependents;

5) works in a sector or profession in the Republic of Serbia where the gender imbalance is at least 25 % higher than the average gender imbalance across all economic sectors; or belongs to an ethnic minority in the Republic of Serbia and who requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to full-time employment;

16) *disabled worker* is every person whose disability has been recognized by laws of the Republic of Serbia;

16a) *sheltered employment* means employment in an enterprise where at least 50% of the employees are disabled workers;

17) *risk capital* is financing in the form of equity capital or in the form similar to equity capital in the early phases of creation and early development of an enterprise (phase of initiation, founding and development).

18) *services of general economic interest* are activities, i.e. jobs that secure rights of citizens, i.e. meeting citizens' and organizations' needs, as well as achieving other legally determined interests in certain areas.

Small, medium and large enterprises (number of employees and financial boundaries as criteria for determining the type of enterprise)

Article 2a

Small enterprise is an enterprise for which it is determined based on article 2b-2g of this regulation that it employs less than 50 people, whose annual turnover and/or total annual balance is less than EUR 10 million in dinar equivalent.

Medium enterprise is an enterprise for which it is determined based on article 2b-2g of this regulation that it employs between 50 and 250 people, whose annual turnover is less than EUR 50 million and/or total annual balance is less than EUR 43 million in dinar equivalent.

Large enterprise is an enterprise that is not a small or medium enterprise.

Independent, partner and affiliated enterprises as criteria for calculating the number of employees and financial boundaries

Article 2b

An independent enterprise is an enterprise that is not a partner enterprise or an affiliated enterprise.

Partner enterprises are enterprises that are not affiliated enterprise and that have the following relationship: one enterprise (enterprise higher in the ownership rank), alone or together with one or more affiliated enterprises, has assets or voting rights of 25% or more in another enterprise (enterprise lower in the ownership rank).

An enterprise is deemed independent, thus without a partner enterprise, if 25% of its assets or voting rights are owned by investors who individually or together are not affiliated with the enterprise, and these would include:

1) public investment companies, companies with venture capital, individual or groups of individuals whose regular activity is investing venture capital, and who invest equity in businesses not included in the stock exchange (so-called business angels), if their joint investments in the enterprise are under 1,250,000 euros in dinar equivalent;

2) universities or non-profit research centers;

3) institutional investors, including regional development funds;

4) independent body of a local self-government that has less than 10 million euros in dinar equivalent in its annual budget and less than 5,000 residents.

Affiliated enterprises are enterprises between which there are some of the following relationships:

1) one enterprise has a majority of voting rights of shareholders or members in another enterprise;

2) one enterprise has the right to appoint or dismiss most members of management or supervision board in another enterprise;

3) one enterprise has a dominant influence in another enterprise based on a contract concluded with that other enterprise or a provision in the statute of that other enterprise;

4) one enterprise, which is a shareholder or a member in another enterprise, independently controls, based on an agreement with other shareholders or members in that other enterprise, majority of voting rights of shareholders or members in that other enterprise.

A dominant influence in another enterprise does not exist if investors from paragraph 3 of this article are not indirectly or directly included in management of that other enterprise, regardless of their rights as equity owners.

Affiliated enterprises are also those enterprises between which, via one of more enterprises, there are some of the relationships mentioned in paragraph 4 of this article, as well as the enterprises that have one of more investors from paragraph 3 of this article.

Affiliated enterprises are also those enterprises between which, via one natural entity or a group of natural entities that operate together, there are some of the relationships mentioned in paragraph 4 of this article, if the enterprises are conducting their activity or a part of the activity in the same relevant market or neighboring markets.

'Neighboring market' is the market of products or services that is vertically directly above or below the relevant market.

An enterprise is not a small or medium enterprise if one public body, or several public bodies together, indirectly or directly, control 25% or more of equity or voting rights in the enterprise.

An enterprise can make a statement about its status of an independent enterprise, partner enterprise or affiliated enterprise, as well as a statement on data from article 2a of this regulation. An enterprise can make such a statement even when the equity is distributed in such a way that it cannot be precisely determined who owns it. In that case, the enterprise can declare in good faith that it can be reasonably assumed that one or more mutually affiliated enterprises do not own 25% of more of equity. Making such statements does not affect the possibility to examine their validity.

Data that serve for determining the number of employees and financial boundaries, and the reference period

Article 2v

Data on the number of employees and financial boundaries are data that refer to the last approved accounting period and are calculated on the annual basis. The data is taken into account starting from the day business records were closed. Amount of turnover is calculated without value added tax (VAT) and other indirect taxes.

If an enterprise determines on the day of closing business records that on the annual level it surpassed the number of employees or financial boundaries from article 2a of this regulation, or that it dropped below that number, i.e. boundary, it gains or loses the status of a small or medium enterprise only if that occurs during two consecutive accounting periods.

For newly-founded enterprises whose regular annual financial reports have not yet been approved, data are obtained through assessment in good faith during the fiscal year.

Number of employees

Article 2g

The number of employees corresponds to the number of annual work units (hereinafter: AWU), i.e. the number of employees with full working hours who worked in the enterprise or on its behalf during the whole year in question. The work of persons who did not work the whole year in question, who did not work full working hours, regardless of how long their working hours were, and the work of seasonal workers (based on the employment contract or the contract on temporary and occasional work) is considered a part of AWU.

Staff of an enterprise includes:

1) employees;

2) persons working for a subordinate enterprise if they are considered employed;

3) owners - managers;

4) partners who are regularly included in activities of the enterprise and who benefit from financial benefits of the enterprise.

Interns or students who are on vocational training and have an employment contract as interns or a contract on vocational training are not considered staff.

Determining data on an enterprise

Article 2d

Data on an independent enterprise, including the number of employees, are determined solely based on its regular annual financial reports.

Data on an enterprise that has partner enterprises or affiliated enterprises, including the number of employees, are determined based on its regular annual financial reports and other enterprise data, or based on consolidated financial reports of the enterprise, or consolidated financial reports in which the enterprise is included via consolidation.

Data on each partner enterprise of the enterprise in question, which are on the next higher or lower level in ownership rank from the enterprise in question, will be added to the data from paragraph 2 of this article. Adding is proportional to the percentage of share in equity or voting rights, whichever is larger. Larger percentage is valid in enterprises with reciprocal shareholding.

100% of data on each enterprise that is indirectly or directly affiliated with the enterprise in question are added to data from paragraphs 2 and 3 of this article, unless these data are already included in the consolidated financial report.

Due to implementation of paragraphs 2, 3 and 4 of this article, data on partner enterprises of the enterprise in question are taken out of their regular annual financial reports or from other consolidated data, and are added to 100% of data on all the enterprises affiliated with them, unless those data are already included in the consolidated financial report.

Due to implementation of paragraphs 2, 3 and 4 of this article, data on the enterprise affiliated with the enterprise in question are taken out of their regular annual financial reports or from other consolidated data, and data on every other possible enterprise that is a partner of this affiliated enterprise, and that is on the next higher or lower level of ownership rank than the enterprise in question, are proportionally added to them, unless they are included in the consolidated financial report in the percentage least proportional to the percentage determined based on paragraph 3 of this article.

If consolidated financial reports have no data on employees in a company, the number of employees is calculated by proportionally adding data from its partner enterprises and by adding data from its affiliated enterprises.

Article 3

Categories of state aid that can be granted under this Regulation include:

1. Regional state aid,

2. Horizontal state aid,

3. Sectoral state aid,

4. State aid of low value (De minimis state aid),

4a. State aid for providing services of general economic interest.

1.1. Types of regional state aid are defined by primary grant objectives, namely:

1) regional investment state aid,

2) regional state aid for founding small enterprises,

3) regional operating state aid.

2.1. Horizontal state aid is defined by primary grant objectives, namely:

1) for small and medium enterprises,

2) for rescuing and restructuring enterprise in difficulties,

3) for employment,

4) for environmental protection,

5) for research, development and innovation,

6) for training,

7) in the form of risk capital,

8) to the cultural sector

3.1. Specific types of sectoral state aid for which special grant rules are defined in this Regulation include:

1) steel sector,

2) coal sector,

3) transport sector.

For state aid grant in all other sectors and/or activities, classified under the law governing classification of activities, the same rules apply as prescribed for regional and horizontal state aid grant herein, unless otherwise prescribed by this Regulation.

4.1. De minimis state aid can be granted only when it is not possible to grant aid based on the rules for regional, horizontal or sectoral state aid.

Article 4

State aid for export is prohibited. State aid grant prohibition shall apply to volume of export, goods' distribution network management and current costs of enterprise directly related to export activities.

State Aid Cumulation Rule

Article 5

For the same eligible costs, the most favorable state aid amount defined herein shall be applied, which represents the upper limit for total state aid grant amount, regardless of:

1) whether state aid is granted based on one or in combination of more schemes and/or individual state aids, and

2) whether state aid is granted by the Republic of Serbia, Autonomous Province or a local government unit.

Before granting state aid to beneficiary, state aid grantor shall ensure that beneficiary has provided a statement specifying whether and on what grounds from paragraph 1, points 1 and 2 of this article the beneficiary had received state aid arising from the same eligible costs.

Conversion

Article 6

State aid amount denominated in EUR herein shall be converted to RSD by official median exchange rate of the National Bank of Serbia as of the date of granting the state aid.

State aid is considered granted on the day it is made available to state aid beneficiary.

Reference and Discount Rates

Reference rate is an interest rate used for calculating aid amount and for discounting state. The ministry in charge of finance shall prescribe the manner of setting, calculating and updating the base reference rate and calculating reference and discount rate used for calculating aid amount and discounting state aid and calculating the amount of granted state aid, and the Commission for State Aid shall publish it on its website.

II REGIONAL STATE AID

Article 7

Regional state aid can be granted for:

1) initial investments and creation of new jobs related to initial investments – regional investment state aid,

2) founding small enterprises,

3) operating costs.

Regional state aid cannot be granted to enterprises operating in steel, synthetic fiber and coal sectors, or to enterprises in difficulties.

1. Regional Investment State Aid

Article 8

The amount of regional investment state aid granted to large enterprises is set up to 50% of eligible costs for initial investments.

The amount of regional investment state aid from paragraph 1 of this article can be increased by up to 20 percentage points for small enterprises and by up to 10 percentage points for medium enterprises. The increase does not apply to enterprises in the transport sector and to major investment projects in any sector.

Article 9

Eligible costs for regional investment state aid grant comprise investment costs concerning:

1) initial investments (tangible and intangible assets),

2) new jobs related to initial investment.

In case of small and medium enterprises, eligible costs are costs of study preparation and consulting services related to initial investment if state aid amount is up to 50% of actual costs incurred.

In case of acquiring an enterprise which is shut down or would have been shut down if it had not been acquired, eligible costs are costs of purchasing the property of that enterprise under market conditions from a third party.

Property acquired through acquisition must be new, except when state aid is granted to small and medium enterprises. In case of taking over, the amount of funds for acquisition of which state aid had been granted prior to the purchase shall be deducted from total amount.

Costs relating to acquisition of property under lease, except land and buildings, are eligible only if lease is in the form of financial leasing and contains an obligation to buy

the property upon expiration of the lease period. In case of leasing land or buildings, the lease must continue for a minimum of five years after the planned end date of investment project, i.e. three years for small and medium enterprises.

From the aspect of regional investment state aid, the costs relating to purchase of transportation means and equipment in the transport sector are not deemed eligible costs.

Article 10

Regional investment state aid for investments into intangible assets can be granted under the following conditions:

1) funds must be used exclusively inside the enterprise – regional state aid beneficiary,

2) depreciation is calculated in accordance with the valid regulations,

3) the assets are and remain property of that enterprise and are presented in its balance sheet for a minimum of five years (i.e. three years for small and medium enterprises),

4) the assets are acquired from a third party under market conditions.

Eligible investment costs for acquisition of intangible assets for large enterprises amount to up to 50% of total eligible investment costs, and for small and medium enterprises up to 100%.

Article 11

In case that the amount of regional investment state aid is calculated based on estimated costs of salaries for new jobs, the following conditions must be fulfilled:

1) work position must be directly related to initial investment and opened within three years from completion of investment;

2) investment must result in a net increase of the number of employees in the enterprise compared to the average number of employees in the past 12 months, and in case that a job position is terminated in this period, it must be deducted from the number of new jobs;

3) new jobs must be retained for a minimum of five years in case of large enterprises, i.e. three years for small and medium enterprises from the date when the jobs were created for the first time.

The amount of regional investment state aid must not exceed a certain percentage of employee's cost of salary in the two year period and the percentage equals the allowed amount of investment state aid from Article 8 herein.

Article 12

Total amount of regional investment state aid is calculated based on:

1) eligible costs for initial investments,

2) estimated costs of gross salaries for new jobs related to investments in a two year period,

3) combination of methods from paragraph 1, points 1 and 2 herein, provided that the aid does not exceed the most favorable amount arising from application of one or another manner of calculation.

Article 13

Amount of regional investment state aid for major initial investments is defined in the following manner:

1) for eligible costs up to EUR 50 million in RSD equivalent – up to 50% of these costs,

2) for portion of eligible costs of EUR 50-100 million in RSD equivalent – 25% of these costs,

3) for portion of eligible costs exceeding EUR 100 million in RSD equivalent – 17% of these costs.

Article 14

Regional investment state aid beneficiary must provide a minimum of 25% cost coverage from own resources or from other sources not related to state aid.

Initial investments and related new jobs must remain in the same area and/or region for a minimum of five years (i.e. three years for small and medium enterprises) after project end.

Regional investment state aid for small and medium enterprises cannot be granted to an enterprise that had not applied as potential state aid beneficiary before project implementation in the manner and under conditions determined by state aid grantor.

Regional investment state aid cannot be granted to a large enterprise before, in addition to conditions set out in paragraph 3 herein, state aid grantor has established through review of documentation submitted by beneficiary that this state aid grant would result in:

1) significant increase in project size, or

2) significant increase of total amount of funds the beneficiary invests in the project, or

3) significant increase of project implementation speed, or

4) project implementation which could not be accomplished without state aid.

2. Regional State Aid to New Small and Medium Enterprises

Article 15

Regional state aid can be successively granted to new small enterprises in the amount of up to EUR 2 million in RSD equivalent provided that the eligible costs were actually incurred within five year period from the date of founding the enterprise.

State aid amount must not exceed 40% of eligible costs incurred in the first three years of operation and 30% in the following two years.

Annual amount of state aid granted to new small enterprises must not exceed 33% of the total amount of determined in paragraph 1 of this article.

Article 16

Eligible costs for state aid grant from Article 15, paragraph 1 of this Regulation are:

1) costs of legal, advisory, consulting and administrative services directly related to enterprise founding,

2) interest on funds provided from external sources and dividends on own employed capital not exceeding the reference rate,

3) rent for production plants/equipment,

4) fixed costs – electricity, water, heating, taxes (except VAT and profit tax) and administrative taxes,

5) amortization, expenses of renting and leasing of production plants/equipment with the right of use to expiration of contract, as well as costs of salaries and compulsory social insurance provided that the main investments or measures for opening new job positions and employment do not contain other forms of state aid.

3. *Regional State Aid for Operations*

Article 17

Regional state aid can also be granted for covering operating expenditures, but only if the following conditions are cumulatively fulfilled:

1) state aid contributes to equal regional development,

2) state aid is proportionate to the difficulties that need to be removed,

3) state aid is time limited and digressive.

III HORIZONTAL STATE AID

1. State Aid for Small and Medium Enterprises

Article 18

State aid for small and medium enterprises cannot be granted to enterprises in coal extraction sector or enterprises in difficulties.

Article 19

State aid for small and medium enterprises can be granted for advisory services and cannot exceed 50% of eligible costs.

Eligible costs for advisory services are costs of hiring external consultants.

Advisory services from paragraph 2 herein do not apply to regular and normal tax advisory services, regular legal services or advertising services.

Article 20

State aid to small and medium enterprises can be granted for participation in trade shows and exhibitions. The amount of state aid cannot exceed 50% of eligible costs.

Eligible costs for participation in trade shows and exhibitions are costs incurred by renting, mounting, and running the booth for the first-ever appearance of an enterprise in a trade show or exhibition.

State aid from paragraph 1 herein can be granted for appearances in various trade shows, but not for multiple appearances in the same trade show.

2. State Aid for Rescuing and Restructuring Enterprise in Difficulties

Article 21

State aid for rescuing and restructuring cannot be granted to an enterprise in the sectors of steel and coal production.

State aid from paragraph 1 herein cannot be granted to a newly-founded enterprise and if its initial financial position is insecure, or to an enterprise in the coal and steel production sectors.

State aid for rescuing and restructuring can be granted to an enterprise in which the bankruptcy procedure was initiated, due to its survival and continuation of operations.

If an enterprise belongs to a large business group and fulfills the conditions for receiving state aid for rescuing and restructuring, state aid can be granted to it if it proves that the difficulties are only its own, that they are too large for the business group to handle on its own, and that they did not occur as a consequence of arbitrary distribution of expenses within the business group.

Article 22

State aid for rescuing can be granted if the following conditions have been fulfilled:

1) it is intended to maintain liquidity and is granted in the form of loan guarantees or loans;

2) each loan must be paid with normal commercial interest rate (at least comparable to the reference rate from Article 2 herein) and all commitments arising from guarantees settled within six months after the first installment has been paid to enterprise;

3) state aid is one-off and must be justified by serious social and economic difficulties;

4) state aid is limited to an amount necessary for the enterprise to continue operating in the period for which the aid was granted (covering costs of salaries, usual procurements, implementation of organizational changes, fast abandonment of the operations that are creating losses, etc.);

5) it is approved only for a period required to prepare the restructuring plan, which cannot exceed six months.

State aid grantor shall ensure that beneficiary of state aid for rescuing submits the following documents within six months at the latest following the date of state aid grant:

a) restructuring plan, or

b) liquidation plan, or

c) evidence that loan has been paid in its entirety or that guarantee has expired.

Article 23

State aid for restructuring can be granted only if the following conditions have been cumulatively fulfilled:

1) enterprise has prepared the restructuring plan, including:

(a) resumption of enterprise's long-term competitiveness within reasonable time based on realistic assumptions concerning future business conditions, which includes abandonment of the operations that are creating losses;

(b) termination of organizational parts of the enterprise that caused losses, which includes social measures for the benefit of redundant workers whose expenses are not paid by the state aid beneficiary,

(c) description of circumstances that produced the difficulties in order to estimate if the suggested measures are appropriate;

(d) envisaging such form of organizing as would enable the enterprise to cover all its costs, including amortization and financial commitments, after restructuring without additional aid;

(e) start date and end date of the restructuring process are defined;

2) enterprise is taking compensation measures to avoid significant market disruptions: transfer or sale of property, capacity or market share reduction. Compensation measures do not apply to small enterprises,

3) state aid amount is limited to a minimum required for implementing the restructuring plan measures.

State aid beneficiary shall finance a portion of costs pertaining to the restructuring process from own resources or from external sources of financing under market conditions, as follows:

a) small enterprises in the amount of at least 25%,

b) medium enterprises in the amount of at least 40%,

c) large enterprises in the amount of at least 50%.

Article 24

State aid for rescuing and restructuring can be granted only once, and exceptionally again after expiration of a ten year period.

If an enterprise has already been granted state aid once for rescuing or restructuring, and fewer than 10 years has passed since state aid for rescuing or restructuring was granted or since the process of restructuring was finished or implementation of the plan of restructuring was stopped (what happened the latest is what is taken into consideration), new state aid for rescuing or restructuring is allowed in the following cases:

1) is state aid for restructuring is granted after aid for rescuing, as a part of a unique process of restructuring;

2) is state aid for rescuing was granted, and restructuring with state aid did not follow:

(a) if it can be reasonably presumed that the enterprise will become sustainable on a long term after state aid for rescuing is granted, and

(b) if new state aid for rescuing or restructuring became necessary no sooner than after 5 years, due to circumstances that could not have been foreseen and for which the enterprise is not responsible;

3) if there are exceptional and unpredictable circumstances for which the enterprise is not responsible.

State aid provider is obliged, right after getting a notification from the state aid beneficiary that the restructuring process has been finished, to inform the Commission for State Aid Control about that in writing.

The scheme for state aid granting for rescuing and/or restructuring of small and medium enterprises in difficulties is allowed:

1) if an enterprise fits the definition of small and medium enterprises from this regulation,

2) if conditions have been met for granting state aid for rescuing, especially if the condition of the 6 month limit has been met,

3) if conditions have been met for granting state aid for restructuring, especially if the condition regarding the restructuring plan was fulfilled,

4) if state aid amount is not bigger than 10 million euros in dinar equivalent, including aid from other sources or schemes.

Article 24a

State aid provider is obliged, right after getting a notification from the state aid beneficiary that the restructuring process has been finished, to inform the Commission for State Aid Control about that in writing.

State aid provider is obliged to submit to the Commission for State Aid Control regular annual reports on the progress of the restructuring plan, until the restructuring plan is finished.

3. State Aid for Employment

Article 25

State aid for employment can be granted to enterprises operating in all sectors, except to enterprises operating in the coal sector and enterprises in difficulties.

State aid for employment can be granted for employing disadvantaged workers and disabled workers in the form of earnings' subsidies and as compensation for additional costs of employing disabled workers.

State aid for employing disadvantaged workers and disabled workers can be granted if it results in a net increase of the number of disadvantaged and disabled workers within a certain enterprise or for additional costs of instruments or equipment for disabled workers.

3.1. State Aid for Employing Disadvantaged Workers

Article 26

State aid for employing disadvantaged workers can be granted in the form of earnings' subsidies under the following conditions:

1) employment results in net increase of the number of employees,

2) a disadvantaged worker, save in the event of legal termination of employment due to violation of work obligation, has the right to permanent employment in the minimum period prescribed by the law or by collective employment agreement.

The amount of state aid cannot exceed 50% of eligible costs.

If a period of employment of disadvantaged workers is less than 12 months, state aid is proportionally reduced.

Eligible costs for state aid grant for employing disadvantaged workers are costs of salaries of disadvantaged workers for a period of 12 months maximum after employment date, or for a period of 24 months if the disadvantaged worker had been unemployed for a period of 24 months or more.

3.2. State Aid for Employing Disabled Workers

Article 27

State aid for employing disabled workers can be granted in the form of earnings' subsidies under conditions set out in Article 26, paragraph 1 herein.

The amount of state aid cannot exceed 75% of eligible costs.

If a period of employment of disabled workers is less than 12 months, state aid is proportionally reduced.

Eligible costs for state aid grant for employing disabled workers are costs of salaries in any time period in which a disabled worker is employed.

3.3. State Aid for Compensating Additional Costs of Employing Disabled Workers

Article 28

Eligible costs for state aid grant for compensating additional costs of employing disabled workers are costs which, apart from costs of salaries set out in Article 27 herein, are additional to those cost that enterprise would bear if it had employed persons without disability for a period in which a disabled worker is employed.

Eligible additional costs for state aid grant for compensating additional costs of employing disabled workers are as follows:

1) cost of adapting business premises,

2) cost of employing personnel for a period of time in which they assist disabled workers only,

3) cost of adapting or purchasing equipment and/or purchase and testing of software used by disabled workers, including adapted or auxiliary technical equipment,

4) cost of building, installing or broadening enterprise and installation of equipment, including all costs of administration and transportation directly related to employing disabled workers, if the state aid beneficiary is conducting sheltered employment,

Amount of state aid grant for compensating additional costs of employing disabled workers cannot exceed 100% of eligible costs.

3.3.a Deviation from the rules on state aid cumulation

Article 28a

State aid for disabled persons from Articles 27 and 28 of this regulation can be cumulated, when it comes to the same eligible costs, with another state aid envisaged in this regulation even above the upper limit determined in Article 5, paragraph 1 of this regulation, if the cumulation does not exceed 100% of eligible costs at any period the persons in question were employed.

4. State Aid for Environmental Protection

Article 29

State aid for environmental protection can be granted for removing or preventing harm to environment or natural resources created by beneficiary's activities, for removing risks of

such harms or for higher efficiency in exploiting natural resources, including energy efficiency measures and use of renewable energy sources.

State aid for environmental protection can be granted to enterprises in all sectors, save transport sector in the area of infrastructure relating to aerial, road and railway traffic, as well as inland navigation.

State aid for environmental protection cannot be granted to small and medium enterprises that had not applied as potential state aid beneficiaries before project implementation in the manner and under conditions determined by state aid grantor.

State aid for environmental protection cannot be granted to a large enterprise before, in addition to conditions set out in paragraph 3 herein, state aid grantor has established through review of documentation submitted by beneficiary that without state aid grant the beneficiary would not be able to ensure the planned level of environmental protection.

4.1. State Aid for Achieving Higher Standards than Applicable in the Republic of Serbia or for Increasing Environmental Protection Level in Absence Thereof

Article 30

State aid for achieving higher standards than applicable in the Republic of Serbia or for increasing environmental protection level in absence thereof can be granted for an investment that:

1) enables the beneficiary to increase environmental protection level as a result of its activities above applicable environmental protection standards in the Republic of Serbia, or

2) enables the beneficiary to increase environmental protection level as a result of its activities in absence of environmental protection standards in the Republic of Serbia.

State aid cannot be granted in the event when such aid is intended for achieving the standards in the Republic of Serbia which have been adopted, became effective, but are not applied yet.

As an exception to paragraph 2 of this Article, state aid for purchase of new vehicles for road, railway or air transportation, as well as inland navigation can be granted if such vehicles meet the new standards that became effective in the Republic of Serbia, but are not yet applied.

Article 31

Eligible costs for granting state aid for achieving higher standards than applicable in the Republic of Serbia or for increasing environmental protection level in absence thereof are costs of investment into tangible and intangible assets.

Eligible costs from paragraph 1 herein must be limited to additional investment costs required for achieving higher environmental protection level than required by standards of the Republic of Serbia, or those that the beneficiary would have achieved in absence of standards and without state aid grant.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into environmental protection that exist during the first five years of investment.

Article 32

The amount of state aid shall be as follows:

1) for large enterprises – up to 50% of eligible costs,

2) for medium enterprises – up to 60% of eligible costs,

3) for small enterprises – up to 70% of eligible costs.

When investing includes procurement of property for environmental innovations or starting a project of environmental innovations, the amount of state aid can be increased by as much as 10 percentage points:

1) if property or project of environmental innovations are new, or at least substantially better than state of the art technology in the same sector of industry in the Republic of Serbia, which is proven through a precise description of innovation and market conditions in which it was introduced or expanded. The innovation is compared to processes or organizational techniques used by other enterprises in the same industry sector through application of state of the art technology,

2) if the expected benefit to the environment is substantially higher than the improvement resulting from the general development of state of the art technology in comparable activities. When quantitative parameters can be used for comparing environmentally-innovative activities with standard environmentally non-innovative activities, the 'substantially higher' means that the border improvement expected from environmentally-innovative activities regarding reduced risk to the environment, pollution or improved efficiency of consumption of energy or resources – has to be at least twice as high as the border improvement expected from the general development of non-innovative comparable activities. In case when that approach is not appropriate or when quantitative comparison is not possible, the request for granting state aid has to contain a thorough description of the method used for meeting the 'substantially higher' criteria and for providing the standard comparable to this method's standard,

3) the innovative nature of property or project contains a clear level of risk in the technological, market or financial sense, which is higher than the risk usually connected to non-innovative property or project in comparable activities. That risk can be presented

as expenses related to income of the enterprise, time needed for development, expected gain from the environmental innovation compared with expenses, likelihood of failure, etc.

4.2. State Aid for Early Compliance with New Standards

Article 33

State aid for early compliance with new standards in the Republic of Serbia that increase environmental protection level, but are not in application yet, can be granted only for investments made and completed at least one year before the start of application thereof.

Article 34

Eligible costs for granting state aid for early compliance with new standards must be limited to additional investment costs required to achieve environmental protection level required by new standards in the Republic of Serbia compared to the environmental protection level before application thereof.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into early compliance with new standards that exist during the first five years of investment.

Article 35

In case that project completion and its application occur in the period between one and three years before entering into force of a standard, state aid amount cannot exceed:

1) for small enterprises – 20% of eligible costs,

2) for medium enterprises – 15% of eligible costs,

3) for large enterprises – 10% of eligible costs.

In case that project completion and its application occur in the period over three years before entering into force of a standard, state aid amount cannot exceed:

1) for small enterprises – 25% of eligible costs,

2) for medium enterprises – 20% of eligible costs,

3) for large enterprises – 15% of eligible costs.

4.3. State Aid for Energy Saving

Article 36

State aid for energy savings can be granted to enterprises as investment and as operating aid.

Article 37

Eligible costs for granting state aid for energy savings must be limited to additional investment costs required to achieve energy savings above the level required by the standards in the Republic of Serbia.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment for achieving energy savings that exist during the first five years of investment for large enterprises, and during the first three years for small and medium enterprises.

Article 38

Investment state aid amount is defined as follows:

1) for small enterprises – up to 80% of eligible costs,

2) for medium enterprises – up to 70% of eligible costs,

3) for large enterprises – up to 60% of eligible costs.

Article 39

Operating state aid can be granted if the following conditions are fulfilled:

1) state aid is limited to compensating additional production costs arising from investment, bearing in mind the benefits resulting from energy savings. When defining the operating aid amount, each investment aid granted to enterprise for new plant shall be deducted from production costs,

2) state aid is limited to five years,

3) in the event of state aid grant which gradually reduces over time, aid amount shall not exceed 100% of additional costs in the first year, but it must be linearly reduced to zero at the end of year five. In the event of state aid grant which does not reduce gradually over time, state aid amount shall not exceed 50% of additional costs.

4.4. State Aid for Production of Energy from Renewable Sources

Article 40

State aid for production of energy from renewable sources can be granted as investment and as operating state aid if there is no mandatory standard in the Republic of Serbia regarding a share of energy from renewable sources for individual enterprises.

Investment and operating state aid for production of bio-fuels is permitted only in case of sustainable bio-fuels.

Article 41

Eligible costs for granting state aid for production of energy from renewable sources comprise additional investment costs borne by enterprise compared to a traditional power plant or traditional heating plant with the same capacity in terms of energy production performance.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into production of energy from renewable sources that exist during the first five years of investment.

Article 42

The amount of investment state aid that can be granted is as follows:

1) small enterprises – up to 80% of eligible costs,

2) medium enterprises – up to 70% of eligible costs,

3) large enterprises – up to 60% of eligible costs.

Article 43

Operating state aid can be granted for covering the difference between costs of energy production from renewable sources and market price of that form of energy and it is related to energy production from renewable sources with a view to selling it in the market or for own use by enterprise.

Operating state aid can be granted only until the completion of the subject investment amortization process and cannot exceed the investment costs. When defining the operating state aid amount, each aid granted to enterprise for investing into new plant shall be deducted from production costs.

In addition to conditions stated in paragraph 2 herein, operating state aid can also be granted under conditions set out in Article 39 of this Regulation.

4.5. State Aid for Plants for Combined Production of Electricity and Heat (Cogeneration)

Article 44

State aid for cogeneration can be granted as investment and as operating state aid.

Investment state aid for cogeneration can be granted under condition that the new cogeneration unit generates total savings of primary energy compared to separate generation or that it improves existing cogeneration units or that transformation of existing energy plant into cogeneration unit generates savings of primary energy compared to the original situation.

Article 45

Eligible costs for granting state aid for cogeneration must be limited to additional investment costs required for establishing a highly efficient cogeneration plant compared to investment.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into cogeneration that exist during the first five years of investment.

Article 46

The amount of investment state aid that can be granted is as follows:

1) small enterprises – up to 80% of eligible costs,

2) medium enterprises – up to 70% of eligible costs,

3) large enterprises – up to 60% of eligible costs.

Article 47

Operating state aid can be granted under conditions set out in Article 43 herein to enterprises that supply the market with electricity and heat via the distribution network in cases when costs of producing such energy exceed their market price, as well as for industrial usage of combined electricity and heat production if production price of one energy unit by using this technology exceeds market price of one unit of traditional energy.

4.6. State Aid for Energy Efficient District Heating

Article 48

Investment state aid for energy efficient district heating can be granted under condition that the combined production and distribution of heat result in primary energy savings

and that the investments are intended for usage and distribution of waste heat for the purpose of district heating.

Article 49

Eligible costs for granting state aid for energy efficient district heating must be limited to additional investment costs required for establishing energy efficient district heating compared to investment.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment that exist during the first five years of investment.

Article 50

The amount of investment state aid that can be granted is as follows:

1) small enterprises – up to 70% of eligible costs,

2) medium enterprises – up to 60% of eligible costs,

3) large enterprises – up to 50% of eligible costs.

4.7. State Aid for Waste Management

Article 51

State aid for managing waste of other enterprises, including re-use, recycling, and processing can be granted only if the following conditions are cumulatively fulfilled:

1) investment is intended to reduce pollution produced by other enterprises – polluters, and does not cover pollution produced by aid beneficiary,

2) aid does not exempt polluters from paying the fees under regulations governing environmental protection and waste management or fees that are considered normal cost of enterprise – polluter,

3) investment improves the process in which the use of waste for production of finished products is economically profitable or results in the use of traditional technologies in an innovative manner,

4) processed waste would have otherwise been deposited or processed in a manner less acceptable for the environment,

5) investment does not only increase demand for the objects to be recycled, but increases collection of that waste as well.

Article 52

Eligible costs for granting state aid for waste management are additional investment costs required for investment into waste management compared to traditional production of equal capacity that does not include waste management.

Eligible costs from paragraph 1 herein are calculated as net difference between benefit and cost of operations related to additional investment into waste management that exist during the first five years of investment.

Article 53

The amount of investment state aid that can be granted is as follows:

1) small enterprises – up to 70% of eligible costs,

2) medium enterprises – up to 60% of eligible costs,

3) large enterprises – up to 50% of eligible costs.

4.8. State Aid for Remediation of Contaminated Sites

Article 54

Investment state aid to enterprises engaged in removing harms to environment by remediating contaminated sites can be granted only if it results in improvement of natural environment.

Harms to environment from paragraph 1 herein are related to degradation of soil, surface or underground water quality.

State aid cannot be granted if polluter can be identified, in which case the principle of "polluter pays" shall be applied. If polluter is not identified or cannot be ordered to bear the cost of remediation, state aid can be granted to the entity that is performing remediation operations.

Article 55

Eligible costs for granting state aid for remediating contaminated sites are all costs related to contaminated site remediation operations, reduced by the amount of land value increase in that area.

Article 56

State aid for contaminated site remediation can be granted in the amount of up to 100% of eligible costs. Total amount of aid cannot exceed actual costs borne by enterprise.

4.9. State Aid for Relocation of Enterprises

Article 57

Investment state aid for relocation of enterprises on new locations for environmental protection purposes can be granted under the following conditions:

1) change of location must be performed for environmental protection purposes or prevention of harm to environment and the change must be backed up by decision of authorities or court decision or it must be a result of agreement between enterprise and authorities,

2) enterprise meets the highest environmental protection standards applied in the new location after relocation.

State aid can be granted only to those enterprises operating in urban zones or in special areas in the Republic of Serbia protected under law as natural habitats of flora and fauna and performing their activities in accordance with the law, but due to higher degree of pollution of environment caused by these activities must be moved to another location.

Article 58

Eligible costs for granting state aid for relocation of enterprises are:

1) costs related to purchase of land, construction, or purchase of new plants, provided that they have the same capacity as the ones that have been abandoned,

2) costs of penalties borne by enterprise due to termination of land or building lease agreements if early termination of contract occurred due to a decision of authorities or court decision regarding the change of location.

In determining the amount of eligible costs, the following shall be deducted:

1) gains from sale or renting the abandoned plant or land,

2) compensation received for expropriation (deprivation of ownership),

3) any other gains relating to plant relocation, especially gains arising from improvement of technology used at the moment of relocation,

4) investments into capacity increase.

Article 59

The amount of investment state aid that can be granted is as follows:

1) small enterprises – up to 70% of eligible costs,

2) medium enterprises – up to 60% of eligible costs,

3) large enterprises – up to 50% of eligible costs.

4.10. State Aid for Environmental Studies

Article 60

State aid can be granted to enterprise for environmental studies directly related to investments into:

- achieving standards under conditions set out in Articles 30 to 32 herein,

- achieving energy savings under conditions set out in Articles 36 to 39 herein, and

- production of renewable energy under conditions set out in Articles 40 to 43 herein.

State aid can be granted even in cases when, after findings of a preparatory research, investment which is the subject of research is not made.

Article 61

Eligible costs for granting state aid for environmental studies are costs of preparing the study.

The amount of investment state aid that can be granted is as follows:

1) small enterprises – up to 70% of eligible costs,

2) medium enterprises – up to 60% of eligible costs,

3) large enterprises – up to 50% of eligible costs.

5. State Aid for Research, Development and Innovation

Article 62

State aid for research, development and innovation can be granted to enterprises in all sectors, but it cannot be granted to enterprises in difficulties.

In case of granting state aid to large enterprises, such enterprise shall prove stimulating effects in line with the following criteria: increase of project volume, broadening the area of activity, quicker project implementation, and increase of the total amount for research, development and innovation.

5.1. State Aid for Research and Development

Article 63

State aid for research and development can be granted for:

1) basic research that represents experimental or theoretical work for acquiring new knowledge on fundamental principles of appearances and observed facts, without direct application in practice,

2) industrial research that represents planned research or examination with the aim of acquiring new knowledge and skills for development of new products, processes or services and/or for significant improvement of existing products, processes or services,

3) experimental development including: acquisition, combining, shaping, and using existing scientific, technological, business and other relevant knowledge and skills for preparing plans or designs for new, changed or improved products, processes or services, as well as other activities for the purpose of concept defining, planning and documenting of new products, processes or services.

Activities referred to in paragraph 1, point 3 herein are specifically taken to mean:

a) production drafts, drawings, plans, and other documentation provided that they are not intended for commercial use,

b) development of commercially usable prototypes and pilot projects if the prototype is a final commercial product and if costs of production for presentation purposes and for validity testing only would be unacceptably high,

c) experimental production and product, process or service testing, provided that they cannot be used as such or so adjusted to have industrial or commercial application.

State aid for experimental development cannot be granted for routine or periodical changes of products, production lines, production processes, services or other existing operations, and in the event that such changes represent improvements.

Article 64

Eligible costs for research and development are:

1) cost of personnel (researchers, technicians, and other supporting staff) to the degree in which they are involved in the research project,

2) costs of instruments and equipment to the degree in which they are used for the research project. If the instruments and equipment are not used throughout the entire

duration of the research project, eligible costs are only depreciation costs in the period of project duration calculated based on good accounting practice,

3) costs of buildings and land to the degree in which they are used for the research project, where for buildings the cost of amortization throughout the research project period shall be applied, and for land the cost of purchase or lease or actual capital expenses incurred,

4) costs of contractual research, technical knowledge and patents that were bought or licensed from third parties at market prices, if the transaction was made under competitive conditions, and costs of advisory and similar services if they are used for research activities only,

5) additional overhead costs incurred directly as a result of research activities,

6) other operating costs of operation, including cost of materials, consumables and products incurred directly as a result of research activities.

In case of experimental development, all income generated from using the developed prototypes and experimental drawings for commercial purposes shall be deducted from eligible costs, if applicable.

Article 65

The amount of state aid is determined as follows:

1) for basic research – up to 100% of eligible costs,

2) for industrial research – up to 50% of eligible costs,

3) for experimental development – up to 25% of eligible costs.

The amount of state aid for industrial research and experimental development can be additionally increased:

1) up to 10 percentage points for medium enterprises and up to 20 percentage points for small enterprises,

2) up to additional 15 percentage points, but not exceeding 80 percentage points of eligible costs if:

a) project involves cooperation with at least one small or medium enterprise or is conducted in at least two different countries, and if neither enterprise alone bears more than 70% of eligible costs relating to the cooperation project, or

b) project involves cooperation between enterprise and a research organization, where research organization bears a minimum of 10% of eligible project costs and is entitled to publishing the results of its research project, or

c) in case of industrial research, project results are announced in conferences of scientific or technical nature, in scientific or technical journals available to all.

5.2. State Aid for Technical Feasibility Studies

Article 66

State aid for preparation of technical feasibility studies can be granted for industrial research and experimental development.

Eligible costs for granting state aid for preparation of technical feasibility studies are actual costs of preparing technical feasibility studies.

The amount of state aid shall be determined as follows:

1) small and medium enterprises – up to 75% of eligible costs for studies that are a preparation for industrial research and up to 50% of eligible costs for studies that are a preparation for experimental development,

2) large enterprises – up to 65% of eligible costs for studies that are a preparation for industrial research and up to 40% of eligible costs for studies that are a preparation for experimental development.

5.3. State Aid for Acquiring Industrial Property Rights for Small and Medium Enterprises

Article 67

State aid for small and medium enterprises for acquiring industrial property rights can be granted for acquiring and confirming patents and other industrial property rights.

Eligible costs for granting state aid to small and medium enterprises for acquiring industrial property rights are:

1) all costs prior to granting the rights, including the costs for preparation, registration and testing the application, as well as costs incurred in renewing application the right was granted,

2) costs of translation and other costs incurred in receiving or confirming the right in other legal systems,

3) costs incurred in defending validity of the right during official application examination and possible renunciation procedure, and when these costs are incurred after the right has been granted.

The amount of state aid cannot exceed the amount of aid for research and development projects set out in Article 65 herein relating to research activities that first resulted in the subject industrial property rights.

5.4. State Aid for Newly-Founded Innovative Enterprises

Article 68

State aid for newly-founded innovative enterprises can be granted if the following conditions have been fulfilled:

1) at the moment of aid granting, the enterprise has been in operation for a period less than six years,

2) research and development costs of the newly-founded enterprise represent a minimum of 15% of its overall operative expenses in at least one of the three years before state aid grant or, in the event of a start-up without previous financial records, in the audit of its current business period certified by independent auditor,

3) total amount of granted state aid can amount up to EUR 1.5 million in RSD equivalent as of the date of passing state aid decision,

4) state aid can be granted only once.

In addition to research, development and innovation, state aid to a newly-founded innovative enterprise can also be granted for investments into risk capital under other rules contained herein, but only after expiration of a three year period from granting state aid to a newly-founded innovative enterprise.

5.5. State Aid for Process Innovation and Organization of Operations

Article 69

State aid for process innovation and organization of operations in the services sector cannot be granted for routine or regular changes of products, production lines, production processes, existing services or other existing operations and if such changes may represent improvements.

State aid from paragraph 1 herein can be granted if the following conditions have been fulfilled:

1) process innovation and organization of operations is obvious or significantly improved compared to existing situation in a branch of industry, which is proved by precise

description of innovation, its comparison with existing techniques in business process and organization used by other enterprises in the same sector,

2) process innovation and organization of operations is related to use of information and communication technologies with a view to changing organization of operations,

3) business innovation is in the form of a project for which a project manager is assigned and project costs listed,

4) project should result in development of a standard, commercial operations model, procedure methodology that can be systematically reproduced, certified or patented,

5) project that contains process innovation or organization of operations should have a clear level of risk, which is proved by comparing project costs with enterprise revenue, time required for new process development, expected gains from process innovation compared to project costs and probability of project failure.

Article 70

Eligible costs for process innovation and organization of operations in the service sector are identical to eligible costs from Article 64 herein. In case of innovations concerning organization of operations, only costs of information and communication technologies can be included into costs of instruments and equipment.

The amount of state aid is determined as follows:

1) up to 15% for large enterprises,

2) up to 25% for medium enterprises,

3) up to 35% for small enterprises.

Large enterprises can be granted state aid only if they cooperate with small and medium enterprises that participate with at least 30% in total eligible costs.

5.6. State Aid to Small and Medium Enterprises for Advisory Services and Innovation Stimulating

Article 71

State aid to small and medium enterprises for advisory services intended for innovation and services for stimulating innovation can be granted if the following conditions are cumulatively fulfilled:

1) aid cannot exceed EUR 200,000 in RSD equivalent per beneficiary over any three-year period,

2) service provider has a national or European certificate, in which case the amount of aid is up to 100% of eligible costs, and if it does not have a national or European certificate, the aid amount cannot exceed 75% of eligible costs,

3) beneficiary uses the aid to obtain services at market prices or, if service provider is a non-profit enterprise, at a price that represents full cost of services increased by a reasonable margin.

Article 72

Eligible costs for granting state aid to small and medium enterprises for advisory services and innovation stimulation are:

1) for advisory services intended for innovation - costs regarding management counseling, technological assistance, technology transfer services, professional development, advising during takeovers, protection and trade in intellectual property rights and license agreements, advising on application of standards,

2) for innovation stimulation services – costs regarding office space, database, technical booklets, market research, lab use, quality designation, testing and certification.

5.7. State Aid for Hiring Highly Qualified Personnel

Article 73

State aid for hiring highly qualified personnel seconded from a research organization or large enterprise to a small or medium enterprise can be granted if the following conditions are fulfilled:

1) temporarily moved highly qualified personnel is employed in newly created research, development and innovative positions within enterprise and is not a replacement for existing personnel,

2) highly qualified personnel have been employed with the research organization or large enterprise that sends it for secondment in the previous two years as a minimum.

Article 74

Eligible costs for granting state aid for hiring highly qualified personnel are all costs of hiring and employing highly qualified personnel, including the cost of using the services of National Employment Service, and costs of relocating the personnel.

State aid amount cannot exceed 50% of eligible costs for a period of three years maximum per enterprise and per hired person.

Highly qualified personnel can be hired on a temporary basis, and upon expiration of the engagement period the personnel shall return to their previous employer.

Highly qualified personnel in terms of this Regulation includes: researchers, engineers, project designers and marketing managers with university education and a minimum of five years of professional experience in a certain area. Doctoral studies shall be considered adequate professional experience.

5.8. State Aid for Innovation Clusters

Article 75

State aid for innovation clusters can be granted as investment or operating aid.

Article 76

Investment state aid for innovation clusters can be granted for the purposes of setting-up, expanding and animating innovation clusters exclusively to legal entities managing these clusters and responsible for managing business premises, facilities and activities of innovation clusters in terms of their use and access. The access to business premises and activities must be free. Fees for the use of premises and involvement in activities shall be determined in accordance with their actual costs.

Article 77

Investment state aid for innovation clusters animation can be granted for:

1) refurnishing development and research centers,

2) infrastructure intended for research: laboratories, test sites,

3) wide network infrastructure.

Article 78

Eligible costs for the grant of state aid for innovation clusters animation are the costs relating to investment in tangible property: land, buildings, machines and equipment.

The amount of state aid is calculated as follows:

1) up to 50% of eligible costs for large enterprises,

2) up to 60% of eligible costs for medium enterprises,

3) up to 70% of eligible costs for small enterprises.

Article 79

Operating aid for covering current expenditure of innovation clusters with a view to their animation can be granted to a legal entity managing business activities of the innovation cluster and must be restricted to a five-year period with the possibility of extension to a ten-year period if the state aid beneficiary proves it necessary.

Eligible costs for the grant of operating aid are the costs of employees' work and administrative costs referring to the following activities:

1) the cluster's advertising activities to attract new members – enterprises,

2) management of the cluster's open-access facilities,

3) organization of development programs, workshops and conferences which encourage exchange of knowledge and connecting among cluster members.

Article 80

The amount of state aid shall be calculated as follows:

1) up to 100% of eligible costs for the first year of operation of the innovation cluster with the aim of linear digression, i.e. complete reduction in year five, or

2) up to 50% of eligible costs without linear digression.

6. State Aid for Training

Article 81

State aid for training can be granted to enterprises in all sectors barring enterprises in difficulties.

State aid for training can be granted for:

1) specific training involving training which is directly and exclusively applicable to the present and future position of the employees within the enterprise which is a direct beneficiary of aid and which through this training provides qualifications that are not transferrable or are only partly transferrable to other enterprises or business sectors,

2) general training involving training which is not exclusively and mainly applicable to the present and future position of the employees within the enterprise which is a direct beneficiary of aid and which through this training provides qualifications that are greatly transferrable to other enterprises or business sectors and thereby significantly increase worker employability.

Training shall be deemed general if it is jointly organized by various independent enterprises or if it can be attended by employees of different enterprises, or if it is recognized, certified and acclaimed by competent state bodies or other state institutions onto which the Republic of Serbia has transferred adequate competences.

Article 82

Eligible costs for the grant of state aid for training are as follows:

1) trainers' remuneration costs,

2) trainers' and trainees' travel expenses, including accommodation,

3) other current expenditure, such as materials and supplies in direct relation to the training project;

4) depreciation costs for tools and equipment in the scope of their being used only for training purposes;

5) costs of guidance and counseling services in relation to the training project;

6) trainees' remuneration costs and general indirect costs (administrative costs, lease, utility bills, etc.) up to the amount of other eligible costs stated in paragraph 1, points 1 through 5 herein. As for trainees' remuneration costs, only the hours really spent on training, upon subtracting all production hours, shall be taken into account.

Article 83

The amount of state aid shall be calculated as follows:

1) for specific training – up to 25% of eligible costs,

2) for general training – up to 60% of eligible costs.

The amount of state aid from paragraph 1 herein may be increased, but not more than 80% of eligible costs, as follows:

1) up to 10 percentage points if training is conducted for disabled or disadvantaged workers,

2) up to 10 percentage points if state aid is granted to a medium enterprise,

3) up to 20 percentage points if state aid is granted to a small enterprise.

When a training project involves components of both specific and general training, which cannot be separated with the aim of calculating the amount of state aid, and when it

cannot be determined whether it is specific or general training, the amount of state aid for specific training shall apply.

7. State Aid in the Form of Risk Capital

Article 84

State aid in the form of risk capital can be granted only to small and medium enterprises on grounds of state aid schemes aimed at removing market deficiencies in the risk capital market.

State aid in the form of risk capital cannot be granted to enterprises in difficulties or enterprises in the coal and steel production sectors.

State aid from paragraph 1 herein can be granted in the form which encourages market investors to provide risk capital for certain enterprises, namely for:

1) constitution of investment funds in which the state acts as partner or investor, including even less favorable conditions compared to other investors,

2) guarantees for investors in risk capital or investment funds for a portion of investment losses or guarantees for loans intended for investing in risk capital provided that the public resources covering possible losses do not exceed 50% of the nominal amount of investment for which a guarantee is issued,

3) other financial instruments to the benefit of the investor in risk capital or investment funds for the provision of guarantees for additional investment capital,

4) fiscal incentives for investment funds or investors so that they would invest in risk capital.

Article 85

State aid in the form of risk capital can be granted on condition that:

1) state aid is part of private capital investment fund which is directed towards making profit and which is managed on a commercial basis,

2) state aid allows for financing in tranches, which are entirely or partly financed from the resources of state aid grant, and which do not exceed EUR 1.5 million in RSD equivalent per targeted small and medium enterprises during one year period,

3) state aid is restricted to the provision of finances until the development phase of small and medium enterprises,

4) the investment fund provides a guarantee for at least 70% of its total budget invested in targeted small and medium enterprises in the form of shares or share-like instruments,

5) private investors provide guarantee for at least 30% of the resources of investment funds,

6) state aid ensures that decisions on investing in targeted enterprises are driven by profit making.

If an enterprise has been granted state aid in the form of risk capital and if, afterwards, i.e. in the period of up to three years from the date of the first risk capital investment, it applies for any other category, i.e. kind of state aid under this Regulation, the maximum eligible amount of the new state aid prescribed by this Regulation shall be decreased by 20%. This decrease shall not apply to the amounts of state aid for research, development and innovations stated in Articles 62 through 80 of the present Regulation.

8. State Aid to the Cultural Sector

Article 86

State aid to the cultural sector can be granted for the protection of natural cultural heritage and for cinematographic and other audio-visual activities.

State aid for the protection of natural cultural heritage can be granted for conservation, restructuring and other construction works performed on monuments in need of refurnishing, and which are enlisted as monuments of significant historical, artistic, scientific or archaeological value and entered in the Central Register of Protected Cultural Monuments of the Republic of Serbia.

State aid can be granted amounting at up to 100% of eligible costs, which are directed only towards reaching historical and cultural goals.

Article 87

State aid can be granted for the production of a film and TV program, if the following conditions have been met:

1) state aid is directly aimed at creating a product of cultural significance provided that prior testing is conducted, satisfying the following minimum criteria:

a) state aid is directed towards the provision of support to Serbian culture (content, topic (motif), film setting, main characters, plot/work of art of the Republic of Serbia or Serbian culture or language region, etc.),

b) state aid is directed towards advertising general cultural heritage (adaptation of literary works, films on artists, renowned people, historical achievements, religious or

philosophical issues, programs of social and cultural significance, etc.) of the Republic of Serbia or the European economic region,

c) state aid is directed towards attracting talented people (managers, script writers, directors, composers, etc.) from the Republic of Serbia or the European economic area,

2) the director is allowed to spend 20% of the film or TV program production budget outside the Republic of Serbia,

3) the amount of state aid does not exceed 50% of the production budget, except in complex films with cumbersome content and low-budget films for which the amount may be increased up to 90% of the production budget. The budget of a low-budget film must not exceed the amount of EUR 900,000 in RSD equivalent. The grantor of state aid must always justify the allocation of an amount of state aid bigger than the allowed maximum for films of cumbersome content and low-budget films.

State aid refers to costs related to performing film and TV program activities, i.e. development and production, whereas special activities, such as post-production, do not qualify for state aid.

IV SECTORAL STATE AID

1. State Aid in the Steel Production Sector

Article 88

State aid can be granted to a steel producing enterprise for the following main objectives prescribed by this Regulation:

1) for environmental protection within the meaning of Articles 29 through 61 of the Regulation,

2) for small and medium enterprises within the meaning of Articles 18 through 20 of the Regulation,

3) for research, development and innovation within the meaning of Articles 62 through 80 of the Regulation,

4) for risk capital within the meaning of Articles 84 and 85 of the Regulation,

5) for employment within the meaning of Articles 25 through 28 of the Regulation,

6) for training within the meaning of Articles 81 through 83 of the Regulation.

State aid can also be granted for restructuring of a steel producing enterprise in difficulties on condition that:

1) state aid, under normal market conditions, leads to a long-term sustainability of the enterprise at the end of the restructuring period,

2) the amount and intensity of state aid are strictly limited to what is necessary for recovering sustainability, with the aid's progressive decrease if possible,

3) the enterprise, prior to being granted state aid, has made a restructuring plan involving rationalization and closure of inefficient capacities.

2. State Aid in the Coal Extraction Sector

Article 89

State aid can be granted to a coal extracting enterprise for the following main objectives prescribed by this Regulation:

1) for environmental protection within the meaning of Articles 29 through 61 of the Regulation,

2) for research, development and innovation within the meaning of Articles 62 through 80 of the Regulation,

3) for training within the meaning of Articles 81 through 83 of the Regulation.

State aid can also be granted for rational use of coal reserves and special costs incurred by rationalization or restructuring in the coal sector.

3. State Aid in the Transport Sector

Article 90

State aid can be granted to an enterprise performing transport operations for all main objectives of regional and horizontal state aid prescribed by this Regulation.

State aid can be granted for combined freight transport, transport in inland navigation and air transport.

3.1. State Aid for Combined Freight Transport

Article 91

State aid in transport can be granted with a view to replacing road freight transport with rail transport, as well as to improving this combined transport, and shall be granted exclusively as investment state aid.

Eligible costs for the granting of state aid for combined freight transport of are total investment costs of:

1) constructing and adapting terminals of combined transport, including equipment for shipment,

2) projected bigger costs of equipment for combined transport which refer to: road transport containers, special vehicles and containers for combined transport, use of semi-carriers for easier loading, use of initial and subsequent road transport equipment and use of road navigation equipment,

3) innovative costs of shipment and logistical systems, in particular intermodal information and communication systems for the improvement of combined transport's offer,

4) purchase of fast train engines for the provision of new services and services of better quality in combined transport, at the same time diverting freight transport from road to rail.

Article 92

The amount of state aid shall be calculated as follows:

1) up to 50% of eligible costs from Article 91, paragraph 2, point 1) of the Regulation,

2) up to 100% of eligible costs from Article 91, paragraph 2, point 2) of the Regulation,

3) up to 30% of eligible costs from Article 91, paragraph 2, point 3) of the Regulation,

4) up to 30 % of eligible costs from Article 91, paragraph 2, point 4) of the Regulation during the one-year pilot project.

3.2. State Aid for Transport in Inland Navigation

Article 93

State aid can be granted to transport in inland navigation, namely for:

1) investing in the infrastructure of terminals in ports and at docks,

2) investing in stationary and portable equipment necessary for loading and unloading in ports and at docks.

Eligible costs for the grant of state aid for transport in inland navigation are the costs of developing new or additional transport capacities of inland navigation.

The amount of state aid from paragraph 1 herein shall be calculated up to 50% of eligible costs.

3.3. State Aid for Air Transport

Article 94

State aid can be granted to air companies for introducing new flights between a regional and national airport or a regional airport and airports in other countries provided that the following conditions are met:

1) the air company possesses a valid document stating its qualifications for performing public air transport activities,

2) the new flight and the new flight schedule are sustainable in the long run, with the state aid being degressive and time-bound,

3) the introduction of a new flight is preceded by the creation of a business plan which will confirm the effectiveness of the new flight even upon receiving state aid,

4) state aid is granted no longer than five years, while the amount of state aid in any one year cannot exceed 50% of eligible costs in that year, nor can it exceed 40% of overall eligible costs over the entire period,

5) eligible costs encompass overall costs of introducing a new flight, and they refer to initial commercial marketing costs, as well as accommodation costs of the flight crew at the airport,

6) the provision of state aid is suspended once the goals in terms of numbers of passengers and cost-effectiveness of the new flight are reached, and if they are reached before the expiry of the envisaged deadline,

7) the provision of state aid is related only to the net increase in the number of passengers transported,

8) the procedure for acquiring state aid for the introduction of new flights is public and all interested air companies can, on equal terms, offer their services,

9) the grantor of state aid is obliged to publish an annual list of flights for which state aid has been granted for each airport, stating sources of state aid, the beneficiary and the number of passengers.

V STATE AID OF SMALL VALUE (DE MINIMIS STATE AID)

DE MINIMIS CEILING

Article 95

De minimis state aid can be granted to a single enterprise amounting at RSD 23,000,000.00 at any time during three consecutive fiscal years.

As an exception from paragraph 1 of this Article, in the road transport sector, *de minimis* aid shall be granted to a single undertaking performing road freight transport for hire or reward, in the amount of RSD 11,500,000.00 over any period of three consecutive fiscal years. This *de minimis* aid shall not be used for the acquisition of road freight transport vehicles.

If the undertaking as referred to in paragraph 2 of this Article, besides performing road freight transport for hire or reward also carries out other activities to which the ceiling of RSD 23,000,000.00 applies, that undertaking shall be granted *de minimis* aid in the amount of RSD 23,000,000.00 for those other activities over any period of three consecutive fiscal years, provided that the concerned aid grantor ensures, by separating activities or distinction of costs, ensures that the amount granted for the road transport activity shall not exceed RSD 11,500,000.00 over any period of three consecutive fiscal years and that no *de minimis* state aid is used for the acquisition of road freight transport vehicles.

De minimis state aid shall be deemed granted at the moment the legal right to receive the aid is conferred on *de minimis* aid beneficiary.

Article 95a

De minimis aid ceiling laid down in Article 95 of this Regulation shall apply irrespective of the State aid instrument or the objective pursued and regardless of whether the *de minimis* State aid grantor is the Republic of Serbia, autonomous province of a self-governmental unit.

De minimis aid granted as a cash grant shall be expressed in its gross amount, that is the amount before any deduction of tax or other charge. Where *de minimis* aid is granted in a form other than a cash grant, the aid amount shall be expressed as a cash grant, that is, as the gross grant equivalent of the aid.

De minimis aid payable in several instalments (in several parts) shall be discounted to its value at the moment it is granted and the interest rate to be used for discounting purposes shall be the discount/reference rate as determined by the ministry responsible for finance and published by the Commission for State Aid Control on its website.

In the case of mergers or acquisitions, all prior *de minimis* aid granted to any of the merging undertakings shall be taken into account in determining whether any new *de minimis* aid to the new undertaking or the entrepreneur exceeds the ceiling laid down in Article 95 of this Regulation.

If one undertaking splits into two or more separate undertakings, *de minimis* aid granted prior to the split shall be considered to be granted to the undertaking that benefited from it, which is in principle the undertaking taking over the activities for which the *de minimis* aid was used. If this is impossible to determine, the *de minimis* aid shall be allocated proportionately on the basis of the book value of the equity capital of the new undertakings at the effective date of the split.

De minimis aid beneficiary shall inform *de minimis* grantor about the status change referred to in paragraphs 4 and 5 of this Article.

CALCULATION OF GROSS GRANT EQUIVALENT OF AID AND TRANSPARENT *DE MINIMIS* AID

Article 95b

De minimis aid shall be granted only in cases when it is possible to calculate precisely the gross grant equivalent of the aid ex ante without any need to undertake a risk assessment, which is referred to as the transparent *de minimis* aid. Aid comprised in grants or interest rate subsidies shall be considered as transparent *de minimis* aid.

Aid comprised in capital injections shall only be considered as transparent *de minimis* aid if the total amount of the public injection does not exceed the *de minimis* ceiling laid down in Article 95 of this Regulation.

Aid comprised in risk finance measures taking the form of equity or quasi-equity investments shall only be considered as transparent *de minimis* aid if the capital provided to a single undertaking does not exceed the *de minimis* ceiling from Article 95 of this Regulation.

Aid comprised in other instruments, besides loans and guarantees, shall be considered as transparent *de minimis* aid if the instrument provides for a cap ensuring that the relevant ceiling is not exceeded, as laid down in Article 95 of this Regulation.

CALCULATION OF GROSS GRANT EQUIVALENT OF AID COMPRISED IN LOANS AND GUARANTEES

Article 95c

Aid comprised in loans shall be considered as transparent de minimis aid if gross grant equivalent is calculated in the following way:

1) as a proportionate part of *de minimis* ceiling determined in Article 95 of this Regulation, wherein the following conditions have to be fulfilled:

a) *de minimis* beneficiary is not subject to collective insolvency proceedings nor fulfils the criteria for being placed in collective insolvency proceedings at the request of its creditors. In case of large undertakings, the beneficiary shall be in a situation comparable to a credit rating of at least B- , and if

b) if the loan is secured by collateral covering at least 50% of the loan and its amount is

   - 115,000,000.00 RSD (or RSD 57,500,000.00 for undertakings performing road freight transport) over five years or

- RSD 57,500,000.00 (or RSD 28,750,000.00 for undertakings performing road freight transport) if the loan is granted for a period of 10 years

or

2) on the basis of reference rate being in force at the moment when *de minimis* aid was granted,

In cases referred to in paragraph 1 item 1 of this Article, *de minimis* aid amount is equal to *de minimis* ceiling determined in Article 95 of this Regulation, and if the amount of the loan is less than the referred amounts and/or the loan is granted for a period of less than five or 10 years respectively, the gross grant equivalent of that loan shall be calculated as a corresponding proportion of the relevant ceiling laid down in Article 95 of this Regulation.

The decision on the manner of calculating gross grant equivalent shall be made by *de minimis* aid grantor.

Aid comprised in guarantees shall be treated as transparent *de minimis* aid if:

a) *de minimis* beneficiary is not subject to collective insolvency proceedings nor fulfils the criteria for being placed in collective insolvency proceedings at the request of its creditors. In case of large undertakings, the beneficiary shall be in a situation comparable to a credit rating of at least B-,

   and if

b) the guarantee does not exceed 80% of the underlying loan and the amount guaranteed is

   - RSD 172,500,000.00 (or RSD 86,250,000.00 for undertakings performing road freight transport) and the duration of the guarantee is five years or
   - RSD 86,250,000.00 (or RSD 43,125,000.00 for undertakings performing road freight transport) and the duration of the guarantee is 10 years.

In cases referred to in paragraph 4 of this Article, *de minimis* aid amount is equal to *de minimis* ceiling determined in Article 95 of this Regulation, and if the amount guaranteed is lower than these amounts and/or the guarantee is for a period of less than five or 10 years respectively, the gross grant equivalent of the aid shall be calculated as a corresponding proportion of the relevant ceiling laid down in Article 95 of this Regulation.

CUMULATION

Article 95d

De minimis aid granted in accordance with this Regulation may be cumulated with other *de minimis* aids, granted in the current fiscal year and in the last two fiscal years, up to the ceiling determined in Article 95 of this Regulation.

De minimis aid granted in accordance with this Regulation shall be cumulated with *de minimis* aid granted as a compensation for the provision of services of general economic interest up to the amount of RSD 57,500,000.00 over any period of three consecutive fiscal years.

De minimis aid shall be cumulated with other state aid types granted for the same eligible costs or with state aid for the same risk finance measure, up to the amount (intensity) of state aid representing ceiling up to which total state aid amount can be granted. *De minimis* aid which is not granted for or attributable to specific eligible costs may be cumulated with other state aid categories in accordance with relevant rules on state aid.

OBLIGATIONS OF *DE MINIMIS* AID GRANTORS

Article 95e

De minimis state aid granted in accordance with this Regulation shall not be notified to the Commission for State Aid Control. The decision on justifiability as to the granting of *de minimis* aid shall be passed by state aid grantor.

De minimis aid grantor shall inform a beneficiary in writing of granting *de minimis* aid and of the prospective amount of the aid expressed as a gross grant equivalent.

Where *de minimis* aid is granted to different undertakings on the basis of a state aid scheme and different amounts of individual aid are granted to those undertakings under that scheme, the state aid grantor shall inform each individual *de minimis* aid beneficiary under that scheme of a fixed sum corresponding to the maximum aid amount to be granted under that scheme.

De minimis aid grantor shall grant new *de minimis* aid in accordance with this Regulation only after having checked that this will not raise the total amount of *de minimis* aid granted to the undertaking concerned (a beneficiary) up to the amount laid down in Article 95 of this Regulation and that all the conditions laid down in this Regulation are complied with.

De minimis aid grantor is obliged to submit to the Commission for State Aid Control and the ministry in charge of finance, 15 days from the day of granting, the complete Table of granted *de minimis* aid. The Table of granted *de minimis* aid and the instructions for completing the Table of granted *de minimis* aid makes the integral part of this Regulation (Annex I) and it can be downloaded from the website of the ministry in charge of finance.

De minimis aid grantor is obliged to:

- keep records on granted *de minimis* aid per individual *de minimis* aid beneficiary;
- keep data and documents on granted *de minimis* aid for 10 years from the date on which the aid was granted;

- on written request of the Commission for State Aid Control, provide all data and documents;
- submit the total amount of granted *de minimis* aid to the ministry in charge of finance for drafting the annual report on granted state aid comprised in the Table of granted *de minimis* aid. The Table of granted *de minimis* aid and the instructions for completing the Table makes the integral part of this Regulation (Annex II) and it can be downloaded from the website of the ministry in charge of finance

OBLIGATIONS OF *DE MINIMIS* AID BENEFICIARY

Article 95f

Prior to granting new *de minimis* aid, *de minimis* aid grantor is obliged to request from *de minimis* aid beneficiary to inform them, in written form, about all other de minimis aids which have been granted in the current fiscal year and two previous fiscal years, in accordance with this Regulation or other provisions governing *de minimis* aid granting.

De minimis central register

Article 96

De minimis central register shall be established in the ministry in charge of finance. The Minister in charge of finance shall prescribe the manner and conditions for keeping this register, and determine the deadline as well as data and information that *de minimis* aid grantors are obliged to submit.

Until this central register is established, *de minimis* aid grantor shall keep records and submit data on this aid in accordance with Article 95e of this Regulation regardless of the fact whether *de minimis* aid grantor is the Republic of Serbia, autonomous province or a local self-governmental unit.

Article 97

UNALLOWED *DE MINIMIS* AID

De minimis aid shall not be granted to:

1) promote export, i.e. for activities directly influencing the quantities exported, implementation and operation of a distribution network or for other current expenditure (operating costs) of an undertaking linked to the export activity and
2) give precedence to national products over imported ones.

State aid granted for covering costs of attendance at trade fairs and for compensation of costs for conducting a study or for provision of consultancy services needed for introducing a new or an existing product on a new market in another state shall not be

considered State aid for promoting export as referred to in paragraph 1 item 1) of this Article.

Va SERVICES OF GENERAL ECONOMIC INTEREST

Article 97a

An enterprise can be granted compensation for providing services of general economic interest if the following conditions have been met cumulatively:

1) the enterprise that provides conditions of general economic interest has a clearly defined obligation of providing services of general economic interest, determined by the law or a document of the compensation provider,

2) the parameters for calculating the compensation amount have been objectively and clearly predetermined,

3) the amount of compensation cannot exceed the amount that the enterprise uses to cover the expenses needed for covering its expenses for providing services of general economic interest, taking into account the income and reasonable profit, so it is not excessive and it does not jeopardize the market balance; 'reasonable profit' is the rate of income on capital of an enterprise that takes into account risk or the lack of risk that occurs in the enterprise due to state's mediation. In most cases, that rate must not exceed the average rate from the previous years for the sector to which the enterprise belongs. If there are no enterprises for comparison in the sector, the comparison is made with enterprises from another sector, taking into account specificities of each sector. When determining the 'reasonable profit', the state can introduce incentive criteria, which primarily refer to the quality of the offered service and increased efficiency of offering services.

If the enterprise with the obligation of providing services of general economic interest has not been selected to provide services in public procurement processes, the fee to it is determined based on an analysis of operating expenses of the same or similar enterprise, which performs the same or similar activity in the same or similar conditions.

The fee for providing services of general economic interest, which is allocated in accordance with this article, is not considered state aid and is not reported to the Committee for State Aid Control.

Article 97b

State aid to an enterprise that provides services of general economic interest by meeting the criteria from Article 97a, paragraph 1 of this regulation, but was not selected to provide services in public procurement processes, and its compensation was not determined based on an analysis of operating expenses of the same or similar enterprise,

which performs the same or similar activity in the same or similar conditions, is the always allowed state aid and is not reported to the Committee for State Aid Control.

1) if the annual fee for providing services of general economic interest is up to EUR 15M in RSD equivalent, in all the sectors except for the sector of transport and transport infrastructure,

2) if the fee for providing services of general economic interest is granted to health institutions and enterprises providing services of general economic interest in the sector of social housing,

3) if the fee for providing services of general economic interest is granted to airports whose average annual turnover during two financial years that precede the year in which it was ordered to provide services of general economic is not over 200,000 passengers,

4) if the authorization for providing services of general economic interest is no longer than 10 years, unless the service provider has to invest in infrastructure that is a condition for providing services of general economic interest, which depreciates over a long period, in accordance with generally accepted accounting standards.

In case of paragraph 1 of this Article, state aid provider is obliged to keep records on data from Article 97a, paragraph 1 of this regulation for 10 years from aid granting, and to submit information from the records to the Committee for State Aid Granting, upon its request.

Article 97c

Compensation for providing services of general economic interest that is not encompassed by cases from Articles 97a and 97b of this regulation is considered state aid and must be reported to the Committee for State Aid Granting, due to high risk of jeopardizing market competition.

Article 97d

The enterprise to whom compensation was allocated and that performs other activities besides the services of general economic interest, is obliged to keep separate records for each activity individually, in accordance with regulations on accounting and revision, so it could be checked whether it was given an excessive compensation and whether it is using the compensation solely for providing services of general economic interest.

VI SPECIFIC INSTRUMENTS FOR GRANTING STATE AID

1. Short-term Insurance of Export Loans

Article 98

State guarantees for short-term export credit insurance against market risks shall be prohibited, and they shall be allowed only for export credit insurance against non-market risks.

2. Guarantees

Article 99

An individual state guarantee shall not constitute an instrument for granting state aid if it cumulatively meets the following conditions:

a) the enterprise is not in difficulties,

b) the guarantee is connected to a specific financial transaction, to a fixed amount and a fixed time period,

c) the guarantee does not cover more than 80% of unsettled loan or other financial obligations of the beneficiary. This restriction does not apply to guarantees covering borrower's bonds,

d) the guarantee premium is calculated by use of commercial principles.

The state guarantee scheme shall not constitute an instrument for granting state aid if it cumulatively meets the following conditions:

a) it does not provide support to enterprises in difficulties,

b) the guarantee is linked to a specific financial transaction, fixed amount, fixed time period, and does not cover more than 80% of unsettled loan or other financial obligation of the beneficiary. This restriction does not apply to guarantees covering borrower's bonds,

c) terms of the state guarantee scheme are based on realistic risk assessment and premiums paid by the beneficiary are provided for from their own sources,

d) premiums cover normal risks covered by the guarantee granted and the administrative costs of the scheme, including annual income from capital, provided by the state,

e) premiums are reviewed at least once a year,

f) the state aid scheme allows for the conditions under which future guarantees will be granted (eligible enterprise, sector, size, maximum amount and duration of the guarantee).

3. Sale of Publicly Owned Immovable Property

Article 100

Sale of publicly owned immovable property shall not constitute state aid if the sales procedure is determined in accordance with one of the following methods:

1) by way of public, open and unconditioned auctioning, accepting the best or the only bid, ensuring the fulfillment of the following conditions:

a) the offer has been announced in national or local press many (consecutive) times over the period of at least two months,

b) each potential buyer can acquire land and buildings and use them for their personal needs,

c) the condition from sub-point b) herein does not influence the restriction of environmental protection, protection of public interests and exclusion of suspicious auctions and offers,

2) based on the appraisal of an independent expert who owns the appropriate document which authorizes them to make appraisals of actual property and who has adequate experience.

If publicly owned immovable property cannot be sold at the price set by the independent expert, the price shall be decreased by 5%.

If, after some time, it becomes obvious that property from paragraph 3 herein cannot be sold at a lowered price, a new appraisal shall be made based on the previous experience.

VII FINAL PROVISIONS

Article 101

This Regulation is effective as of the eighth day from the date of its publication in the Official Gazette of the Republic of Serbia.

Independent article of the Regulation on amendments and supplements to the Regulation on rules for granting state aid

("Official Gazette of RS", no. 100/2011)

Article 33

This regulation is effective as of January 1, 2012.

Independent article of the Regulation on supplement to the Regulation on rules for granting state aid

("Official Gazette of RS", no. 91/2012)

Article 2

This Regulation is effective as of the eighth day from the date of its publication in the Official Gazette of the Republic of Serbia.

Energy Community

Energy Community Secretariat
Am Hof 4, Level 5, 1010 Vienna, Austria

Phone +43 (0)1 535 2222
Email contact@energy-community.org
Web www.energy-community.org

Ms. Inga Suput-Djuric
Chairperson
STATE AID COMMISSION
20, Kneza Milosa Street
11000 Belgrade
Serbia

Dear Ms. Suput-Djuric,

Vienna, 11 November 2014

SR-ECS/O/11-11-2014

I am addressing you with this letter in relation to a complaint submitted to the Secretariat against the Republic of Serbia for non-compliance with the State aid *acquis* in relation to the development of TPP Kolubara B, registered as Case ECS-11/14. The Secretariat has been reviewing the initial submission and we would like to ask you – as a State aid enforcement authority - for some clarification and submission of any relevant and related document.

The Secretariat has been informed about the following potential aid being granted to *Elektroprivreda Srbija* for the construction of TPP Kolubara B:

1. State guarantee for an EBRD loan of amount of 52 million euro for the Project "Procurement of the ECS System", which includes the purchase of a coal excavator, conveyor and spreader system for the Tamnava West field.
2. 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".
3. 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.
4. 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".
5. Transfer of the property (land and buildings) to support the construction of the Thermal Power Plant Kolubara B. 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).

Bank Raiffeisenlandesbank
IBAN AT953200000015102825
BIC RLNWATWW

Energy Community

Energy Community Secretariat
Am Hof 4, Level 5, 1010 Vienna, Austria

Phone +43 (0)1 535 2222
Email contact@energy-community.org
Web www.energy-community.org

In relation to these aid measures cited above, the Secretariat would like to request the following information:

In relation to the aid granted in a form of State guarantees issued by the State for loans taken by EPS as measures that could qualify as State aid, as you are aware, the benefit of a State guarantee is that the risk associated with the guarantee is carried by the State, and therefore such risk-carrying by the State should normally be remunerated by an appropriate premium. Where the State forgoes all or part of such a premium, even if the guarantee is not activated, there may nevertheless be State aid. Therefore, could you please clarify whether:

- the loans have been fully guaranteed by the State or only in part.
- the State guarantee has been paid by EPS to the Republic of Serbia,
- the payment has been based on a market price and how was such a payment calculated.

Secondly, in relation to the direct grants referred to above, we would like to ask if these were grants given by the Republic of Serbia to EPS, or were direct grants from KfW. If these grants were given by KfW, we would like to ask if these were money transferred directly from the bank to EPS, or these were grants to the Republic of Serbia which then transferred to EPS. Additionally, please inform us on whether these grants need to be paid back and by whom (EPS or the Republic of Serbia).

We would like to ask you to submit the Agreements where the Republic of Serbia undertakes the obligations to guarantee the loans taken by EPS, as well as the acts for transferring land and buildings to EPS, if you are in possession of those documents.

Thirdly, we would like to ask whether the Commission for State Aid Control in Serbia has been notified on the aid or whether it has reviewed all these measures *ex officio*. If so, please inform us whether the Commission has taken any decision on this issue (even if there was a conclusion that the measure does not amount to State aid or that the aid is allowed) and we would kindly like to ask you to submit such decisions to the Secretariat.

In case the State aid Commission found that the aid granted constitute compensation for provision of SGEI, please submit the relevant decisions and explain how this finding was reached.

Bank Raiffeisenlandesbank
IBAN AT953200000015102825
BIC RLNWATWW

Energy Community Secretariat
Am Hof 4, Level 5, 1010 Vienna, Austria

Phone +43 (0)1 535 2222
Email contact@energy-community.org
Web www.energy-community.org

Having in mind that the Secretariat is acting upon a complaint submitted and registered under Case ECS-11/14 against the Republic of Serbia, in order to ensure swift and efficient assessment of the complaint, we would kindly like to ask you to reply and to submit all relevant documents to the Secretariat no later than **25 November 2014**.

For any further questions or comments related to the above, the Energy Community Secretariat remains at your disposal. We are looking forward to your response at your earliest convenience.

Regards,
Rozeta Karova
Energy Lawyer

Copy to:
Jelena SIMOVIC, Ministry of Energy, Development and Environmental Protection

Bank Raiffeisenlandesbank
IBAN AT953200000015102825
BIC RLNWATWW

unofficial translation

Republic of Serbia
COMMISSION FOR
STATE AID CONTROL
No.: 160/2/2014-38
Belgrade, April 24th, 2015

ENERGY COMMUNITY
Energy Community Secretariat

Am Hof 4, Level 5
1010 Vienna
Austria

Dear Ms. Karova,

In your letter Number SR-ECS/O/11-11-2014 of November 11th, 2014, submitted by email, you addressed the Commission for State Aid Control (hereinafter referred to as the "Commission") in relation to a complaint submitted to the Energy Community Secretariat (hereinafter referred to as the "Secretariat") against the Republic of Serbia, for, as it is stated "non-compliance with the State aid *acquis* in relation to the development of TPP Kolubara B, registered as Case ECS-11/14".

Namely, you stated in your letter that you had been informed about the following potential aid being granted to the public enterprise *Elektroprivreda Srbije,* Belgrade (hereinafter referred to as the "EPS") for the construction of TPP Kolubara B:

1. "State guarantee for an EBRD loan of amount of 52 million euro for the Project "Procurement of the ECS System", which includes the purchase of a coal excavator, conveyor and spreader system for the Tamnava West field.
2. 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".
3. 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.
4. 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".

5. Transfer of the property (land and buildings) to support the construction of the Thermal Power Plant Kolubara B. 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)."

In relation to the aforesaid, the Commission addressed the Ministry of Mining and Energy in its letter Number 160/2014-38 of November 28th, 2014, with the request for submitting the information clarifying whether any state aid was granted to the EPS in the previous period, within the meaning of Article 2, point 1) of the Law on State Aid Control ("Official Gazette of the Republic of Serbia", no. 51/09).

The Ministry of Mining and Energy complied with the Commission's request and in its letter Number 401-00-00379/2014-01 of December 30th, 2014, stated that "the Republic of Serbia guaranteed the following loans:

1. EBRD lander, EPS borrower, Republic of Serbia guarantor, in total amount of EUR 59,864,142.51 for the Project "EPS 2 – Procurement of the ECS System for the Tamnava West field";
2. KfW lender, EPS borrower, Republic of Serbia guarantor, in total amount of EUR 16 million and direct grant of EUR 9 million for the Project "Procurement of mining equipment for the needs of open cast mine Tamnava West Field";
3. EBRD lender, EPS borrower, Republic of Serbia guarantor, in total amount of EUR 80 million for the Project "Procurement and installation of ECS System for open cast mine Field C" and
4. KfW lender, EPS borrower, Republic of Serbia guarantor, loan in total amount of EUR 65 million and direct grant of EUR 9 million for the Project "Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing environmental impact"."

After inspecting the rest of the submitted documents, the Commission determined that the stated guarantees were granted in the period prior to the start of the application of the Law on State Aid Control (before January 1st, 2010), that is, before the application of the rules for state aid granting on public enterprises, which entered into force on January 1st, 2012, by the adoption of the Regulation on the amendments to the Regulation on the Rules for State Aid Granting ("Official Gazette of the Republic of Serbia", no. 100/11). The above said is only not applicable to the guarantee which was signed after this period, that is on October 30th, 2012 and it refers to the guarantee issued by the Republic of Serbia for KfW loan for the project named "Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing environmental impact" (hereinafter referred to as the "Project") in the amount of EUR 74,000,000. Therefore, the Commission only has the powers to examine the said measure of potential state aid.

Moreover, transfer of the property to the EPS, in accordance to the Amendment to the EPS Establishment Act, dated on May 31st, 2009, mentioned in point 5 of your letter, refers to

the period before the application of the Law on State Aid Control. Therefore, it is out of the Commission's competence to make decisions on these measures.

Furthermore, in your letter, you requested from the Commission the information regarding the following aid measures:

1. "In relation to the aid granted in a form of State guarantees issued by the State for loans taken by EPS as measures that could qualify as State aid, as you are aware, the benefit of a State guarantee is that the risk associated with the guarantee is carried by the State, and therefore such risk-carrying by the State should normally be remunerated by an appropriate premium. Where the State forgoes all or part of such a premium, even if the guarantee is not activated, there may nevertheless be State aid. Therefore, could you please clarify whether:

- the loans have been fully guaranteed by the State or only in part,
- the State guarantee has been paid by EPS to the Republic of Serbia,
- the payment has been based on a market price and how was such a payment calculated."

Hereby, the Commission informs you that after inspecting the information submitted by the Ministry of Mining and Energy, it determined that, in accordance with Articles 16 to 25 of the Law on Public Debt ("Official Gazette of the Republic of Serbia", no. 61/05, 107/09 and 78/11), the Law on issuing the guarantee by the Republic of Serbia on behalf of the German Development Bank KfW, Frankfurt am Main, for the borrowing of the public enterprise *Elektroprivreda Srbije,* Belgrade (the Project "Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing environmental impact") ("Official Gazette of the Republic of Serbia", no. 121/12 – hereinafter referred to as the "Law on issuing the guarantee") was adopted, whereby the Republic of Serbia fully guaranteed the loan approved to the EPS, as the borrower, by the KfW, as the loaner, in the amount of EUR 74,000,000 for the implementation of the Project.

Namely, by the Law on issuing the guarantee the following is foreseen:

– resources for the repayment of the loan is provided by the Borrower (the EPS) form its own resources;

– the Borrower is obliged to provide the resources for the repayment of the loan according to the repayment plan for every disbursed tranche of the loan, in the amount which includes the principal amount, accrued interest, commitment fee and accompanying costs of the borrowing and

– if on the basis of the issued guarantee, the Guarantor (the Republic of Serbia) executes the obligation instead of the Borrower, the Guarantor has the right on reimbursement of the principal amount, interest, commitment fee, accompanying costs of the borrowing and accompanying costs, which incur due to the non-compliance, or untimely compliance with the obligation, up to the amount of the obligation which is settled, as well as the right to recover the calculated default interest prescribed by the law from the Borrower.

Therefore, although the Republic of Serbia did not charge the premium on the issued Guarantee from the EPS beneficiary, the Law on issuing the guarantee determines that the Republic of Serbia, in case of activating the Guarantee, has the right on reimbursement of the

principal amount and all accompanying costs, increased for default interest prescribed by the law, from the EPS beneficiary.

The Ministry of Mining and Energy also stated that the EPS timely settles its obligations to the Lender (KfW) in accordance with the Loan Agreement, so the Guarantee was not activated.

2. "Secondly, in relation to the direct grants referred to above, we would like to ask if these were grants given by the Republic of Serbia to EPS, or were direct grants from KfW. lf these grants were given by KfW, we would like to ask if these were money transferred directly from the bank to EPS, or these were grants to the Republic of Serbia which then transferred to EPS. Additionally, please inform us on whether these grants need to be paid back and by whom (EPS or the Republic of Serbia).

We would like to ask you to submit the Agreements where the Republic of Serbia undertakes the obligations to guarantee the loans taken by EPS, as well as the acts for transferring land and buildings to EPS, if you are in possession of those documents."

With regard to the above mentioned questions, the Commission hereby informs you that the KfW granted the directed grant to the EPS in the amount of EUR 9,000,000 and that the said direct grant is non-repayable.

We will submit the documents you asked for subsequently.

3. "Thirdly, we would like to ask whether the Commission for State Aid Control in Serbia has been notified on the aid or whether it has reviewed all these measures *ex officio*. If so, please inform us whether the Commission has taken any decision on this issue (even if there was a conclusion that the measure does not amount to State aid or that the aid is allowed) and we would kindly like to ask you to submit such decisions to the Secretariat.

In case the State aid Commission found that the aid granted constitute compensation for provision of SGEI, please submit the relevant decisions and explain how this finding was reached."

The Commission hereby informs you that it has not review the said measure, or made any decisions on it. However, after inspecting all information it obtained, the Commission reviewed the Guarantee from the state aid point of view on its 13th session held on April 24th, 2015. Firstly, the Commission analysed the EPS as the loan beneficiary and as the Guarantee beneficiary, and it determined the following:

– the EPS is a public enterprise established by the Decision on the establishment of the public enterprise for generation, distribution and trade of electricity ("Official Gazette of the Republic of Serbia", no. 12/05 and 54/10 – hereinafter referred to as the "Decision on the establishment"), adopted by the Government of the Republic of Serbia, in accordance with the Energy Law ("Official Gazette of the Republic of Serbia", no. 84/04) for the purpose of providing the conditions for smooth and safe supply of electricity to tariff customers on the territory of the Republic of Serbia;

– this public enterprise (hereinafter referred to as the "PE") is held responsible to provide for the conditions enabling safe and regular power supply for tariff electric power customers and the supply of sufficient quantities of energy as established statement of electric power needs of the tariff customers in the territory of the Republic of Serbia, in compliance with the laws, course of actions and development and the programmes of business operations;

– the PE is held responsible to undertake measures and activities intended for the development of generating and distributing electric power facilities and the facilities for coal production and their necessary regular maintenance and smooth operation, all in compliance with the laws and other regulations governing the conditions enabling the performance of power-related business activities and the conditions and manner for carrying out the activities of public interest;

– in carrying out its activities, the PE is held liable to provide for and ensure special conditions to protect and promote the environment as well as to prevent and remedy any consequences that endanger the environment;

– the PE may establish subsidiary companies for the performance of the activities within the range of its business operations;

– the MB Kolubara is the subsidiary company for the production, processing and transport of coal, producing 75% of lignite in the Republic of Serbia and it supplies TPP Kolubara, TPP Nikola Tesla and TPP Morava, where 94% of the produced coal is used for the needs of the thermal power plants, and the rest is used as consumer goods and coal drying.

When making the decision whether the Guarantee represents the instrument for state aid granting, the Commission took the following into consideration:

– the EPS is a public enterprise established in 2005 for the provision of the conditions enabling safe and regular power supply for tariff electric power customers on the territory of the Republic of Serbia. The EPS was established as a public enterprise for the generation and distribution of electricity, management of distributive system and trade of electricity. In accordance with Article 42 paragraph 1 of the Energy Law ("Official Gazette of the Republic of Serbia", no. 84/04) and the obtained licence, the EPS directly performed the activity of trading in electric power for the needs of tariff customers, as the activity of general interest in accordance with Article 41 paragraph 1 of the said Law, and the EPS performed the activity of trading electricity for supplying tariff customers (the sale to end-customers) through its subsidiary companies for the distribution of electricity. After the Energy Law was adopted ("Official Gazette of the Republic of Serbia", no. 57/11, 80/11 – corrigendum, 93/12 and 124/12), in accordance with the obligation on legal unbundling of the activities relating to the supply and distribution of electricity, pursuant to Article 15 of the Energy Law ("Official Gazette of the Republic of Serbia", no. 57/11, 80/11 – corrigendum, 93/12 and 124/12), the EPS established a separate subsidiary company for supplying end consumers in the Republic of Serbia with electricity – for performing the activities of public supply of electricity as the activity of general interest, in accordance with the law regulating the status of public enterprises and the provision of the activities of general interest. The provisions of Article 397 of the new Energy Law ("Official Gazette of the Republic of Serbia", no. 145/14), which entered into force on December 30th, 2014, stipulate that an energy entity that on the date of entering into force of this Law holds the license for performing the activity of public electricity supply shall continue to supply households and small customers at regulated prices, with rights and obligations of a guaranteed supplier, until the appointment of the guaranteed supplier under Article 190 of this Law. The prices of electricity for the needs of tariff customers in accordance with the 2004 Law and the prices of

electricity for public supply in accordance with the 2011 Law were regulated. The prices of electricity for the guaranteed supply according to the 2014 Law are regulated in the transition period, pursuant to Article 88 paragraph 2 and Article 89 of that Law (until the Energy Agency of the Republic of Serbia (hereinafter referred to as the "Agency"), representing an independent regulatory body competent for price regulation, determines that the need for the regulation of prices has ceased. Moreover, the Agency is obliged to publish the first report on the need for the further regulation of the prices until May 1st 2017, in accordance with Article 397 of that Law);

– the EPS is not an undertaking in difficulties;

– the Guarantee is connected to the special financial transaction, at fixed amount and for fixed period of time, i.e. it refers to the KfW loan amounting to EUR 74,000,000, granted for the Project implementation;

– the Guarantee covers 100% of the approved loan, which is allowed in this case, due to the fact that the beneficiary is the undertaking entrusted with the operation of services of general economic interest;

– the premium is not paid on the Guarantee, but the Law on issuing the guarantee stipulates that the EPS is obliged to settle its obligations to the Republic of Serbia which can incur when the Guarantee is activated. Moreover, the EPS is obliged to pay all accompanying costs, increased for the default interest prescribed by the law, thus preventing the potential public expenditure in the budget of the Republic of Serbia.

Having in mind the aforesaid, the Commission analysed the Guarantee in relation to Article 99 paragraph 1 of the Regulation on the Rules for State Aid Granting ("Official Gazette of the Republic of Serbia", nos. 13/10, 100/11, 91/12, 37/13, 97/13 and 119/14) (hereinafter referred to as the "Regulation"), which is in accordance with the rules contained in the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (OJ C 155, 20.06.2008), stipulating the conditions which have to be cumulatively fulfilled so that an individual state guarantee does not constitute an instrument for state aid granting.

Namely, the Commission determined that out of all conditions prescribed in Article of the Regulation, only the condition referring to calculating premium on the Guarantee is not fulfilled. The Commission therefore concluded that the Guarantee has the elements of state aid within the meaning of Article 2 point 1) of the Law on State Aid Control.

The Commission also took into consideration additional information that the Ministry of Mining and Energy submitted via email on February 10th, 2015, regarding the Project, where it stated the following: "the Project *Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing environmental impact* aims at providing the secure and continuous coal delivery and rational managing of natural resources, with the accompanying decrease of air pollution in power plants using coal from MB Kolubara. The project implementation would contribute to the advancement of the technologies used for coal extraction, the increase of energy efficiency of thermal power plants using this coal for generating electricity, and the decrease of negative impacts on the environment."

With regard to the fact that the Commission determined that the Guarantee has elements of state aid within the meaning of Article 2 point 1) of the Law on State Aid Control, when reviewing whether this state aid is allowed, the Commission also took into consideration the fact that the Project implementation contributes to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment, so that the EPS can perform the activity of public interest for which it was established, that is, secure regular and safe distribution of electricity to households and small customers on the territory of the Republic of Serbia at preferential prices. Moreover, the EPS is also obliged to, in accordance with the law, take measures and activities securing the development of the capacities for production and distribution of energy and the capacities for coal production and their regular maintenance and clear functioning, and provide special conditions for the protection and improvement of the environment, and prevent the causes and eliminate consequences endangering the environment. Moreover, the Commission took into consideration that the loan would not have been granted if the Republic of Serbia had not guaranteed the total amount of the loan, and consequently, the Project would not have been realized.

Considering the fact that the Project contributes to reaching the goals which are of general interest to all citizens of the Republic of Serbia, the Commission finds that this state aid is allowed and it can be granted in accordance with Article 5 of the Law on State Aid Control, that is, it can be granted for the execution of an important project for the Republic of Serbia. The said provision of the Law on State Aid Control is in accordance with Article 107(3)(b) of the Treaty on the Functioning of the European Union, stating that state aid can be granted for the promotion of the execution of an important project of common European interest.

PRESIDENT OF THE COMMISSION

Andrijana Ćurčić

Submitted to:

- Energy Community, Energy Community Secretariat
- Ministry of Mining and Energy
- Archives

Energy Community

Energy Community Secretariat (ECS)
Am Hof 4, Level 5, 1010 Vienna, Austria
Phone: 0043 (0)1 535 2222
Fax 0043 (0)1 535 2222 11
Email: contact@energy-community.org
Web: http://www.energy-community.org

Opening Letter

in Case ECS-11/14

By the present Opening Letter, the Energy Community Secretariat (the Secretariat) initiates dispute settlement proceedings against the Republic of Serbia for non-compliance with the Treaty establishing the Energy Community (the Treaty), in particular with Article 18 and 19 of the Treaty.

Under the Rules of Procedure for Dispute Settlement under the Treaty (Dispute Settlement Procedures),[1] the Secretariat may initiate a preliminary procedure against a Contracting Party before seeking a decision by the Ministerial Council under Article 91 of the Treaty. According to Article 13 of the Dispute Settlement Procedures, such a procedure is initiated by way of an Opening Letter.

According to Article 11(2) of the Dispute Settlement Procedures, the purpose of the procedure hereby initiated is to establish the factual and legal background of the case and to give the Party concerned ample opportunity to be heard. In this respect, the preliminary procedure shall enable the Republic of Serbia either to comply of its own accord with the requirements of the Treaty or, if appropriate, justify its position. In the latter case, the Republic of Serbia is invited to provide the Secretariat with all factual and legal information relevant to the case at hand within the deadline set at the end of this letter.

I. Background and Facts

a. Electricity sector in Serbia

The Serbian electricity market is dominated by the state-owned public companies Elektroprivreda Srbije (*EPS*) and Elektromreza Srbije (*EMS*). *EPS* is a public enterprise, established in 2005 by the Decision on the establishment of the public enterprise for generation, distribution and trade of electricity,[2] adopted by the Government of the Republic of Serbia in accordance with the Energy Law.[3] The vertically integrated undertaking performs generation, distribution and supply activities.

RB Kolubara Lazarevac forms part of *EPS*, producing 75% of all lignite in Serbia, 94% of which is used for the generation of electricity by several thermal power plants. The lignite coming from the Kolubara Mining Basin is used for the production of about 52% of total electricity generation in Serbia. Kolubara Mining Basin is composed of several mines: Polje B, Polje C, Polje D, Tamnava West and Veliki Crljeni.

Thermal Power Plant Kolubara A (Kolubara A), located at the edge of the Kolubara Mining Basin, also forms part of *EPS* and generates electricity using the lignite mined in the Kolubara Mining Basin.

[1] Procedural Act No. 2015/04/MC-EnC of 16 October 2015.
[2] Official Gazette of the Republic of Serbia No. 12/05 and 54/10.
[3] Official Gazette of the Republic of Serbia No. 84/04.

In 1983, *EPS* decided to build another coal-fired power plant, Kolubara B, for combined generation of electricity and heat for the heating system of Belgrade. Shortly after the start of the construction works, the project was suspended in 1992 due to a lack of financial resources. At that point, only 40% of the facility had been built. As a consequence, the initial plan was revised so that the facility would supply heat to Belgrade through a condensation system.

In June 2011, *EPS* and Italy's *Edison SpA* signed an agreement to jointly develop Kolubara B, with financial assistance from the European Bank for Reconstruction and Development (EBRD). However, in 2013, the EBRD announced that it would not support the construction of Kolubara B, because of the delays in the development of the project and because the project was not compliant with the new energy strategy of the EBRD.

b. State aid enforcement system in Serbia

State aid in Serbia is governed by the Law on State Aid Control adopted in 2009 (the Law).[4] The Law prohibits state aid which distorts or threatens to distort competition on the market. Under this Law, generally, state aid is not allowed. However, there are certain exceptions under which state aid is admissible.

The aim of the Law is, as stipulated in its Article 1, Serbia's compliance with its obligations related to international agreements that contain provisions on state aid. The Law defines state aid as "*any actual or potential public expenditure or realised decrease in public revenue which confers to state aid beneficiary a more favourable market position in respect to the competitors and as a result causes or threatens to cause distortion of the market competition.*"[5] The Law does not contain any provision on the exemption of public undertakings from the application of state aid rules. It also applies to providers of services of general economic interest (SGEI).

The body in charge of the enforcement of state aid law in Serbia is the Commission for State Aid Control (the Commission), established by a governmental decision in 2009.[6] The Commission is assisted by a Department of State Aid established within the Ministry of Finance.

According to Article 11 of the Law, any aid needs to be notified to the Commission before granting. The Commission then performs an *ex ante* control and has to decide within 60 days (as of receipt of the complete notification) whether to allow the notified aid or not. Until such a decision is taken by the Commission, the notified aid cannot be granted ("standstill clause").

With the purpose of adopting more detailed rules for state aid granting and for assessing whether a notified or granted aid measure is allowed, the government of the Republic of Serbia adopted the Regulation on Rules for State Aid Granting (the Regulation), which entered into force in March 2010. Amendments regarding its application to public undertakings entered into force in 2012.[7] The Regulation provides detailed rules for the assessment of different categories of state aid (regional, horizontal, sectoral, *de minimis* state aid, and state aid for providing SGEI). It contains special rules for aid with environmental and energy efficiency purposes under the rules for horizontal state aid, and special provisions on aid in the coal mining industry under the rules for sectoral state aid. Article 97a of the Regulation prescribes conditions under which aid granted for SGEI falls outside the scope of the Law because it is considered compensation for providing SGEI, transposing Commission Decision of 20 December 2011 on the application of Article 106(2)

[4] Official Gazette of the Republic of Serbia No. 51/09.
[5] Article 2(1)(1) of the Law on State Aid Control.
[6] Official Gazette of the Republic of Serbia No. 112/09.
[7] Official Gazette of the Republic of Serbia No. 100/11.

TFEU to state aid in the form of public service compensation granted to certain undertakings entrusted with the operation of SGEI.[8] Finally, the Regulation contains rules for the assessment of "specific instruments" for granting state aid, such as state guarantees.

c. The complaint and follow-up actions

In June 2014, the Secretariat received a complaint stating that *EPS* had received state aid for different projects related to the Kolubara Mining Basin and Kolubara B power plant project, which had not been approved by the Commission. The complainant alleged that, by providing state aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources, the Republic of Serbia breached the Energy Community rules on state aid, namely Article 18 and 19 of the Treaty.

Based on the "*Report on the State Aid to the Mining Basin Kolubara and the Thermal Power Plant Kolubara B*" drafted by the Center for Research, Transparency and Accountability, the complainant listed five measures of state support that *EPS* had allegedly received since 2006:

1) State guarantee for an EBRD loan amounting to EUR 52 million for the project "*Procurement of the ECS System*", which includes purchasing a coal excavator, a conveyor and a spreader system for the Tamnava West field.

2) State guarantee for a Kreditanstalt für Wiederaufbau (KfW) loan amounting to EUR 25 million and a direct grant of EUR 9 million for the project "*Procurement of the ECS System*".

3) State guarantee for an EBRD loan amounting to EUR 80 million for the *Kolubara Environmental Improvement* project related, among other things, to the procurement of the specific equipment including an excavator, a conveyor, a spreader system and the power supply for Field C of the Kolubara Mining Basin.[9]

4) State guarantee for a KfW loan amounting to EUR 65 million and a direct grant of EUR 9 million for the project "*Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing environmental impact*".[10]

5) Transfer of property (land and buildings) to support the construction of Kolubara B. The market value of the property transferred allegedly amounts to RSD 1.4 billion (EUR 12.7 million, as per exchange rate on 18 November 2013).[11]

In November 2014, the Secretariat asked the Commission to provide detailed information about these measures and to inform the Secretariat about whether it had previously assessed and approved them. The Commission replied in April 2015 and referred to a letter of the Ministry of Mining and Energy of 30 December 2014 which stated that the Republic of Serbia had indeed guaranteed the following loans:

---

[8] OJ 2012 L 7/3.

[9] The Guarantee Agreement between the Republic of Serbia and the EBRD was concluded on 28 July 2011 and ratified by the Serbian Parliament (Official Gazette of the Republic of Serbia No. 8/2011).

[10] The Guarantee Agreement between the Republic of Serbia and the KfW was concluded on 24 December 2012 and ratified by the Serbian Parliament (Official Gazette of the Republic of Serbia No. 11/2012).

[11] The property in question was transferred to EPS by the Republic of Serbia by Decision on the Amendments to the Decision on the establishment of the public enterprise for production, distribution and trade of electricity (Official Gazette of the Republic of Serbia No. 54/2010).

1) Loan by the EBRD to *EPS* amounting to EUR 59,864,142.51 for the project "*EPS 2 - Procurement of the ECS System for the Tamnava West field*".

2) Loan by the KfW to *EPS* amounting to EUR 16 million and a direct grant of EUR 9 million for the project "*Procurement of mining equipment for the needs of open cast mine Tamnava West field*".

3) Loan by the EBRD to *EPS* amounting to EUR 80 million for the Project "*Procurement and installation of ECS System for open cast mine Field C*".

4) Loan by the KfW to *EPS* amounting to EUR 65 million and a direct grant of EUR 9 million for the project "*Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing the environmental impact*".

The Commission stated in its reply that these guarantees as well as the transfer of property to *EPS* were granted in the period prior to the start of the application of the Law in January 2010 and of amendments regarding the Regulation's rules for state aid granting to public enterprises in January 2012. It found that it only had the power to examine the guarantee for a loan by the KfW totaling EUR 74 million (see point 4) above). As to this measure, the Commission stated that a Law on issuing the Guarantee by the Republic of Serbia on behalf of the German Development Bank KfW, Frankfurt am Main[12] for the full loan amounting to EUR 74 million was adopted in accordance with Articles 16 to 25 of the Law on Public Debt[13]. It determines that in case the Republic of Serbia settles the obligations of *EPS* vis-à-vis the KfW, the Republic of Serbia has a right to reimbursement of the principal amount and all accompanying costs, including default interest prescribed by the law, from *EPS*. The Republic of Serbia did not charge a premium or fee on the guarantee from *EPS*. The guarantee has not been activated.

The Commission further explained that it had not been notified and had not assessed any of the measures in advance. However, upon receipt of the request for information by the Secretariat, it reviewed the measure falling under its competence (the guarantee for the KfW loan under point 4) above) in its session held on 24 April 2015.

In its assessment, the Commission first examined whether the guarantee in question constitutes state aid and therefore falls under the state aid regime. The Commission based its assessment on Article 99 of the Regulation concerning state guarantees (implementing the EC Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees[14]). According to this provision, a state guarantee does not constitute state aid if the following cumulative conditions are fulfilled: the enterprise is not in difficulties; the guarantee is linked to a specific financial transaction, for a fixed amount and a fixed time period; the guarantee does not cover more than 80% of the outstanding loan (not applicable in case of providers of SGEI); and the guarantee premium is calculated on the basis of market principles. The Commission concluded that the guarantee did not fulfill these conditions because the Republic of Serbia did not charge any premium to *EPS* and that the measure therefore constitutes to state aid.

The Commission then examined whether such aid could nevertheless be "allowed". The Commission took into consideration four different aspects: Firstly, according to the Commission, the implementation of the project in question "*contributes to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment*", which enables *EPS* to perform the activity of public interest for which it was establilshed, that is, secure

[12] Official Gazette of the Republic of Serbia No. 121/12.
[13] Official Gazette of the Republic of Serbia No. 61/05, 107/09, 78/11.
[14] OJ 2008 C 155/02.

regular and safe distribution of electricity to households and small customers on the territory of the Republic of Serbia at preferential prices. Secondly, the Commission considered that *EPS* was obliged to take measures for securing the development of the capacities for production and distribution of energy and the capacities for coal production and their regular maintenance and clear functioning, and to provide special conditions for the protection and improvement of the environment, and prevent the causes and eliminate consequences endangering the environment. Thirdly, the loan in question would not have been granted if the Republic Serbia had not issued a guarantee and, therefore, the project would not have been realized. Finally, the Commission concluded that, since the project contributes to goals which are of general interest to all citizens of the Republic of Serbia, the aid was compatible and could be granted for the execution of an important project for the Republic of Serbia in accordance with Article 5 of the Law which corresponds to Article 107(3)(b) TFEU.

Additionally, the Commission stated that although the Republic of Serbia charged no premium for the guarantee, it had the right to get reimbursed for the principal amount and all accompanying costs, including default interest prescribed by the law, by *EPS*. The Commission added that the Ministry of Mining and Energy informed it that *EPS* had been regularly fulfilling its obligations under the loan and that the guarantee had not been activated.

This assessment by the Commission will be analysed in detail in Part III of this Opening Letter. As the Secretariat, in its own assessment, comes to the preliminary conclusion that Article 18 and 19 of the Treaty were not complied with by the Republic of Serbia in relation to the above listed measures, and given the fundamental importance of state aid control for ensuring free competition on the energy markets in the Energy Community, as well as the fact that considerable amounts of state aid have been granted on several occasions to a single, publicly owned undertaking contrary to the state aid prohibition, the Secretariat decided to initiate the present proceedings under Article 90 of the Treaty.

II. Relevant Energy Community Law

Energy Community law is defined in Article 1 of the Dispute Settlement Procedures as "*a Treaty obligation or* [...] *a Decision or Procedural Act addressed to* [a Party]".

A violation of Energy Community law occurs if "[a] *Party fails to comply with its obligations under the Treaty if any of these measures (actions or omissions) are incompatible with a provision or a principle of Energy Community law*".[15]

Article 6 of the Treaty reads:

> *The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty. The Parties shall facilitate the achievement of the Energy Community's tasks. The Parties shall abstain from any measure which could jeopardise the attainment of the objectives of the Treaty.*

Article 18 of the Treaty reads:

> *1. The following shall be incompatible with the proper functioning of the Treaty, insofar as they may affect trade of Network Energy between the Contracting Parties:*
>
> *(...)*
>
> *(c) any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources.*

[15] Article 3(1) of the Dispute Settlement Procedures.

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty establishing the European Community (attached in Annex III).

Article 19 of the Treaty reads:

With regard to public undertakings and undertakings to which special or exclusive rights have been granted, each Contracting Party shall ensure that as from 6 months following the date of entry force of this Treaty, the principles of the Treaty establishing the European Community, in particular Article 86 (1) and (2) thereof (attached in Annex III), are upheld.

Article 94 of the Treaty reads:

The institutions shall interpret any term or other concept used in this Treaty that is derived from European Community law in conformity with the case law of the Court of Justice or the Court of First Instance of the European Communities. Where no interpretation from those Courts is available, the Ministerial Council shall give guidance in interpreting this Treaty. It may delegate that task to the Permanent High Level Group. Such guidance shall not prejudge any interpretation of the acquis communautaire by the Court of Justice or the Court of First Instance at a later stage.

Article 86(1) and (2) of the EC Treaty (currently Article 106(1) and (2) TFEU) as attached in Annex III of the Treaty reads:

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 12 and Articles 81 to 89.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.

Article 87(1), (2) and (3) of the EC Treaty (currently Article 107(1), (2) and (3) TFEU) as attached in Annex III of the Treaty reads:

1. Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.

2. The following shall be compatible with the common market:

(a) aid having a social character, granted to individual customers, provided that such aid is granted without discrimination related to the origin of the products concerned;

(b) aid to make good the damage caused by natural disasters or exceptional occurrences;

(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

3. The following may be considered to be compatible with the common market:

(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;

(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;

(e) such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.

Article 3(2) of the Dispute Settlement Procedures reads:

Failure by a Party to comply with Energy Community law may consist of any measure by the public authorities of the Party (central, regional, local as well as legislative, administrative or judicative), including undertakings within the meaning of Article 19 of the Treaty, to which the measure is attributable.

III. Preliminary Legal Assessment

According to Article 3(2) of the Dispute Settlement Procedures, a failure by a Party to comply with Energy Community law may consist of any measure by the public authorities of the Party; therefore, the Commission's actions are attributable to the Republic of Serbia and may constitute an infringement of Energy Community law by that Party.

At this point of the procedure, the Secretariat considers that the Republic of Serbia infringed Article 18 and 19 of the Treaty in two ways: With regard to the measures listed under point 1), 2), 3), and 5) above, the Republic of Serbia did not fulfil its obligation to effectively enforce the Energy Community state aid *acquis* as the Commission did not assess the compatibility of these aid measures. With regard to the measure listed under point 4) above, the Republic of Serbia infringed Article 18 and 19 of the Treaty because the Commission's assessment was not in line with the state aid *acquis*.

The Secretariat is convinced that the guarantees identified under point 1), 2), and 3) and the transfer of property listed under point 5) above, constitute state aid. The elements of the definition of state aid are the following:[16]

- there must be a benefit or advantage;
- which is granted by the State or through State resources;
- which favours certain undertakings (selectivity);
- which is liable to distort competition; and
- which may affect trade between Member States (in the case of the Energy Community, trade of Network Energy between the Contracting Parties).

As to the guarantees listed under point 1), 2), and 3), based on the information received, the Secretariat considers that they constitute an advantage because the Republic of Serbia did

[16] See Article 18(1)(c) of the Treaty or Article 107 TFEU.

not charge any premium for them.[17] They were granted by the state, namely the Republic of Serbia, and favour one specific undertaking, namely *EPS*. They were also liable to distort competition and affect trade of Network Energy between the Contracting Parties because they strengthened the position of *EPS* in relation to its competitors[18] and the sector in which *EPS* is active is characterized by a substantial level of trade between Contracting Parties.[19]

The same is true for the transfer of property listed under point 5) above, which constitutes an advantage for *EPS* as the Republic of Serbia did not ask for any compensation for the transfer.[20]

a. Lack of compatibility assessment of state aid measures

i. Date of adoption of the contested state aid measures

The Commission in its reply to the Secretariat's request for information argued that it is not competent to assess the guarantees identified under point 1), 2), and 3) and the transfer of property listed under point 5) above because they were granted in the period prior to the start of the application of the Law on State Aid Control (January 2010), that is before the application of the rules to public enterprises, which entered into force with the adoption of amendments to the Regulation (January 2012).

However, according to the Secretariat's research and as can be seen from the list of the measures under I.c. above, the measures were all granted after the entry into force of the Law in 2010: According to public sources,[21] the loan by the EBRD of EUR 60 million (measure 1) above) was disbursed in April 2010. The same time horizon applies to the KfW loan of 16 million and the direct grant of 9 million (measure 2) above).[22] The guarantee for the EBRD loan of EUR 80 million (measure 3) above) was signed and ratified in 2011; the guarantee for the KfW loan of 65 million and the direct grant of EUR 9 million (measure 4) above) in 2012. The property in question (measure 5) above) was transferred to *EPS* by Decision of 29 July 2010 on the Amendments to the Decision on the establishment of the public enterprise for production, distribution and trade of electricity.

The Law entered into force in January 2010. It does not provide for an exemption of its provisions to public undertakings. The Regulation merely contains more detailed rules for the assessment of different types of aid. In 2010, the Commission was established and competent to enforce the Law, therefore also with regard to the measures listed under point 1), 2), 3), and 5) above. As has been pointed out above, these measures constitute state aid. If a measure constitutes state aid, it falls under the state aid regime enshrined in Article 18 and 19 of the Treaty. In order to enforce this regime, a measure that constitutes state aid needs to be assessed as to its compatibility by an independent enforcement authority. The Secretariat does not see any reason which would have prevented the Commission to assess the above measures in accordance with Article 13 of the Law. The Secretariat invites the Serbian authorities to express themselves on this question in their reply.

---

[17] See Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, para. 3.2(b).

[18] E.g. Case 730/79, *Philipp Morris/Commission* [1980] ECR 2671, para. 11; C-182 and 217/03, *Belgium and Forum 187/Commission* [2006] ECR I-5479, para. 131.

[19] E.g. Case 173/74, *Commission/Italy* [1974] ECR 709, para. 19; C-114/00, *Spain/Commission* [2002] ECR I-7657, para. 65.

[20] For undervalue price see e.g. Case T-274/01, *Valmont/Commission* [2004] ECR II-3145, para. 45; T-366/00, *Scott/Commission* [2007] ECR II-797, para. 93.

[21] http://www.ebrd.com/documents/occo/eliibility-assessment-report.pdf; http://www.ebrd.com/work-with-us/projects/psd/eps-power-ii.html.

[22] https://www.urgewald.org/sites/default/files/briefing_kfwkohle_april2013.pdf

ii. Failure to assess compatibility as a breach of the Treaty

Article 18(1)(c) of the Treaty provides that any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources shall be incompatible with the proper functioning of the Treaty, insofar as it may affect trade of Network Energy between the Contracting Parties. Article 19 of the Treaty explicitly provides for an obligation of the Contracting Parties to ensure that with regard to public undertakings and undertakings, to which special or exclusive rights have been granted, the principles of the Treaty, including the rules on state aid, are upheld. The provision imposes a deadline of six months after the Treaty's entry into force for ensuring that such undertakings are subjected to these principles.

The Republic of Serbia is a Contracting Party to the Treaty which was signed on 25 October 2005. After its ratification, the Treaty – including Article 18 thereof – entered into force on 1 July 2006. According to Article 19 of the Treaty, the Republic of Serbia was therefore obliged to ensure that with regard to public undertakings and undertakings with special or exclusive rights the Treaty's state aid rules are upheld at the latest as of 1 January 2007.

Article 18 and 19 of the Treaty contain a legally binding obligation on the Contracting Parties to introduce a corresponding prohibition of state aid into their national legal systems. This has been done by the Republic of Serbia with the adoption of the Law on State Aid Control in 2009. The Law transposes the *acquis* on state aid. It does not contain any provision on the exemption of public undertakings from the application of state aid rules. As the Law needs to be interpreted in the light of the wording and the purpose of the Treaty,[23] in particular Article 18 and 19 thereof, this means that the state aid regime applies – and applied already in 2010 – to undertakings irrespective of their public or private character.

Under EU law, Article 107 TFEU is enforced by the European Commission (see Article 108 TFEU). Any plan to grant state aid needs to be notified to the European Commission, who then decides whether it is compatible with the internal market having regard to Article 107 TFEU. The Member State is not allowed to put the proposed measure into effect until the European Commission has rendered a final decision (standstill obligation). However, although the substantial provision in the Treaty is identical with Article 107 TFEU, the institutional set-up in the Energy Community differs due to the lack of a centralized enforcement authority. It follows from Article 6 of the Treaty that in this situation, each Contracting Party is obliged to take all appropriate measures to ensure fulfilment of the obligations arising out of the Treaty and abstain from any measures that might jeopardise the attainment of the objectives of the Treaty. Therefore, the Contracting Parties are obliged to ensure enforcement of the state aid prohibition enshrined in Article 18 and 19 of the Treaty. This obligation exists since the entry into force of the Treaty (1 July 2006) and the end of the deadline for Article 19 of the Treaty (1 January 2007).

The Republic of Serbia set up the Commission and put it in charge of enforcing the Law. However, if – as argued by the Commission – it was not competent to assess the measures listed under point 1), 2), 3), and 5) before the adoption of amendments to the Regulation, the Republic of Serbia has not complied with its obligation to set up in time an effective enforcement system in accordance with Articles 6, 18 and 19 of the Treaty.

As these four measures constitute state aid, the effective enforcement of state aid rules would have required these measures to be assessed as to their compatibility with the state aid rules by the Commission. As the Commission did not assess the compatibility of the measures listed under point 1), 2), 3), and 5) above, the Secretariat is of the opinion that the

---

[23] See e.g. Case C-106/89, *Marleasing* [1990] ECR I-4135, para. 7.

Republic of Serbia infringed Articles 18 and 19 read in conjunction with Article 6 of the Treaty.

b. Incorrect compatibility assessment of state aid measure

The measure identified under point 4) above takes the form of a guarantee by the Republic of Serbia for the loan that *EPS* obtained from the KfW in order to carry out the project "*Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing environmental impact*". The Commission accepts that this measure fell under its competence and assessed it in its session on 24 April 2015.

At the outset, the Secretariat recalls that the Energy Community *acquis* on state aid is based on the respective provisions of EU law. In particular, Article 18(1)(c) of the Treaty is based on Article 107(1) TFEU; Article 18(2) of the Treaty therefore states that any practices contrary to this Article shall be assessed on the basis of criteria arising from *inter alia* Article 107 TFEU. In Article 19 of the Treaty, special reference is made to Article 106(1) and (2) TFEU which deal with public undertakings and undertakings with special or exclusive rights as well as SGEI.

The Secretariat is of the opinion that the assessment of the Commission of this aid measure is not in line and thus fails to comply with Energy Community *acquis* on state aid. This position is supported by the case law of the European Commission as confirmed by the Court of Justice which is of relevance for the case at hand under Articles 18(2) and 94 of the Treaty.

i. Existence of state aid

According to well-established case law, the first step is to assess whether a measure constitutes state aid and is, therefore, subject to state aid rules.

The Commission assessed the criteria for guarantees mentioned under Article 99 of the Regulation, transposing the European Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees. Article 99 of the Regulation provides that "[a]*n individual state aid guarantee shall not constitute an instrument for granting state aid if it cumulatively meets the following conditions*". The fourth condition requires the guarantee premium to be calculated by use of commercial principles. Due to the lack of premium charged by the Republic of Serbia for the guarantee at issue, the Commission concluded that the guarantee in question constitutes state aid.

Somehow contrary to the Commission's (correct) conclusion on the existence of state aid, the Commission argued that the Republic of Serbia had the right to get reimbursed in case of activation of the guarantee. This could be understood as to calling into question whether an advantage has been granted to *EPS*. However, according to settled case law of the Court of Justice, the benefit of a state guarantee is that the risk associated with the guarantee is carried by the state instead of the borrower.[24] Therefore, if this risk is not remunerated by an appropriate premium, the borrower enjoys an advantage,[25] regardless of whether the guarantor has a right to reimbursement. In addition, even in the case that no payments are ever made by the state under a guarantee, it nevertheless constitutes state aid because the

[24] Case C-275/10, *Residex Capital IV CV v Gemeente Rotterdam* [2011] ECR I-13043, para. 7; Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ 2008 C 155/02, para. 2.1.
[25] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ 2008 C 155/02, para. 2.2.

advantage is granted at the moment when the guarantee is given and not when the guarantee is invoked or when the payments are made.[26]

ii. Compatibility of state aid

The Court of Justice has repeatedly recognized the broad discretion granted to the authority enforcing the EU state aid provisions (in the case of EU law, the European Commission under Article 107(3) TFEU), the exercise of which requires economic and social assessments which should balance the concerns of the Union as a whole.[27] The Court therefore limits its review to whether the authority complied with the rules of procedure and the rules relating to the duty to give reasons, to verify the accuracy of the facts relied on and that there has been no error of law, manifest error of assessment of the facts or misuse of power; the court may not substitute its own economic judgment for that of the state aid enforcement authority.[28] By consequence, the Secretariat suggests that in the Energy Community, the Ministerial Council's judgment as well as its own review of the Commission's decision in the framework of these proceedings is to be limited to those aspects.

Based on the information received, the Secretariat is of the opinion that the reasoning as well as the conclusions drawn by the Commission constitute a manifest error of assessment and contradict Energy Community law.[29]

1. General Block Exemption Regulation

The Commission stated that the project for which the aid was granted "*contributes to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment*". This could suggest that the Commission considered the measure to fall under the General Block Exemption Regulation (GBER) as aid for research and development and innovation (section 4) or as aid for environmental protection (section 7) and could therefore be compatible with the Energy Community internal market and exempted from the notification requirement. However, the Commission did neither assess the amount of the aid (Article 4 of the GBER contains different thresholds for each category of aid) nor its transparency (Article 5 of the GBER) or its incentive effect (Article 6 of the GBER). Therefore, the Commission could not rely on the GBER to find that the measure was compatible.

2. Services of General Economic Interest

The Commission also stated that the measure was necessary for *EPS* to "*perform the activity of public interest for which it was established, that is, secure regular and safe distribution of electricity to households and small customers on the territory of the Republic of Serbia at preferential prices.*" State aid in the form of public service compensation granted to certain undertakings entrusted with SGEI is considered compatible with the internal market and exempted from the requirement of notification, if it fulfils specific conditions set out in the so-called SGEI Decision.[30] Firstly, the SGEI Decision does only apply to aid below EUR 15

---

[26] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ 2008 C 155/02, para. 2.1.

[27] E.g. Case C-301/87, *Boussac* [1990] ECR I-307, para. 49; C-303/88, *ENI Lanerossi* [1991] I-1433, para. 34.

[28] E.g. Case C-225/91, *Matra/Commission* [1993] ECR I-3203, para. 25; T-110/97, *Kneissl Dachstein/Commission* [1999] ECR II-2881, para. 46.

[29] See e.g. Case C-148/04, *Unicredito Italiano SpA* [2005] ECR I-11137, para. 72 *et seqq.*; T-254/00, 270/00 and 277/00, *Hotel Cipriani SpA e.a.* [2008] ECR II-3269, para. 125.

[30] Commission Decision (EC) No 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service

million, aid to hospitals and social services, aid to air and maritime links to islands as well as ports and airports below a certain number of passengers. Secondly, the following criteria have to be met: existence of a specific entrustment act; control of overcompensation; transparency of the aid. However, the Commission did not assess any of these criteria necessary to support a finding that the measure is covered by the SGEI Decision.

In case state aid is granted as compensation for the provision of SGEI, such measure can also be declared compatible under Article 106(2) TFEU, to which Article 19 of the Treaty also explicitly refers and which is attached to the Treaty in Annex III. This provision provides for derogation from the competition rules as far as necessary for the provision of SGEI. The jurisprudence of the Court of Justice has identified four conditions for Article 106(2) TFEU to apply:[31] First, there must be an act of entrustment, specifying the nature and duration of the service. Second, the entrustment must relate to the operation of a service of general economic interest. Third, the derogation has to be necessary for the performance of the tasks assigned and proportional to that end. Fourth, the development of trade must not be effected to such an extent as would be contrary to the interests of the Community. Those criteria are expanded in detail in the European Commission's so-called SGEI Framework spelling out the conditions under which such state aid can be found compatible with the internal market pursuant to Article 106(2) TFEU.[32] However, the Commission did not assess these conditions. It could, therefore, not find the measure to be compatible under Article 106(2) TFEU.

3. Compatibility under Article 107(3)(c) TFEU

On the basis of Article 107(3)(c) TFEU, which is annexed to the Treaty, state aid may be found compatible if it facilitates the development of certain economic activities and does not adversely affect trading conditions to an extent contrary to the common interest. Under the Guidelines on State aid for environmental protection and energy 2014-2020 (the Guidelines), the European Commission sets out the conditions under which aid for energy and environment may be considered compatible.[33] Under the Guidelines, a measure is considered compatible if the following criteria are met:

- Contribution to a well-defined objective of common interest: Member States intending to grant environmental or energy aid will have to define precisely the objective pursued and explain what the expected contribution of the measure towards this objective is.
- Need for state intervention: Member States need to demonstrate that the aid effectively targets a (residual) market failure.
- Appropriateness of the aid: The proposed aid measure must be an appropriate instrument to address the policy objective concerned, i.e. the same positive contribution to the common objective is not achievable through other less distortive policy instruments or other less distortive types of aid instruments.
- Incentive effect: The aid must not subsidise the costs of an activity that an undertaking would anyhow incur and must not compensate for the normal business risk of an economic activity.
- Proportionality of the aid: The aid has to be limited to the minimum needed to achieve the environmental protection or energy objective aimed for.

---

compensation granted to certain undertakings entrusted with the operation of services of general economic interest, OJ 2011 L 7/3.

[31] E.g. Case T-289/03, *BUPA* [2008] ECR II-81.

[32] Communication from the (EU) Commission, European Union framework for State aid in the form of public service compensation, OJ 2012 C 8/15.

[33] OJ 2014 C 200/01; for their application in the area of the Energy Community see Policy Guidelines by the Energy Community Secretariat on the Applicability of the Guidelines on State Aid for Environmental Protection and Energy 2014-2010, PG 04/2015 of 24 November 2015.

- Avoidance of undue negative effects on competition and trade: The negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest.
- Transparency of the aid: Member States must ensure the publication of specific information on a comprehensive State aid website.

Apart from these "common assessment criteria", the Guidelines prescribe special assessment criteria for different types of aid. Despite the argumentation of the Commission regarding the purpose of the aid (contribution to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment), it failed to assess the compliance of the guarantee with the requirements established under the Guidelines. The Commission could, therefore, not conclude on this basis that the aid is compatible.

4. Compatibility under Article 107(3)(b) TFEU

Finally, the Commission claimed in its reply that the aid in question was "allowed" due to its contribution to executing an important project for the Republic of Serbia in accordance with Article 107(3)(b) TFEU and the corresponding national provision (Article 5 of the Law). Its conclusion was based on the assertion that the aid "*contribute[d] to reaching the goals which are of general interest to all citizens of the Republic of Serbia*". According to Article 107(3) TFEU, a measure "*may be considered compatible with the internal market*" if (b) it promotes the execution of an important project of common European interest.

Article 107(3)(b) TFEU only covers projects that form part of a transnational European programme, supported jointly by a number of Member States' governments, or arises from concerted action by a number of Member States to combat a common threat such as environmental pollution.[34] In the same vein, in the context of the Energy Community, in order to be compatible, a measure needs to promote the execution of an important project of common Energy Community interest. This means that the project must be of transnational interest or arise of transnational action. The transposition into Serbian law which covers "*the execution of an important project of the Republic of Serbia*" is not compliant with Energy Community law and neither is its application to the measure at stake.

In any case, the Secretariat considers that the Commission failed to explain thoroughly why and how the aid in question contributed to goals that were in the general interest of all citizens of Serbia. Moreover, even if one were to accept that purely domestic projects can provide a basis for the finding of compatibility under Article 107(3)(b) TFEU, the Commission would have had to analyze potential or actual negative effects of the state aid measure on competition and trade and to compare such effects with the positive effects of the measure. When assessing an aid under Article 107(3) TFEU, account must be taken of whether the aid measure is aimed at a well-defined (common, i.e. EU) objective, is an appropriate instrument, well-targeted and proportionate to the targeted objective and does not adversely affect trading conditions to an extent contrary to the common interest.[35] The Commission's failure to assess the effects of the measure on competition on the market is particularly important considering the fact that *EPS* holds a dominant position in both generation and supply of electricity in the Republic of Serbia and that granting state aid in considerable amounts to an undertaking in such a position is likely to greatly affect small private generators and suppliers on the market, potentially even forcing them to leave the market in the future or discouraging the entry of new competitors.

---

[34] Joined Cases 62/87 and 72/87, *Exécutif regional wallon and Glaverbel SA v Commission of the European Communities* [1988] ECR 1573, para. 22.
[35] See e.g. Commission decision, State aid SA.33984 (2012/N) – United Kingdom; State aid M542/2010 – Poland.

Considering all of the above, the Secretariat finds, at this point of the proceedings, that the Commission failed to comply with the Energy Community state aid rules when rendering its decision on the measure at stake.

IV. Conclusion

Under the Dispute Settlement Procedures, the Secretariat may initiate a preliminary procedure against a Party before seeking a decision by the Ministerial Council under Article 91 of the Treaty. According to Article 13 of these rules, such a procedure is initiated by way of an Opening Letter.

It follows from the assessment above that by the Commission either not assessing or incorrectly assessing the compatibility of state aid measures the Republic of Serbia has failed to comply with its obligations under the Treaty, in particular Articles 18 and 19 thereof.

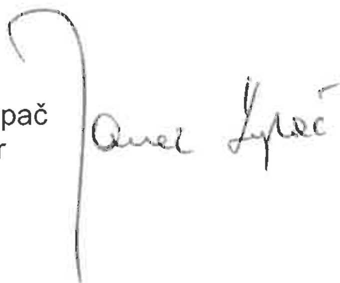
In accordance with Article 13 of the Dispute Settlement Procedures, the Republic of Serbia is requested to submit its observations on the points of fact and of law raised in this letter within three months, i.e. by

14 October 2016.

to the Secretariat.

It is recalled that, according to Article 11(2) of the Dispute Settlement Procedures, the purpose of the procedure hereby initiated is to establish the factual and legal background of the case, and to give the Party concerned ample opportunity to be heard. In this respect, the preliminary procedure shall enable the Republic of Serbia to comply of its own accord with the requirements of the Treaty or, if appropriate, justify its position. In the latter case, the Republic of Serbia is invited to provide the Secretariat with all factual and legal information relevant to the case at hand.

Vienna, 14 July 2016



Janez Kopač
Director

Dirk Buschle
Deputy Director/Legal Counsel

BOTSCHAFT
DER REPUBLIK SERBIEN
WIEN

АМБАСАДА
РЕПУБЛИКЕ СРБИЈЕ
БЕЧ

1030 WIEN, Ölzeltgasse 3 tel. (++43 1) 713 25 95 (96)
fax. (++43 1) 713 25 97 E-Mail: embassy.vienna@mfa.rs

No: 512/2016 ES0100

Vienna, 18th Oktober, 2016.

ENERGY COMMUNITY
Energy Community Secretariat
Mr. Janez Kopac, Director

Austria
Viena, Am Hof 4, Level 5

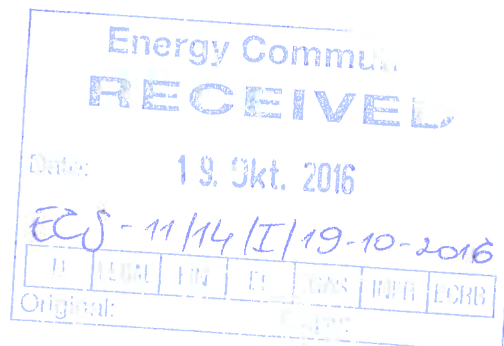
Dear Mr. Kopac,

Please find enclosed, a Letter from H.E. Minister of Mining and Energy of Republic Serbia, Aleksandar Antic, in regard to the Opening Letter in relation to the Case ECS-11/14 of the Energy Community Secretariat from 14 July 2016. In addition, to Letter mentioned above, please find enclosed the Letter of the Commission for Control of State Aid adressed to the Ministry of Mining and Energy along with the translated version made by an authorised Court translator.

Respectfully,

Pero Jankovic

Ambassador, Embassy of Republic Serbia



Republic of Serbia
MINISTRY OF MINING AND ENERGY
No: 337-01-00103/2016-04
Date: 13 October 2016
Belgrade

Your ref: Serbia-MC/O/jko/01/14-07-2016

Re: Opening Letter in Case ECS-11/14

Dear Mr. Kopac,

With regard to the Opening Letter in relation to Case ECS-11/14 of the Energy Community Secretariat from 14 July 2016, we are sending you, enclosed, the Letter of the Commission for Control of State Aid addressed to the Ministry of Mining and Energy that you should treat as our Observations on the points of fact and of law raised in the Opening Letter.

Yours sincerely,

MINISTER

Aleksandar Antic

Enc: The Letter of the Commission for Control of State Aid;
The Letter translated by an authorized court translator

Energy Community Secretariat
Mr. Janez Kopac, Director
Am Hof 4
1010 Vienna
AUSTRIA

Република Србија
КОМИСИЈА ЗА КОНТРОЛУ ДРЖАВНЕ ПОМОЋИ
Број: 401-00-00134/2016-01
Београд, 16. август 2016. године

МИНИСТАРСТВО РУДАРСТВА И ЕНЕРГЕТИКЕ

Проследили сте нам (маил од 15. јула 2016. године) Отворено писмо Секретаријата Енергетске заједнице са седиштем у Бечу (у даљем тексту: Отворено писмо) Број: 11/14 од 14. јула 2016. године и уједно сте нас замолили да вам помогнемо у дефинисању одговора Секретаријату Енергетске заједнице (у даљем тексту: Секретаријат).

Отвореним писмом Секретаријат је покренуо поступак за решавање спора против Републике Србије због непоштовања Уговора о оснивању Енергетске заједнице (Закон о ратификацији Уговора о оснивању Енергетске заједнице између Европске заједнице и Републике Албаније, Републике Бугарске, Босне и Херцеговине, Републке Хрватске, Бивше Југословенске Републике Македоније, Републике Црне Горе, Румуније, Републике Србије и привремене мисије Уједињених нација на Косову у складу са резолуцијом 1244 Савета безбедности Уједињених нација („Службени гласник РС", број 62/06 - у даљем тексту: Уговор), посебно чланова 18. и 19. Уговора.

Разматрајући ваш захтев Комисија је, на 66. седници одржаној 16. августа 2016. године, пошла од Дописа Број: 160/2/2014-38 од 24. априла 2015. године, којим је одговорила Секретаријату на следећа питања, која су јој постављена у вези са жалбом против Републике Србије, поднетом Секретаријату, због како је наведено „неусаглашености са правним тековинама Европске уније у области државне помоћи, у вези са развојем ТЕ „Колубара Б", регистрованом као Предмет ECS-11/14:

1. „Државна гаранција за зајам Европске банке за обнову и развој (EBRD) у износу од 52 милиона евра за Пројекат „Набавка БТО система", који укључује куповину багер-трака-одлагач система за угаљ за „Тамнава - Западно поље";
2. Државна гаранција за зајам Немачке развојне банке (KfW) у износу од 25 милиона евра и директна субвенција од 9 милиона евра за Пројекат „Набавка БТО система";
3. Државна гаранција за EBRD зајам у износу од 80 милиона евра за Пројекат „Унапређење заштите животне средине у РБ „Колубара"", који се односи, између осталог, на набавку специфичне опреме, укључујући багер-трака-одлагач систем и напајање за Поље „Ц" Колубарског басена за експлоатацију угља;
4. Државна гаранција за KfW зајам у износу од 65 милиона евра и директна субвенција од 9 милиона евра за исти пројекат под називом „Унапређење технологије експлоатације у РБ „Колубара" у циљу повећања ефикасности термоелектрана и смањења утицаја на животну средину";

5. Пренос власништва имовине (земљиште и зграде) како би се помогла изградња Термоелектране „Колубара Б“. У складу са изменом оснивачког акта Јавног предузеће „Електропривреда Србије“ (у даљем тексту: ЕПС) од 31. маја 2009. године, Влада Републике Србије је ЕПС-у пренела власништво над имовином (земљиште и зграде) потребном за спровођење Пројекта „Колубара Б“. Вредност пренете имовине (земљиште и зграде), у складу са тренутним тржишним ценама, је 1,4 милијарде динара (12,7 милиона евра, по курсу на дан 18. новембар 2013. године).“

1. Полазна основа:

1.1. Правни основ:

Комисија је у својој оцени пошла од тога да ли се у конкретном случају ради о државној помоћи, односно разматрала је члан 2. тачка 1) Закона о контроли државне помоћи („Службени гласник РС“, број 51/09 – у даљем тексту: Закон). Закон дефинише државну помоћ као сваки стварни или потенцијални јавни расход или умањено остварење јавног прихода, којим корисник државне помоћи стиче повољнији положај на тржишту у односу на конкуренте, чиме се нарушава или постоји опасност од нарушавања конкуренције на тржишту.

У том смислу, Комисија је, као полазну основу, разматрала одредбе Споразума о стабилизацији и придруживању између Европских заједница и њихових држава чланица, са једне стране, и Републике Србије, са друге стране (Закон о потврђивању Споразума о стабилизацији и придруживању између Европских заједница и њихових држава чланица, са једне стране, и Републике Србије, са друге стране („Службени гласник РС – Међународни уговори“, број 83/08 – у даљем тексту: ССП)), односно у односу на Закон о потврђивању прелазног споразума о трговини и трговинским питањима између Европске заједнице, са једне стране, и Републике Србије, са друге стране („Службени гласник РС - Међународни уговори“, бр. 83/08 – у даљем тексту: Прелазни споразум).

Тачније, Комисија је узела у обзир одредбе члана 39. Прелазног споразума. Наведеним чланом предвиђено је да ће, истеком рока од три године након ступања на снагу Прелазног споразума, Република Србија примењивати начела, на јавна предузећа и предузећа којима су додељена посебна права, а која су утврђена у Уговору о Европској заједници, са посебним упућивањем на члан 86. овог уговора.

Посебна права јавних предузећа током прелазног периода неће укључивати могућност наметања квантитативних ограничења, или мера које имају исто дејство на увоз из Заједнице у Србију.

Правила по којима је могуће доделити државну помоћ јавним предузећима и предузећима којима су додељена посебна права, односно привредним субјектима који пружају услуге од општег економског интереса, почела су са применом, доношењем Уредбе о изменама и допунама Уредбе о правилима за доделу државне помоћи („Службени гласник РС“, број 100/11), која је ступила на снагу 1. јануара 2012. године, тачније након истека рока од три године (члан 39. Прелазног споразума).

Секретаријат се у својој оцени непоштовања правила државне помоћи базирао на доношењу Закона и не поштовању Закона, међутим одредбе којима се уређују правила по којима се додељује државна помоћ дефинисана су Уредбом о правилима за доделу државне помоћи („Службени гласник РС“, бр. 13/10, 100/11, 91/12, 37/13, 97/13 и 119/14).

С тим у вези, Комисија упућује на правила која проистичу из примене правила конкуренције која се примењују у Заједници, нарочито из чланова 81, 82, 86. и 87. Уговора о ЕЗ (сада: чл. 101, 102, 106. и 107. Уговора о функционисању Европске уније) и инструмената тумачења које су усвојиле институције Заједнице (члан 73. став 2. ССП-а).

Комисија нарочито упућује на инструменте тумачења које су усвојиле институције Европске уније, а који су различити: то су уредбе и директиве Европске Комисије, уредбе Савета, одлуке и смернице Европске Комисије и други акти Европске Комисије (саопштења, објашњења, оквири итд.), али и пресуде Суда правде Европске уније и др.

Дакле, ни правни систем Европске уније није дефинисао Уговором о функционисању ЕУ правила, већ их даје кроз различите инструменте тумачења, што би у Републици Србији представљала Уредба о правилима за доделу државне помоћи.

1.2. Утврђивање општег интереса:

Комисија налази да се наведеним зајмовима финансирају инфраструктурне инвестиције у оквиру делатности од општег интереса.

Полазећи од закона, прописа и стратегија који су у тренутку потписивања уговора о зајму били на снази, Комисија свој налаз заснива на следећим прописима:

- Закону о јавним предузећима („Службени гласник РС“, бр. 25/00,25/02, 107/05, 108/05 – испр. и 123/07 – др. закон), односно дефиницији да је јавно предузеће предузеће које обавља делатност од општег интереса, а које оснива држава, односно јединица локалне самоуправе или аутономана покрајина (члан 1.);

- истим законом је дефинисана делатност од општег интереса. Тачније, закон је прописао да су делатности које су као такве одређене у области: производње, преноса и дистрибуције електричне енергије; производње и прераде угља; истраживања, производње, прераде, транспорта и дистрибуције нафте и природног течног гаса и остало (члан 2.);

- Закону о енергетици („Службени гласник РС“, број 84/04), односно његовој дефиницији енергетске делатности, које се у смислу овог закона сматрају делатностима од општег интереса: производња електричне енергије, пренос електричне енергије, управљање преносним системом, организовање тржишта електричне енергије, дистрибуција електричне енергије, управљање дистрибутивним системом за електричну енергију, трговина електричном енергијом ради снабдевања тарифних купаца, транспорт нафте нафтоводима, транспорт деривата нафте продуктоводима, транспорт природног гаса, управљање транспортним системом за природни гас, складиштење природног гаса, управљање складиштем природног гаса, дистрибуција природног гаса, управљање дистрибутивним системом за природни гас, трговина природним гасом ради снабдевања тарифних купаца, производња топлотне енергије, дистрибуција топлотне енергије, управљање дистрибутивним системом за топлотну енергију и снабдевање топлотном енергијом тарифних купаца (члан 41.);

- Законом о енергетици („Службени гласник РС“, бр. 57/11, 80/11 – исправка, 93/12, и 124/12), ЕПС је јавно предузеће основано за производњу, дистрибуцију и трговину електричном енергијом коме је поверено обављање делатности од општег интереса, односно снабдевање електричном енергијом тарифних купаца на територији Републике Србије. Наведено је у складу и са Законом о енергетици из 2014. године („Службени гласник РС“, број: 145/14), којим је ЕПС поверено обављање делатности јавног снабдевања електричном енергијом домаћинстава и малих купаца по регулисаним ценама;

- Стратегији развоја енергетике Републике Србије до 2015. године („Службени гласник РС", број 44/05). Овом стратегијом се утврђују приоритетни правци развоја у енергетским секторима и одобрава програм доношења одговарајућих инструмената, којим се омогућује реализација кључних приоритета у раду, пословању и развоју целине енергетског система (у секторима производње и потрошње енергије) Србије. Основна премиса при избору циљева, утврђивању приоритета и одговарајућих инструмената, заснована је на политичком опредељењу земље за рационално усклађивање развоја целине енергетике са привредно-економским развојем земље и њеном укључивању у европске интеграције. Ради остваривања промовисаних циљева енергетске политике и реализације приоритетних праваца стратегије, овим документом се предлаже и динамика доношења одговарајућих инструмената, како би све укупне промене у енергетским делатностима биле остварене у сагласности са одговарајућим политичким, социо-економским, енергетским и еколошким опредељењима земље. Први-основни приоритет је Приоритет технолошког континуитета. Он обухвата Програме побољшања технолошких и оперативних перформанси енергетских извора/објеката, са образложеним Програмима за технолошку модернизацију енергетских система и ревитализацију енергетских извора/објеката у оквиру пет појединачних производних енергетских сектора Србије. Овај приоритет има за циљ, да се настављањем позитивне праксе рационалног улагања у технолошку модернизацију постојећих енергетских објеката, системе и изворе, повећа погонска поузданост енергетских објеката а повећаном производњом осигура уредно снабдевање привреде и грађана неопходним енергентима. Обезбеђење неопходних енергената, из постојећих енергетских извора, има највиши приоритет у овој Стратегији, с обзиром на економска ограничења за интензивнија улагања у градњу нових-капиталних енергетских објеката у наредних 5 година. Остваривањем специфичних технолошких и еколошких циљева ове Стратегије, унапређују се технолошке и оперативне перформансе енергетских извора и поступним увођењем одговарајућих мера, укључујући и техничке мере за заштиту животне средине од штетних емисија, омогућује се реализација овог Приоритета као предуслова за реализацију Другог-усмереног, и Трећег-посебног Приоритета. Наведена стратегија, између осталог, предвиђа и Пети-дугорочни Приоритет, који се односи на капитално-интензивна улагања у нове енергетске изворе/објекте и учешће/присуство енергетских субјеката Србије у планирању и у реализацији енергетско-стратешких Пројеката на нивоу интерног и регионалног/паневропског тржишта. Овим приоритетом би се на време обезбедили нови и заменски капацитети електроенегетских извора, обезбедила диверсификација извора снабдевања и праваца транспорта нафте и гаса и интеграција у регионалне и међународне енергетске инфраструкурне системе. Такође би била укључена изградња подземног складишта гаса, градња нових децентрализованих топлотних извора, на бази домаћег угља из подземне експлоатације, са новим технологијама сагоревања и заштите животне средине. Реализацијом одговарајућих Програма из оквира овог Приоритета, посебно у сектору електроенергетике Србије, укључујући и учешће у стратешким Пројектима (у сектору гаса, нафте, хидроенергетских објеката и система за пренос електричне енергије), енергетски сектор Србије би око 2015. године, достигао квалитативно ново стање, како по технолошким и производним перформансама целине енергетских система, тако и по финансијско-економским перформансама у раду, пословању и развоју енергетских субјеката у новим условима на интерном и међународном енергетском тржишту.

Реализација је образложена у Модулу: Термоелектране, Програма остваривања Стратегије развија енергетике до 2015. године за период од 2007. до 2012. године

(„Службени гласник РС", број 17/07), као и Изменама и допунама Програма остваривања Стратегије развија енергетике до 2015. године за период од 2007. до 2012. године („Службени гласник РС", број 17/07, 73/07, 99/09 и 27/10).

1.3. Гаранције:

Приликом оцене потенцијалане државне помоћи која може бити садржана у издатим гаранцијама, Комисија остаје при изнетом у Допису Број: 160/2/2014-38 од 24. априла 2015. године.

Наиме, Комисија је разматрала искључиво гаранције издате након истека рока предвиђеног чланом 39. Преалазног споразума, тачније гаранције издате након 1. јануара 2012. године.

Дакле, Комисија је у наведеном допису констатовала да иако кориснику ЕПС, Република Србија није наплатила премију на издату гаранцију, Законом о давању гаранције је утврђено да Република Србија, у случају активирања гаранције, има право на повраћај главнице и свих пратећих трошкова, увећаних за законску затезну камату, од корисника ЕПС (Закон о давању гаранције Републике Србије у корист Немачке развојне банке KfW, Франкфурт на Мајни, по задужењу ЕПС (Пројекат „Унапређење технологије експлоатације у РБ Колубара у циљу повећања ефикасности термоелектрана и смањења утицаја на животну средину") („Службени гласник РС", број: 121/12 – у даљем тексту: Закон о давању гаранције), којим је Република Србија у потпуности гарантовала зајам који је KfW као зајмодавац одобрио ЕПС-у као зајмопримцу, у укупном износу од 65.000.000 евра зајма и бесповратна средства у износу од 9.000.000 евра).

Министарство рударства и енергетике је такође навело да ЕПС уредно измирује своје обавезе према Зајмодавцу (KfW) у складу са уговором о зајму, те да није било активирања гаранције.

Поред овог разматрања Комисија је гаранције разматрала и у контексту делатности од општег интереса, односно разматарала је потенцијалну државну помоћ која се додељује путем гаранције као инструмента доделе државне помоћи, што је образложила у Допису Број: 160/2/2014-38.

1.4. Јавна својина:

Комисија је, приликом оцене потенцијалне државне помоћи која може бити садржана у преносу власништва имовине (земљиште и зграде), односно у вези питања Секратаријата које се односи на преноса власништва имовине којом би се помогла изградња Термоелектране „Колубара Б", пре свега пошла од оснивачког акта ЕПС-а.

Наиме, у складу са изменом оснивачког акта ЕПС-а од 31. маја 2009. године, Влада Републике Србије је ЕПС-у пренела власништво над имовином (земљиште и зграде) потребном за спровођење Пројекта „Колубара Б". Вредност пренете имовине (земљиште и зграде), у складу са тренутним тржишним ценама, је 1,4 милијарде динара (12,7 милиона евра, по курсу на дан 18. новембар 2013. године).

Комисија је узела у обзир чињеницу да је Закон о јавној својини („Службени гласник РС", бр. 72/11, 88/13 и 105/14) уредио право јавне својине и одређена друга имовинска права Републике Србије, аутономне покрајине и јединице локалне самоуправе, као и да је дефинисао предмет јавне својине: природна богатства, добра од општег интереса и добра у општој употреби, за која је законом утврђено да су у јавној својини,

ствари које користе органи и организације Републике Србије, аутономне покрајине и јединице локалне самоуправе, установе, јавне агенције и друге организације чији је оснивач Република Србија, аутономна покрајина и јединица локалне самоуправе и друге ствари које су, у складу са законом, у јавној својини.

Такође, Комисија је узела у обзир да примена овог закона није селективна, и ако се ради о јавним средствима, као и да самим тим не постоји предност и утицај на конкуренцију, будући да се односи на све државне органе и организације, органе и организације аутономне покрајине и јединице локалне самоуправе, јавна предузећа, друштва капитала чији је оснивач Република Србија, аутономна покрајина и јединица локалне самоуправе, као и њихова зависна друштва, на основу уговора закљученог на основу акта надлежног органа, а којим нису пренете у својину тог јавног предузећа, односно друштва. Поред тога, овим законом је предвиђено да се ствари у јавној својини могу дати на коришћење и осталим правним лицима, концесијом или на други начин предвиђен законом, као и да ће се, у случајевима у којима давање ствари на коришћење има карактер државне помоћи, примењивати закон који уређује контролу државне помоћи.

Комисија констатује да нема државне помоћи већ да се Законом о јавној својини уређује трансформација права коришћења у право својине.

2. Мишљење Комисије:

Приликом утврђивања чињеница, поред свега наведеног, Комисија је узела у обзир и одредбу члана 197. Устава Републике Србије („Службени гасник РС", 98/06), којим се, између осталог, забрањује повратно дејство закона и свих других општих аката.

Дакле, уколико би Комисија у накнадној контроли применила правила државне помоћи, у конкретном случају, и то за период у којем примена правила контроле државне помоћи није била обавезна, Комисија би директно кршила уставну одредбу.

Комисија је утврдила да је, у периоду у којем су уговори о зајму били закључени, постојало изузеће од примене начела контроле државне помоћи на јавна предузећа и предузећа којима су додељена посебна права и то у складу са чланом 39. Прелазног споразума.

С тога, Комисија, остаје при изнетом у Допису Број: 160/2/2014-38 од 24. априла 2015. године, где је пре свега констатовала да није имала надлежност да одлучује. Такође, Комисија остаје при изнетом када су у питању јавна својина и гаранције за које су одлуке донете након истека рока предвиђеног чланом 39. Прелазног споразума.

На крају, Комисија се позива на члан 72. ССП у којем се дефинишу одредбе усклађивања прописа, примена права и правила конкуренције:

1. Стране уговорнице признају важност усклађивања важећег српског законодавства са законодавством Заједнице и његове делотворне примене. Србија ће настојати да обезбеди постепено усклађивање постојећих закона и будућег законодавства са правним тековинама Заједнице. Србија ће обезбедити да ће важеће и будуће законодавство бити правилно примењено и спроведено.

2. Усклађивање ће започети на дан потписивања Споразума и постепено ће се проширивати на све елементе правних тековина Заједнице на које упућује овај Споразум до краја прелазног периода утврђенога у члану 8 овог Споразума.

3. Усклађивање ће, нарочито у раној фази, бити усредсређено на основне елементе правних тековина о Унутрашњем тржишту као и на друга подручја везана за

трговину. У каснијој фази Србија ће се усредсредити на преостале делове правних тековина Заједнице.

4. Усклађивање ће се остварити на основу програма усаглашеног између Европске комисије и Србије.

5. Србија ће у договору с Европском комисијом такође дефинисати начине праћења спровођења усклађивања законодавства и законодавне мере које треба предузети у вези са њиховом применом.

Такође, Комисија је узела у обзир и члан 73 (4) ССП, а нарочито чињеницу како је област контроле државне помоћи регулисана у Европској унији, где Европска комисија, заједно са националним телима надлежним за конкуренцију, директно примењује правила конкуренције Европске уније, тачније чл. 101-109. Уговора о функционисању Европске уније.

У оквиру Европске комисије, Генерални директорат за конкуренцију је првенствено одговоран за директно спровођење овлашћења и процедура прописаних Уговором о функционисању Европске уније.

Након разматрања ове чињенице Комисија сматра да не постоји обавеза према Секретаријату у било ком смислу када је спровођење правила државне помоћи у питању.

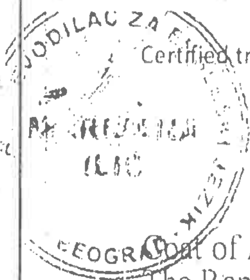
У том смислу Комисија једино има обавезу према Генералном директорату за конкуренцију.

ПРЕДСЕДНИК КОМИСИЈЕ

Андријана Ђурчић

Достављено:

- Министарству рударства и енергетике
- Архиви



Certified translation from Serbian into English Language. Date 12/10/2016.

Marijana Ilic Tel. + 381 (0) 63 8035 208
Court translator, Serbian Justice Ministry Decree, [illegible]

Coat of Arms: REPUBLIC OF SERBIA
The Republic of Serbia
COMMISSION FOR CONTROL OF STATE AID
No: 401 -00-00134 / 2016-01
Belgrade, 16 August 2016

MINISTRY OF MINING AND ENERGY

You forwarded to us (e-mail of 15 July 2016) an Open Letter of the Energy Community Secretariat, based in Vienna (hereinafter: Open Letter) No 11/14 date 14 July 2016 and at the same time you asked us to help in defining the response to the Energy Community Secretariat (hereinafter referred to as the Secretariat).

With its Open letter the Secretariat initiated a procedure for resolving a dispute against the Republic of Serbia for the disrespect of the Energy Community Founding Contract (Law on Ratification of the Contract Founding the Energy Community between the European Community and the Republic of Albania, Bulgaria, Bosnia and Herzegovina, Croatian Republic, the former Yugoslav Republic of Macedonia, Republic of Montenegro, Romania, Republic of Serbia and the United Nations Interim Administration Mission in Kosovo in accordance with resolution 1244 of the United Nations (Official Gazette of RS, No 62/06 - hereinafter: the Contract), in particular of articles 18 and 19, of the Contract.

While considering your request, at its 66 session held on 16 August 2016, the Commission started from the Memo No 160/2/2014-38 dated 24 April 2015, whereby it had responded to the following Secretariat's questions, which were put forward in connection with a complaint against the Republic of Serbia, submitted to the Secretariat, because of the alleged "non-compliance" with the EU Acquis concerning the state aid for the development of TE Kolubara B, registered as the Case ES8-11/14:

1. State Guarantee for the loan of the European Bank for Reconstruction and Development (EBRD) in the amount of EURO 52 million for the Project of BTO System Procurement", which included the purchase of coal excavator-conveyor-stacker system "Tamnava - West Field";

Certified translation from Serbian into English Language. Date 12/10/2016.

2. State Guarantee for the loan of the German Development Bank (KfW) in the amount of EURP 25 million and a direct subsidy of EURO 9 million for the Project of BTO System Procurement;

3. State Guarantee for EBRD loan in the amount of EURO 80 million for the Project of Environmental Protection Improvement in RB Kolubara, which referred, inter alia, to the purchase of a specific equipment, including excavator-conveyor-stacker system and power supply for the C Field Kolubara Basin Coal Mining;

4. State Guarantee for KfW of EURO 65 million and a direct subsidy of EUR 9 million for the same Project titled - Exploitation Technology Improvement in RB Kolubara, targeted at the increase of the thermal power plants efficiency and reduction of the environmental impact;

5. Transfer of property title (over land and buildings) to help build a thermal power plant Kolubara B. In accordance with the amendment of the Act of Incorporation, of the Public Enterprise ELEKTROPRIVREDA SRBIJE (hereinafter referred to as EPS) of 31 May 2009, the Government of the Republic of Serbia transferred the ownership title to EPS over the property (land and buildings), as necessary for the implementation of the Kolubara B Project. The value of the transferred assets (land and buildings), in line with current market prices, was RSD 1.4 billion (EURO 12.7 million at the exchange rate as at 18 November 2013).

1. Reference point:

1.1. Legal basis:

The Commission in its assessment started from whether the case involved state aid, i.e. it considered Article 2, item 1) of the Law on State Aid Control (Official Gazette of RS, No 51/09 - hereinafter: the Law). The law defines state aid as any actual or potential public expenditure or reduced realization of public revenue, which places the state aid beneficiary in a more favorable position in the market compared to its competitors, thus distorting or treating to distort the market competition.

In this regard, the Commission has, as a starting point, considered the provisions of the Stabilization and Association Agreement between the European Communities and their Member States, on the one hand, and the Republic of Serbia, on the other hand (the Law on Ratification of the Agreement on Stabilization and Association Agreement between the European Community and their Member States, on the one hand, and the Republic of Serbia, on the other hand (Official Gazette of RS - International Contracts, No 83/08 - hereinafter: ASA)) or to the Law on Ratification of the interim agreement on trade and trade-related matters between the European community, on the one hand, and the Republic of Serbia, on the other hand (Official Gazette of RS - International Contracts, No 83/08 - hereinafter: Interim Agreement).

Specifically, the Commission took into account the provisions of Article 39, of the Interim Agreement, which envisaged that, from the expiration of three years after the entry into force of the Interim Agreement, the Republic of Serbia would apply the principles to public enterprises and to enterprises which were allocated special rights, as laid down in the European Community Treaty, with particular reference to Article 86, of this Treaty.

Special rights of public enterprises during the transitional period shall not include the possibility to impose quantitative restrictions or measures having equivalent effect on imports from the Community into Serbia.

The rules which made it possible to allocate the state aid to public enterprises and to enterprises which were granted special rights, or businesses that provide services of general economic interest, began to be applied after adopting the Regulation on Amendments and Supplements to the Regulation on the Rules for the State Aid Grants (Official Gazette of RS, No 100/11), which entered into force on 1 January 2012, namely after the expiry of three years (Article 39, of the Interim Agreement).

In its assessment of the incompliance with state aid rules, the Secretariat was focused on the adoption of the Law and the respective disrespect, whereas provisions governing the rules under which the state aid is granted were defined in the Rules for the State Aid Grants (Official Gazette of RS, No 13/10, 100/11, 91/12, 37/13, 97/13 and 119/14).

Likewise, the Commission makes referral to the rules derived from the application of the competition rules applied in the Community, in particular to those under articles 81, 82, 86 and 87 of the EC Treaty (currently: Art. 101, 102, 106 and 107, of the Treaty on the Functioning of the European Union) and interpretative instruments adopted by the Community institutions (Article 73, paragraph 2, of the ASA).

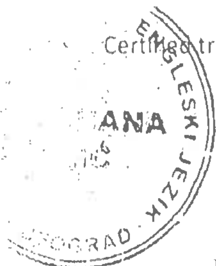
The Commission in particular makes referral to the interpretation instruments that have been adopted by the European Union institutions, but which are different: these are the regulations and directives of the European Commission, the Council Regulation, decisions and guidelines of the European Commission and other documents of the European Commission (statements, explanations, frameworks, etc.), as well as judgments of the Court of Justice of the European Union, etc.

Therefore, also the European Union has not contractually defined the functioning of EU rules, but it rather provides them through various interpretation instruments, which would in the Republic of Serbia be the Regulation on the Rules for State Aid Grants.

1.1. Establishing a common interest:

The Commission has found that the aforementioned loans financed the infrastructure investments within the framework of activities of general interest.

Starting with the laws, regulations and strategies which were effective at the time of the Loan Contract signing, the Commission based its finding on the following regulations:



- Law on Public Enterprises (Official Gazette of RS, No 25/00, 25/02, 107/05, 108/05 - corr. and 123/07 – State Law), or the definition that a public enterprise performing duties and tasks of general interest, which was established by the state or local government or autonomous province (Article 1);

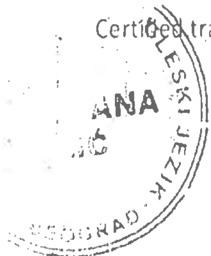
- The same law defines the activity of general interest. Specifically, the law stipulates that the activities identified as such are in the following areas: production, transmission and distribution of electricity; production and processing of coal; research, production, processing, transportation and distribution of oil and natural liquid gas and other (Article 2);

- Energy Law (Official Gazette of RS, No 84/04), and its definition of energy-related activities, which in terms of this Act consider activities of common interest: power generation, electricity transmission, transmission system operation, organization of the electricity market, electricity distribution system management, power distribution systems for electricity, electricity trading for tariff customers supply, petroleum pipeline transportation, pipeline transportation of petroleum products, natural gas transportation, natural gas transportation system management, natural gas storage, gas storage management, natural gas distribution, natural gas distribution system management, trade in natural gas for tariff customers, production of heat distribution, heat distribution system management and heat supply for tariff customers (Article 41);

- Energy Law (Official Gazette of RS, No 57/11, 80/11 - correction, 93/12 and 124/12), EPS is a public enterprise founded for the production, distribution and trade of electricity entrusted with carrying out activities of general interest, i.e. to supply electricity to tariff customers on the territory of the Republic of Serbia.

This is mentioned in accordance with the Energy Law 2014 (RS Official Gazette, No. 145/14), which entrusts EPS to carry out activities of public electricity supply to households and retail customers at regulated prices;

- Energy Development Strategy of the Republic of Serbia by 2015 (Official Gazette of RS, No 44/05). This Strategy defines priority directions of development in the energy sectors, approving the program of appropriate instruments adoption, which enables the realization of the key work priorities, operation and development of the whole energy system (in the sectors of energy production and consumption) in Serbia. The basic premise in the selection of objectives, determining priorities and appropriate instruments, is based on the political orientation of the country for a rational harmonization of energy entity with commercial and economic development of the country and its inclusion in the European Integration. In order to achieve the objectives of the promoted energy policy and implementation of the strategy priority directions, this document proposes a schedule for the adoption of appropriate instruments, to make all the changes in energy sector realized in accordance with the relevant political, socio-economic, energy and environmental commitments of the country. First-basic priority is the Technological Continuity. It includes programs to improve the technical and operational performance of energy sources/facilities, with substantiated programs for technological modernization of energy systems and revitalization of energy sources/facilities within the five individual energy production sectors in Serbia. This priority aims to continue the positive practice of rational investment in technological modernization of existing power facilities, systems and resources, to increase the operating reliability of power plants and to ensure the regular supply of the industry and citizens with necessary increased production.



Provision of necessary energy from existing energy sources, is the top of this Strategy, given the economic constraints concerning intensive investments in the construction of the new capital-energy facilities in the next 5 years. The achievement of the Strategy's specific technological and environmental objectives, will enhance the technological and operational performance of energy sources and the gradual introduction of appropriate measures, including technical measures to protect the environment from harmful emissions, which will allow the realization of this priority as a prerequisite for the implementation of the Second-Directed, and Third-Special Priority. The above mentioned strategy, among other things, provides for the Fifth-long term priority, which refers to capital-intensive investments in new energy sources/facilities and participation/presence of Serbian energy operators in the planning and the implementation of energy-strategic projects at the level of internal and regional/Pan-European Market. This priority would enable to timely provide new replacement capacities of power sources, diversification of supply sources and transport routes of petroleum and gas as well as integration into regional and international infrastructure systems. Also, it would include the construction of underground gas storage, construction of new decentralized heat sources, based on domestic coal from underground mines, with new combustion technologies and environmental protection. Realizing the corresponding programs from the framework of this Priority, especially in the power sector in Serbia, including participation in strategic projects (in the gas sector, petroleum, hydropower facilities and systems for power transmission), Serbia's energy sector will have reached by about 2015, a qualitatively new situation both in technological and production performance of the entire energy systems, and in financial and economic performances, operations and in the development of energy operators under new conditions on the internal and international energy market.

The realization is explained in Module: Thermal Power Plants, Strategy Implementation Program Developing Energy by 2015, for the period from 2007 to 2012 (Official Gazette of RS, No 17/07), with amendments and supplements to the Implementation Program of the Energy Development Strategy by 2015 for the period from 2007 to 2012 (Official Gazette, No. 17/07, 73/07, 99/09 and 27/10).

1.3. Guarantees:

When evaluating a potential state aid that may be contained in issued guarantees, the Commission stays with the set forth in the Memo No 160/2/2014-38, dated 24 April 2015.

Specifically, the Commission considered only the guarantees issued after the expiry of the period provided for in Article 39, of the Interim Agreement, namely the guarantees issued after 1 January 2012.

Thus, the Commission noted in the above Memo that, although the Republic of Serbia did not charge a premium to guarantee issued to EPS, the Guarantee Granting Law lays down that the Republic of Serbia, in case of activation of the guarantee, shall be entitled to the principal and all associated costs, plus legal default interest, reimbursed by EPS as the user (Guarantee Issuance Law of the Republic of Serbia for the benefit of the German Development Bank KfW, Frankfurt am Main, under the debt of EPS (the Exploitation Technology Improvement Program in RB Kolubara in order to increase efficiency of power plants and to reduce environmental impact) (Official Gazette of RS, No 121/12 - hereinafter: the Guarantee Granting Law), whereby the Republic of Serbia fully guaranteed the loan which had been approved by the lender, KfW, and by the borrower, EPS, in the total amount of EURO 65,000,000 borrowed with a grant in the amount of EURO 9,000,000).

Ministry of Mining and Energy also stated that EPS had been regularly meeting its obligations to the Lender (KfW) in accordance with the Loan Contract, and that there had been no activation of the guarantee.

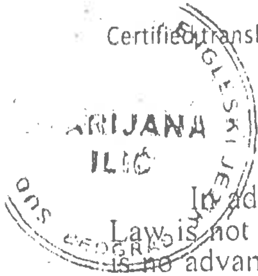
In addition to these considerations, the Commission has considered a number of guarantees in the context of activities of general interest, i.e. it considered a potential State Aid which is being awarded by way of a guarantee, as an instrument of state aid, which was explained in the Memo No 160/2/2014-38.

1.2. Public Property:

In assessing the potential state aid that may be contained in the transfer of ownership of assets (land and buildings), i.e. relating to the Secretariat's questions about the transfer of ownership over assets that would support construction of a thermal power plant Kolubara B, the Commission firstly started from the EPS Incorporation Act.

Namely, in accordance with the amendment of the EPS Incorporation Act, dated 31 May 2009, the Government of the Republic of Serbia transferred to EPS the ownership of the property (land and buildings) necessary for the implementation of the project Kolubara B. The value of the transferred assets (land and buildings), in line with current market prices, was RSD 1.4 billion (EURO 12.7 million at the exchange rate as at 18 November 2013).

The Commission took into account the fact that the Public Property Law (Official Gazette of RS, No 72/11, 88/13 and 105/14), regulated the public property right and certain other property rights of the Republic of Serbia, of the autonomous province and the local governments, also defining the subject of public property: natural resources, goods of public interest, and goods in general use, for which the law stipulated that they were in public property, the possessions used by the bodies and organizations of the Republic of Serbia, Autonomous Province and local self-government institutions, public agencies, as well as other organizations founded by the Republic of Serbia, Autonomous Province, Local Self-Government Unit, as well as other matters that are in public ownership, in accordance with the Law.



In addition, the Commission took into account that the application of this Law is not selective, including the case of public funds, and that therefore there is no advantage and impact on competition, since this applies to all state bodies and organizations, autonomous province bodies and local self-government units, public enterprises, capital companies founded by the Republic of Serbia, the Autonomous Province and local governments, as well as by their subsidiaries, on the basis of the contract concluded pursuant to the competent authority's document, whereby not making an ownership transfer to such public enterprise, or company.

In addition, the law stipulates that the assets in public ownership can be made available for use to other legal entities, by concession or otherwise as legally provided, and that in cases where assets are given for use, they shall be characterized as state aid, applying the Law governing the state aid control.

The Commission concludes that there was no state aid, but that it is the Public Property Law that governs the transformation of rights of use into rights of ownership.

2. Opinion of the Commission:

During fact-finding, in addition to the above, the Commission took into account the provisions of Article 197, of the Constitution of the Republic of Serbia (Official Gazette of RS, No 98/06), which, among other things, prohibits the retroactive effect of laws and other general acts.

Thus, if the Commission applied the state aid rules in a subsequent inspection, in this particular case, for the period when the application of the rules of state aid control was not mandatory, the Commission would directly infringe the Constitutional Provision.

The Commission found that, during the period in which the loan contracts were concluded, there was an exemption from the principle of the public enterprises state aid control, and enterprises which had been granted special rights, were those specifically in accordance with Article 39, of the Interim Agreement.

Therefore, the Commission maintains as set forth in the Memo No 160/2/2014-38 dated 24 April 2015, where it primarily noted that it had no jurisdiction to decide. In addition, the Commission maintains to the aforementioned when it comes to public property and guarantees for which decisions were taken after the expiry of the period provided for in Article 39, of the Interim Agreement.

Finally, the Commission refers to Article 72, of the ASA, which defines the provisions of harmonizing regulations, legal enforcement and competition rules:

1. States Parties recognize the importance of harmonizing the applicable Serbian legislation with Community legislation and its effective

implementation. Serbia shall endeavor to ensure gradual harmonization of existing laws and future legislation with the Acquis Communautaire. Serbia will ensure that current and future legislation will be properly implemented and enforced.

2. Harmonization will start on the date of signature of the Agreement, and shall gradually extend to all the elements of the Community Acquis referred to in this Agreement by the end of the transition period defined in Article 8, of this Agreement.

3. Harmonization will, especially in the early stages, be focused on the basic elements of the Acquis on the Internal Market and other areas related to trade. At a later stage, Serbia shall focus on the remaining parts of the Acquis Communautaire.

4. Harmonization will be achieved on the basis of a program complied by the European Commission and Serbia.

5. Serbia shall, in agreement with the European Commission, also define measures of the legislation and legislative measures monitoring to be undertaken in connection with their respective use.

In addition, the Commission took into account Article 73 (4) of the ASA, and in particular the fact how the area of state aid control is regulated in the European Union, where the European Commission, together with the national bodies responsible for competition, directly apply competition rules of the European Union, specifically articles 101-109, of the Treaty on the Functioning of the European Union.

Within the European Commission, Directorate-General for Competition is primarily responsible for the direct implementation of the powers and procedures laid down in the Treaty on the Functioning of the European Union.

Having considered these facts, the Commission is of the opinion that it has no obligation to the Secretariat whatsoever regarding the enforcement of relevant state aid rules.

In this context, the Commission only has an obligation to the Directorate General for Competition.

Stamp: THE REPUBLIC OF SERBIA
COMMISSION FOR CONTROL OF STATE AID
Signature
PRESIDENT OF THE COMMISSION
Andrijana Djuricic

Delivered to the:

- Ministry of Mining and Energy
- The Archives

Република Србија
КОМИСИЈА ЗА КОНТРОЛУ ДРЖАВНЕ ПОМОЋИ
Број: 401-00-00134/2016-01
Београд, 16. август 2016. године

МИНИСТАРСТВО РУДАРСТВА И ЕНЕРГЕТИКЕ

Проследили сте нам (маил од 15. јула 2016. године) Отворено писмо Секретаријата Енергетске заједнице са седиштем у Бечу (у даљем тексту: Отворено писмо) Број: 11/14 од 14. јула 2016. године и уједно сте нас замолили да вам помогнемо у дефинисању одговора Секретаријату Енергетске заједнице (у даљем тексту: Секретаријат).

Отвореним писмом Секретаријат је покренуо поступак за решавање спора против Републике Србије због непоштовања Уговора о оснивању Енергетске заједнице (Закон о ратификацији Уговора о оснивању Енергетске заједнице између Европске заједнице и Републике Албаније, Републике Бугарске, Босне и Херцеговине, Републке Хрватске, Бивше Југословенске Републике Македоније, Републике Црне Горе, Румуније, Републике Србије и привремене мисије Уједињених нација на Косову у складу са резолуцијом 1244 Савета безбедности Уједињених нација („Службени гласник РС", број 62/06 - у даљем тексту: Уговор), посебно чланова 18. и 19. Уговора.

Разматрајући ваш захтев Комисија је, на 66. седници одржаној 16. августа 2016. године, пошла од Дописа Број: 160/2/2014-38 од 24. априла 2015. године, којим је одговорила Секретаријату на следећа питања, која су јој постављена у вези са жалбом против Републике Србије, поднетом Секретаријату, због како је наведено „неусаглашености са правним тековинама Европске уније у области државне помоћи, у вези са развојем ТЕ „Колубара Б", регистрованом као Предмет ECS-11/14:

1. „Државна гаранција за зајам Европске банке за обнову и развој (EBRD) у износу од 52 милиона евра за Пројекат „Набавка БТО система", који укључује куповину багер-трака-одлагач система за угаљ за „Тамнава - Западно поље";
2. Државна гаранција за зајам Немачке развојне банке (KfW) у износу од 25 милиона евра и директна субвенција од 9 милиона евра за Пројекат „Набавка БТО система";
3. Државна гаранција за EBRD зајам у износу од 80 милиона евра за Пројекат „Унапређење заштите животне средине у РБ „Колубара"", који се односи, између осталог, на набавку специфичне опреме, укључујући багер-трака-одлагач систем и напајање за Поље „Ц" Колубарског басена за експлоатацију угља;
4. Државна гаранција за KfW зајам у износу од 65 милиона евра и директна субвенција од 9 милиона евра за исти пројекат под називом „Унапређење технологије експлоатације у РБ „Колубара" у циљу повећања ефикасности термоелектрана и смањења утицаја на животну средину";

5. Пренос власништва имовине (земљиште и зграде) како би се помогла изградња Термоелектране „Колубара Б". У складу са изменом оснивачког акта Јавног предузеће „Електропривреда Србије" (у даљем тексту: ЕПС) од 31. маја 2009. године, Влада Републике Србије је ЕПС-у пренела власништво над имовином (земљиште и зграде) потребном за спровођење Пројекта „Колубара Б". Вредност пренете имовине (земљиште и зграде), у складу са тренутним тржишним ценама, је 1,4 милијарде динара (12,7 милиона евра, по курсу на дан 18. новембар 2013. године)."

1. Полазна основа:

1.1. Правни основ:

Комисија је у својој оцени пошла од тога да ли се у конкретном случају ради о државној помоћи, односно разматрала је члан 2. тачка 1) Закона о контроли државне помоћи („Службени гласник РС", број 51/09 – у даљем тексту: Закон). Закон дефинише државну помоћ као сваки стварни или потенцијални јавни расход или умањено остварење јавног прихода, којим корисник државне помоћи стиче повољнији положај на тржишту у односу на конкуренте, чиме се нарушава или постоји опасност од нарушавања конкуренције на тржишту.

У том смислу, Комисија је, као полазну основу, разматрала одредбе Споразума о стабилизацији и придруживању између Европских заједница и њихових држава чланица, са једне стране, и Републике Србије, са друге стране (Закон о потврђивању Споразума о стабилизацији и придруживању између Европских заједница и њихових држава чланица, са једне стране, и Републике Србије, са друге стране („Службени гласник РС – Међународни уговори", број 83/08 – у даљем тексту: ССП)), односно у односу на Закон о потврђивању прелазног споразума о трговини и трговинским питањима између Европске заједнице, са једне стране, и Републике Србије, са друге стране („Службени гласник РС - Међународни уговори", бр. 83/08 – у даљем тексту: Прелазни споразум).

Тачније, Комисија је узела у обзир одредбе члана 39. Прелазног споразума. Наведеним чланом предвиђено је да ће, истеком рока од три године након ступања на снагу Прелазног споразума, Република Србија примењивати начела, на јавна предузећа и предузећа којима су додељена посебна права, а која су утврђена у Уговору о Европској заједници, са посебним упућивањем на члан 86. овог уговора.

Посебна права јавних предузећа током прелазног периода неће укључивати могућност наметања квантитативних ограничења, или мера које имају исто дејство на увоз из Заједнице у Србију.

Правила по којима је могуће доделити државну помоћ јавним предузећима и предузећима којима су додељена посебна права, односно привредним субјектима који пружају услуге од општег економског интереса, почела су са применом, доношењем Уредбе о изменама и допунама Уредбе о правилима за доделу државне помоћи („Службени гласник РС", број 100/11), која је ступила на снагу 1. јануара 2012. године, тачније након истека рока од три године (члан 39. Прелазног споразума).

Секретаријат се у својој оцени непоштовања правила државне помоћи базирао на доношењу Закона и не поштовању Закона, међутим одредбе којима се уређују правила по којима се додељује државна помоћ дефинисана су Уредбом о правилима за доделу државне помоћи („Службени гласник РС", бр. 13/10, 100/11, 91/12, 37/13, 97/13 и 119/14).

С тим у вези, Комисија упућује на правила која проистичу из примене правила конкуренције која се примењују у Заједници, нарочито из чланова 81, 82, 86. и 87. Уговора о ЕЗ (сада: чл. 101, 102, 106. и 107. Уговора о функционисању Европске уније) и инструмената тумачења које су усвојиле институције Заједнице (члан 73. став 2. ССП-а).

Комисија нарочито упућује на инструменте тумачења које су усвојиле институције Европске уније, а који су различити: то су уредбе и директиве Европске Комисије, уредбе Савета, одлуке и смернице Европске Комисије и други акти Европске Комисије (саопштења, објашњења, оквири итд.), али и пресуде Суда правде Европске уније и др.

Дакле, ни правни систем Европске уније није дефинисао Уговором о функционисању ЕУ правила, већ их даје кроз различите инструменте тумачења, што би у Републици Србији представљала Уредба о правилима за доделу државне помоћи.

1.2. Утврђивање општег интереса:

Комисија налази да се наведеним зајмовима финансирају инфраструктурне инвестиције у оквиру делатности од општег интереса.

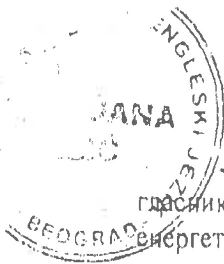
Полазећи од закона, прописа и стратегија који су у тренутку потписивања уговора о зајму били на снази, Комисија свој налаз заснива на следећим прописима:

- Закону о јавним предузећима („Службени гласник РС", бр. 25/00,25/02, 107/05, 108/05 – испр. и 123/07 – др. закон), односно дефиницији да је јавно предузеће предузеће које обавља делатност од општег интереса, а које оснива држава, односно јединица локалне самоуправе или аутономана покрајина (члан 1.);

- истим законом је дефинисана делатност од општег интереса. Тачније, закон је прописао да су делатности које су као такве одређене у области: производње, преноса и дистрибуције електричне енергије; производње и прераде угља; истраживања, производње, прераде, транспорта и дистрибуције нафте и природног течног гаса и остало (члан 2.);

- Закону о енергетици („Службени гласник РС", број 84/04), односно његовој дефиницији енергетске делатности, које се у смислу овог закона сматрају делатностима од општег интереса: производња електричне енергије, пренос електричне енергије, управљање преносним системом, организовање тржишта електричне енергије, дистрибуција електричне енергије, управљање дистрибутивним системом за електричну енергију, трговина електричном енергијом ради снабдевања тарифних купаца, транспорт нафте нафтоводима, транспорт деривата нафте продуктоводима, транспорт природног гаса, управљање транспортним системом за природни гас, складиштење природног гаса, управљање складиштем природног гаса, дистрибуција природног гаса, управљање дистрибутивним системом за природни гас, трговина природним гасом ради снабдевања тарифних купаца, производња топлотне енергије, дистрибуција топлотне енергије, управљање дистрибутивним системом за топлотну енергију и снабдевање топлотном енергијом тарифних купаца (члан 41.);

- Законом о енергетици („Службени гласник РС", бр. 57/11, 80/11 – исправка, 93/12, и 124/12). ЕПС је јавно предузеће основано за производњу, дистрибуцију и трговину електричном енергијом коме је поверено обављање делатности од општег интереса, односно снабдевање електричном енергијом тарифних купаца на територији Републике Србије. Наведено је у складу и са Законом о енергетици из 2014. године („Службени гласник РС", број: 145/14), којим је ЕПС поверено обављање делатности јавног снабдевања електричном енергијом домаћинстава и малих купаца по регулисаним ценама;



- Стратегији развоја енергетике Републике Србије до 2015. године („Службени гласник РС", број 44/05). Овом стратегијом се утврђују приоритетни правци развоја у енергетским секторима и одобрава програм доношења одговарајућих инструмената, којим се омогућује реализација кључних приоритета у раду, пословању и развоју целине енергетског система (у секторима производње и потрошње енергије) Србије. Основна премиса при избору циљева, утврђивању приоритета и одговарајућих инструмената, заснована је на политичком опредељењу земље за рационално усклађивање развоја целине енергетике са привредно-економским развојем земље и њеном укључивању у европске интеграције. Ради остваривања промовисаних циљева енергетске политике и реализације приоритетних праваца стратегије, овим документом се предлаже и динамика доношења одговарајућих инструмената, како би све укупне промене у енергетским делатностима биле остварене у сагласности са одговарајућим политичким, социо-економским, енергетским и еколошким опредељењима земље. Први-основни приоритет је Приоритет технолошког континуитета. Он обухвата Програме побољшања технолошких и оперативних перформанси енергетских извора/објеката, са образложеним Програмима за технолошку модернизацију енергетских система и ревитализацију енергетских извора/објеката у оквиру пет појединачних производних енергетских сектора Србије. Овај приоритет има за циљ, да се настављањем позитивне праксе рационалног улагања у технолошку модернизацију постојећих енергетских објеката, системе и изворе, повећа погонска поузданост енергетских објеката а повећаном производњом осигура уредно снабдевање привреде и грађана неопходним енергентима. Обезбеђење неопходних енергената, из постојећих енергетских извора, има највиши приоритет у овој Стратегији, с обзиром на економска ограничења за интензивнија улагања у градњу нових-капиталних енергетских објеката у наредних 5 година. Остваривањем специфичних технолошких и еколошких циљева ове Стратегије, унапређују се технолошке и оперативне перформансе енергетских извора и поступним увођењем одговарајућих мера, укључујући и техничке мере за заштиту животне средине од штетних емисија, омогућује се реализација овог Приоритета као предуслова за реализацију Другог-усмереног, и Трећег-посебног Приоритета. Наведена стратегија, између осталог, предвиђа и Пети-дугорочни Приоритет, који се односи на капитално-интензивна улагања у нове енергетске изворе/објекте и учешће/присуство енергетских субјеката Србије у планирању и у реализацији енергетско-стратешких Пројеката на нивоу интерног и регионалног/паневропског тржишта. Овим приоритетом би се на време обезбедили нови и заменски капацитети електроенегетских извора, обезбедила диверсификација извора снабдевања и праваца транспорта нафте и гаса и интеграција у регионалне и међународне енергетске инфраструкурне системе. Такође би била укључена изградња подземног складишта гаса, градња нових децентрализованих топлотних извора, на бази домаћег угља из подземне експлоатације, са новим технологијама сагоревања и заштите животне средине. Реализацијом одговарајућих Програма из оквира овог Приоритета, посебно у сектору електроенергетике Србије, укључујући и учешће у стратешким Пројектима (у сектору гаса, нафте, хидроенергетских објеката и система за пренос електричне енергије), енергетски сектор Србије би око 2015. године, достигао квалитативно ново стање, како по технолошким и производним перформансама целине енергетских система, тако и по финансијско-економским перформансама у раду, пословању и развоју енергетских субјеката у новим условима на интерном и међународном енергетском тржишту.

Реализација је образложена у Модулу: Термоелектране, Програма остваривања Стратегије развија енергетике до 2015. године за период од 2007. до 2012. године

(„Службени гласник РС", број 17/07), као и Изменама и допунама Програма остваривања Стратегије развија енергетике до 2015. године за период од 2007. до 2012. године („Службени гласник РС", број 17/07, 73/07, 99/09 и 27/10).

1.3. Гаранције:

Приликом оцене потенцијалане државне помоћи која може бити садржана у издатим гаранцијама, Комисија остаје при изнетом у Допису Број: 160/2/2014-38 од 24. априла 2015. године.

Наиме, Комисија је разматрала искључиво гаранције издате након истека рока предвиђеног чланом 39. Прелазног споразума, тачније гаранције издате након 1. јануара 2012. године.

Дакле, Комисија је у наведеном допису констатовала да иако кориснику ЕПС, Република Србија није наплатила премију на издату гаранцију, Законом о давању гаранције је утврђено да Република Србија, у случају активирања гаранције, има право на поврађај главнице и свих пратећих трошкова, увећаних за законску затезну камату, од корисника ЕПС (Закон о давању гаранције Републике Србије у корист Немачке развојне банке KfW, Франкфурт на Мајни, по задужењу ЕПС (Пројекат „Унапређење технологије експлоатације у РБ Колубара у циљу повећања ефикасности термоелектрана и смањења утицаја на животну средину") („Службени гласник РС", број: 121/12 – у даљем тексту: Закон о давању гаранције), којим је Република Србија у потпуности гарантовала зајам који је KfW као зајмодавац одобрио ЕПС-у као зајмопримцу, у укупном износу од 65.000.000 евра зајма и бесповратна средства у износу од 9.000.000 евра).

Министарство рударства и енергетике је такође навело да ЕПС уредно измирује своје обавезе према Зајмодавцу (KfW) у складу са уговором о зајму, те да није било активирања гаранције.

Поред овог разматрања Комисија је гаранције разматрала и у контексту делатности од општег интереса, односно разматарала је потенцијалну државну помоћ која се додељује путем гаранције као инструмента доделе државне помоћи, што је образложила у Допису Број: 160/2/2014-38.

1.4. Јавна својина:

Комисија је, приликом оцене потенцијалне државне помоћи која може бити садржана у преносу власништва имовине (земљиште и зграде), односно у вези питања Секратаријата које се односи на преноса власништва имовине којом би се помогла изградња Термоелектране „Колубара Б", пре свега пошла од оснивачког акта ЕПС-а.

Наиме, у складу са изменом оснивачког акта ЕПС-а од 31. маја 2009. године, Влада Републике Србије је ЕПС-у пренела власништво над имовином (земљиште и зграде) потребном за спровођење Пројекта „Колубара Б". Вредност пренете имовине (земљиште и зграде), у складу са тренутним тржишним ценама, је 1,4 милијарде динара (12,7 милиона евра, по курсу на дан 18. новембар 2013. године).

Комисија је узела у обзир чињеницу да је Закон о јавној својини („Службени гласник РС", бр. 72/11, 88/13 и 105/14) уредио право јавне својине и одређена друга имовинска права Републике Србије, аутономне покрајине и јединице локалне самоуправе, као и да је дефинисао предмет јавне својине: природна богатства, добра од општег интереса и добра у општој употреби, за која је законом утврђено да су у јавној својини,

NGLESKI JEZIK
JANA
BEOGRAD

ствари које користе органи и организације Републике Србије, аутономне покрајине и јединице локалне самоуправе, установе, јавне агенције и друге организације чији је оснивач Република Србија, аутономна покрајина и јединица локалне самоуправе и друге ствари које су, у складу са законом, у јавној својини.

Такође, Комисија је узела у обзир да примена овог закона није селективна, и ако се ради о јавним средствима, као и да самим тим не постоји предност и утицај на конкуренцију, будући да се односи на све државне органе и организације, органе и организације аутономне покрајине и јединице локалне самоуправе, јавна предузећа, друштва капитала чији је оснивач Република Србија, аутономна покрајина и јединица локалне самоуправе, као и њихова зависна друштва, на основу уговора закљученог на основу акта надлежног органа, а којим нису пренете у својину тог јавног предузећа, односно друштва. Поред тога, овим законом је предвиђено да се ствари у јавној својини могу дати на коришћење и осталим правним лицима, концесијом или на други начин предвиђен законом, као и да ће се, у случајевима у којима давање ствари на коришћење има карактер државне помоћи, примењивати закон који уређује контролу државне помоћи.

Комисија констатује да нема државне помоћи већ да се Законом о јавној својини уређује трансформација права коришћења у право својине.

2. Мишљење Комисије:

Приликом утврђивања чињеница, поред свега наведеног, Комисија је узела у обзир и одредбу члана 197. Устава Републике Србије („Службени гасник РС", 98/06), којим се, између осталог, забрањује повратно дејство закона и свих других општих аката.

Дакле, уколико би Комисија у накнадној контроли применила правила државне помоћи, у конкретном случају, и то за период у којем примена правила контроле државне помоћи није била обавезна, Комисија би директно кршила уставну одредбу.

Комисија је утврдила да је, у периоду у којем су уговори о зајму били закључени, постојало изузеће од примене начела контроле државне помоћи на јавна предузећа и предузећа којима су додељена посебна права и то у складу са чланом 39. Прелазног споразума.

С тога, Комисија, остаје при изнетом у Допису Број: 160/2/2014-38 од 24. априла 2015. године, где је пре свега констатовала да није имала надлежност да одлучује. Такође, Комисија остаје при изнетом када су у питању јавна својина и гаранције за које су одлуке донете након истека рока предвиђеног чланом 39. Прелазног споразума.

На крају, Комисија се позива на члан 72. ССП у којем се дефинишу одредбе усклађивања прописа, примена права и правила конкуренције:

1. Стране уговорнице признају важност усклађивања важећег српског законодавства са законодавством Заједнице и његове делотворне примене. Србија ће настојати да обезбеди постепено усклађивање постојећих закона и будућег законодавства са правним тековинама Заједнице. Србија ће обезбедити да ће важеће и будуће законодавство бити правилно примењено и спроведено.

2. Усклађивање ће започети на дан потписивања Споразума и постепено ће се проширивати на све елементе правних тековина Заједнице на које упућује овај Споразум до краја прелазног периода утврђенога у члану 8 овог Споразума.

3. Усклађивање ће, нарочито у раној фази, бити усредсређено на основне елементе правних тековина о Унутрашњем тржишту као и на друга подручја везана за

трговину. У каснијој фази Србија ће се усредсредити на преостале делове правних тековина Заједнице.

4. Усклађивање ће се остварити на основу програма усаглашеног између Европске комисије и Србије.

5. Србија ће у договору с Европском комисијом такође дефинисати начине праћења спровођења усклађивања законодавства и законодавне мере које треба предузети у вези са њиховом применом.

Такође, Комисија је узела у обзир и члан 73 (4) ССП, а нарочито чињеницу како је област контроле државне помоћи регулисана у Европској унији, где Европска комисија, заједно са националним телима надлежним за конкуренцију, директно примењује правила конкуренције Европске уније, тачније чл. 101-109. Уговора о функционисању Европске уније.

У оквиру Европске комисије, Генерални директорат за конкуренцију је првенствено одговоран за директно спровођење овлашћења и процедура прописаних Уговором о функционисању Европске уније.

Након разматрања ове чињенице Комисија сматра да не постоји обавеза према Секретаријату у било ком смислу када је спровођење правила државне помоћи у питању.

У том смислу Комисија једино има обавезу према Генералном директорату за конкуренцију.

ПРЕДСЕДНИК КОМИСИЈЕ

Андријана Ђурчић

Достављено:

- Министарству рударства и енергетике
- Архиви

Energy Community

Reasoned Opinion

in Case ECS-11/14

I. Introduction

(1) According to Article 90 of the Treaty establishing the Energy Community (hereinafter "the Treaty"), the Energy Community Secretariat (hereinafter “the Secretariat”) may bring a failure by a Party to comply with Energy Community law to the attention of the Ministerial Council. Pursuant to Article 11 of the Rules of Procedure for Dispute Settlement under the Treaty (hereinafter “Dispute Settlement Procedures”),[1] the Secretariat carries out a preliminary procedure before submitting a Reasoned Request to the Ministerial Council.

(2) In June 2014, the Secretariat received a complaint stating that *Elektroprivreda Srbije* (*EPS*) had received State aid for different projects related to the Kolubara Mining Basin and Kolubara B power plant project, which had not been approved by the Commission for State Aid Control (hereinafter “the Commission”). The complainant alleged that, by providing State aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources, the Republic of Serbia breached the Energy Community rules on State aid, namely Articles 18 and 19 of the Treaty.

(3) In November 2014, the Secretariat asked the Commission to provide detailed information about the support measures and to inform the Secretariat whether it had previously assessed and approved them. In its reply of 24 April 2015 (hereinafter “the Letter”), the Commission referred to a letter of the Ministry of Mining and Energy of 30 December 2014 which confirms the existence and scope of the support measures. However, the Commission stated that the measures were taken in the period prior to the start of the application of the Law on State Aid Control[2] in January 2010 (hereinafter: “the Law”) and of amendments to the Regulation on Rules for State Aid Granting[3] (hereinafter “the Regulation”) regarding state aid granted to public enterprises in January 2012 and that it was therefore not competent to assess the measures. According to the Commission, it only had the power to examine one support measure which it found to be compatible with the State aid rules.

(4) However, the Secretariat took the preliminary view that the Republic of Serbia has failed to comply with its obligations under the Treaty, in particular Articles 18 and 19 thereof, by the actions of the Commission which either did not assess or incorrectly assessed the compatibility of State aid measures in the energy sector. Since the actions of the Commission are attributable to the state, the Secretariat sent an Opening Letter to the Republic of Serbia on 14 July 2016. The Republic of Serbia was requested to submit its observations on the points of fact and law raised in the Opening Letter within three months, *i.e.* by 14 October 2016.

(5) By a letter dated 13 October 2016, the Ministry of Mining and Energy of the Republic of Serbia submitted its observations to the Opening Letter (hereinafter “the Reply”), contesting the Secretariat’s assessment.

(6) Having assessed the information and arguments put forward in the Reply, as outlined in the legal assessment below, the Secretariat considers that the argumentation provided therein

---

[1] Procedural Act No. 2015/04/MC-EnC of 16 October 2015.
[2] Official Gazette of the Republic of Serbia No. 51/09.
[3] Official Gazette of the Republic of Serbia No. 13/10, 100/11, 91/12, 37/13, 97/13 and 119/14.

does not change its finding of an infringement. Therefore, the Secretariat considers the preliminary legal assessment and the conclusions of the Opening Letter still valid.

(7) Under these circumstances, the Secretariat decided to submit the present Reasoned Opinion.

II. Factual background

1. The electricity sector of the Republic of Serbia

(8) The Serbian electricity market is dominated by the state-owned public companies *Elektroprivreda Srbije* (*EPS*) and *Elektromreza Srbije* (*EMS*). *EPS* is a public enterprise, established in 2005 by the Decision on the establishment of the public enterprise for generation, distribution and trade of electricity,[4] adopted by the Government of the Republic of Serbia in accordance with the Energy Law.[5] The vertically integrated undertaking performs generation, distribution and supply activities.

(9) *RB Kolubara Lazarevac* forms part of *EPS*, producing 75% of all lignite in Serbia, 94% of which is used for the generation of electricity by several thermal power plants. The lignite coming from the Kolubara Mining Basin is used for the production of about 52% of total electricity generation in Serbia. Kolubara Mining Basin is composed of several mines: Polje B, Polje C, Polje D, Tamnava West and Veliki Crljeni.

(10) Thermal Power Plant Kolubara A, located at the edge of the Kolubara Mining Basin, also forms part of *EPS* and generates electricity using the lignite mined in the Kolubara Mining Basin.

(11) In 1983, *EPS* decided to build another coal-fired power plant, Kolubara B, for combined generation of electricity and heat for the heating system of Belgrade. Shortly after the start of the construction works, the project was suspended in 1992 due to the lack of financial resources. At that point, only 40% of the facility had been built. As a consequence, the initial plan was revised so that the facility would supply heat to Belgrade through a condensation system.

(12) In June 2011, *EPS* and Italy's *Edison SpA* signed an agreement to jointly develop Kolubara B, with financial assistance from the European Bank for Reconstruction and Development (EBRD). However, in 2013, the EBRD announced that it would not support the construction of Kolubara B because of the delays in the development of the project and because the project was not compliant with the new energy strategy of the EBRD.

2. The State aid enforcement system in the Republic of Serbia

(13) State aid in Serbia is governed by the Law on State Aid Control adopted in 2009. The Law prohibits State aid which distorts or threatens to distort competition on the market. Under this Law, generally, State aid is not allowed. However, there are certain exceptions under which State aid is admissible.

(14) The aim of the Law is, as stipulated in its Article 1, to ensure compliance with the obligations of the Republic of Serbia related to international agreements that contain provisions on State aid. The Law defines State aid as "*any actual or potential public expenditure or realised decrease in public revenue which confers to state aid beneficiary a more favourable market*

[4] Official Gazette of the Republic of Serbia No. 12/05 and 54/10.
[5] Official Gazette of the Republic of Serbia No. 84/04.

position in respect to the competitors and as a result causes or threatens to cause distortion of the market competition."[6] The Law does not contain any provision on the exemption of public undertakings from the application of State aid rules. It also applies to providers of services of general economic interest (SGEI).

(15) The body in charge of the enforcement of the Law in Serbia is the Commission for State Aid Control, established by a governmental decision in 2009.[7] The Commission is assisted by a Department of State Aid established within the Ministry of Finance.

(16) According to Article 11 of the Law, any State aid needs to be notified to the Commission before granting. The Commission then performs an *ex ante* control and has to decide within 60 days (as of receipt of the complete notification) whether to allow the notified aid or not. Until such a decision is taken by the Commission, the notified aid cannot be granted ("standstill clause").

(17) With the purpose of adopting more detailed rules for State aid granting and for assessing whether a notified or granted aid measure is allowed, the government of the Republic of Serbia adopted the Regulation on Rules for State Aid Granting, which entered into force in March 2010. Amendments regarding its application to public undertakings entered into force in 2012. The Regulation provides detailed rules for the assessment of different categories of State aid (regional, horizontal, sectoral, *de minimis* State aid, and State aid for providing SGEI). It contains special rules for aid with environmental and energy efficiency purposes under the rules for horizontal State aid, and special provisions on aid in the coal mining industry under the rules for sectoral State aid. Article 97a of the Regulation prescribes conditions under which aid granted for SGEI falls outside the scope of the Law because it is considered compensation for providing SGEI, as laid out in Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.[8] Finally, the Regulation contains rules for the assessment of "specific instruments" for granting State aid, such as state guarantees.

3. The complaint and follow-up actions

(18) Based on the "*Report on the State Aid to the Mining Basin Kolubara and the Thermal Power Plant Kolubara B*" drafted by the Center for Research, Transparency and Accountability, the complainant listed five measures of state support that *EPS* had allegedly received since 2006:

1) For the project "*Procurement of the ECS System*", which includes purchasing a coal excavator, a conveyor and a spreader system for the Tamnava West field: State guarantee for an EBRD loan amounting to EUR 52 million.

2) For the same project: State guarantee for a Kreditanstalt für Wiederaufbau (KfW) loan amounting to EUR 25 million and a direct grant of EUR 9 million.

3) For the *Kolubara Environmental Improvement* project: State guarantee for an EBRD loan amounting to EUR 80 million.[9]

[6] Article 2(1)(1) of the Law on State Aid Control.
[7] Official Gazette of the Republic of Serbia No. 112/09.
[8] OJ 2012 L 7/3.
[9] The Guarantee Agreement between the Republic of Serbia and the EBRD was concluded on 28 July 2011 and ratified by the Serbian Parliament (Official Gazette of the Republic of Serbia No. 8/2011).

4) For the same project: State guarantee for a KfW loan amounting to EUR 65 million and a direct grant of EUR 9 million.[10]

5) Transfer of property (land and buildings) for the construction of Kolubara B with a market value of RSD 1.4 billion (EUR 12.7 million, as per exchange rate on 18 November 2013).[11]

(19) In November 2014, the Secretariat asked the Commission to provide detailed information about these measures and to inform the Secretariat whether it had previously assessed and approved them. The Commission replied in April 2015 and referred to a letter of the Ministry of Mining and Energy of 30 December 2014 which confirmed that the Republic of Serbia had indeed guaranteed the above listed loans (with the difference that the first loan allegedly amounted to EUR 60 million and the second loan to EUR 16 million).

(20) The Commission explained that it had not been notified and had not assessed any of the measures.

(21) The Commission stated that these guarantees as well as the transfer of property to *EPS* were granted in the period prior to the start of the application of the Law in January 2010 and of amendments regarding the Regulation's rules for State aid granting to public enterprises in January 2012. It therefore found that it was not competent to assess these measures.

(22) It found that it only had the power to examine the guarantee for a loan by the KfW totaling EUR 74 million (see point 4) above) which it did in its session held on 24 April 2015. As to this measure, the Commission stated that a Law on issuing the Guarantee by the Republic of Serbia on behalf of the German Development Bank KfW for the full loan amounting to EUR 74 million was adopted in accordance with Articles 16 to 25 of the Law on Public Debt[12]. It determines that in case the Republic of Serbia settles the obligations of *EPS vis-à-vis* the KfW, the Republic of Serbia has a right to reimbursement of the principal amount and all accompanying costs, including the legally prescribed default interest, from *EPS*. The Republic of Serbia did not charge a premium or fee for the guarantee to *EPS*. The guarantee has not been activated.

(23) In its assessment, the Commission first examined whether the guarantee in question constitutes State aid and therefore falls under the State aid regime. The Commission based its assessment on Article 99 of the Regulation which deals with state guarantees (transposing the European Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees[13]). The Commission came to the conclusion that due to the lack of a premium being charged for the guarantee, it did not fulfill the conditions of Article 99 and therefore constitutes State aid.

(24) The Commission then examined whether such State aid could nevertheless be "allowed".

(25) In its compatibility assessment, the Commission took into consideration four different aspects. Firstly, according to the Commission, the implementation of the project in question "*contributes to the advancement of the technology used for exploitation in Kolubara, with the*

---

[10] The Guarantee Agreement between the Republic of Serbia and the KfW was concluded on 12 October 2012 and ratified by the Serbian Parliament on 24 December 2012 (Official Gazette of the Republic of Serbia No. 121/2012).

[11] The property in question was transferred to *EPS* by the Republic of Serbia by Decision on the Amendments to the Decision on the establishment of the public enterprise for production, distribution and trade of electricity (Official Gazette of the Republic of Serbia No. 54/2010).

[12] Official Gazette of the Republic of Serbia No. 61/05, 107/09, 78/11.

[13] OJ 2008 C155/02.

aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment", which enables *EPS* to perform the activity of public interest for which it was established, that is, secure regular and safe distribution of electricity to households and small customers on the territory of the Republic of Serbia at preferential prices. Secondly, the Commission considered that *EPS* was obliged to take measures for securing the development of the capacities for production and distribution of energy and the capacities for coal production and their regular maintenance and clear functioning, and to provide special conditions for the protection and improvement of the environment, and prevent the causes and eliminate consequences endangering the environment. Thirdly, the loan in question would not have been granted if the Republic Serbia had not issued a guarantee and, therefore, the project would not have been realized. Finally, the Commission concluded that, since the project contributes to goals which are of general interest to all citizens of the Republic of Serbia, the aid was compatible and could be granted for the execution of an important project for the Republic of Serbia in accordance with Article 5 of the Law.

(26) However, the Secretariat took the preliminary view that the Republic of Serbia infringed Articles 18 and 19 of the Treaty because the Commission did either not assess or incorrectly assess the support measures. It therefore sent an Opening Letter to the Republic of Serbia on 14 July 2016. The Republic of Serbia was requested to submit its observations on the points of fact and law raised in the Opening Letter.

(27) By a letter dated 13 October 2016, the Ministry of Mining and Energy of the Republic of Serbia submitted its Reply which are contained in a letter by the Commission attached to the Ministry's cover letter. It contested the Secretariat's assessment and reiterated the argumentation contained in its Letter. It based its assessment on the provisions of the Interim Agreement on trade and trade-related matters between the European Community and the Republic of Serbia, the Public Property Law and the Constitution of the Republic of Serbia.

III. Relevant Energy Community Law

(28) Energy Community law is defined in Article 1 of the Dispute Settlement Procedures as "*a Treaty obligation or* […] *a Decision or Procedural Act addressed to* [a Party]".

(29) A violation of Energy Community law occurs if "[a] *Party fails to comply with its obligations under the Treaty if any of these measures (actions or omissions) are incompatible with a provision or a principle of Energy Community law*".[14]

(30) Article 6 of the Treaty reads:

> *The Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty. The Parties shall facilitate the achievement of the Energy Community's tasks. The Parties shall abstain from any measure which could jeopardise the attainment of the objectives of the Treaty.*

(31) Article 18 of the Treaty reads:

> *1. The following shall be incompatible with the proper functioning of the Treaty, insofar as they may affect trade of Network Energy between the Contracting Parties:*

[14] Article 3(1) of the Dispute Settlement Procedures.

(…)

(c) any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources.

2. Any practices contrary to this Article shall be assessed on the basis of criteria arising from the application of the rules of Articles 81, 82 and 87 of the Treaty establishing the European Community (attached in Annex III).

(32) Article 19 of the Treaty reads:

With regard to public undertakings and undertakings to which special or exclusive rights have been granted, each Contracting Party shall ensure that as from 6 months following the date of entry force of this Treaty, the principles of the Treaty establishing the European Community, in particular Article 86 (1) and (2) thereof (attached in Annex III), are upheld.

(33) Article 94 of the Treaty reads:

The institutions shall interpret any term or other concept used in this Treaty that is derived from European Community law in conformity with the case law of the Court of Justice or the Court of First Instance of the European Communities. Where no interpretation from those Courts is available, the Ministerial Council shall give guidance in interpreting this Treaty. It may delegate that task to the Permanent High Level Group. Such guidance shall not prejudge any interpretation of the acquis communautaire by the Court of Justice or the Court of First Instance at a later stage.

(34) Article 103 of the Treaty reads:

Any obligations under an agreement between the European Community and its Member States on the one hand, and a Contracting Party on the other hand shall not be affected by this Treaty. Any commitment taken in the context of negotiations for accession to the European Union shall not be affected by this Treaty.

(35) Article 86(1) and (2) of the EC Treaty (currently Article 106(1) and (2) TFEU) as attached in Annex III of the Treaty reads:

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 12 and Articles 81 to 89.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.

(36) Article 87(1), (2) and (3) of the EC Treaty (currently Article 107(1), (2) and (3) TFEU) as attached in Annex III of the Treaty reads:

1. Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain

undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.

2. The following shall be compatible with the common market:

(a) aid having a social character, granted to individual customers, provided that such aid is granted without discrimination related to the origin of the products concerned;

(b) aid to make good the damage caused by natural disasters or exceptional occurrences;

(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

3. The following may be considered to be compatible with the common market:

(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;

(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;

(e) such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.

(37) Article 3(2) of the Dispute Settlement Procedures reads:

Failure by a Party to comply with Energy Community law may consist of any measure by the public authorities of the Party (central, regional, local as well as legislative, administrative or judicative), including undertakings within the meaning of Article 19 of the Treaty, to which the measure is attributable.

IV. Legal Assessment

(38) According to Article 3(2) of the Dispute Settlement Procedures, a failure by a Party to comply with Energy Community law may consist of any measure by the public authorities of the Party; therefore, the Commission's actions are attributable to the Republic of Serbia and may constitute an infringement of Energy Community law by that Party.

(39) In the following, the Secretariat will assess the (in)action of the Commission in light of the Republic of Serbia's obligations under the Treaty, in particular Articles 18 and 19 thereof. It will thereby take into consideration the Commission's Letter and its Reply. The Secretariat will first assess the issue that the Commission did not assess the measures listed under points 1), 2), 3), and 5) in paragraph 18 above. Secondly, the Secretariat will assess the compatibility assessment undertaken by the Commission with regard to the measure listed under point 4) above.

1. Lack of assessment of support measures

(40) In November 2014, the Secretariat asked the Commission to provide information about the support measures brought to its attention by the complaint and to inform the Secretariat whether it had previously assessed and approved them. In its Letter, the Commission confirmed the support measures, but explained that it had not been notified and had not assessed any of the measures in advance. It stated that the measures listed under points 1), 2), 3), and 5) in paragraph 18 above were granted in the period prior to the start of the application of the Law in January 2010 and of amendments regarding the Regulation's rules for State aid granting to public enterprises in January 2012 and that it therefore was not competent to assess these measures.[15]

(41) The Secretariat came to the preliminary conclusion that the lack of assessment of these support measures constitutes a breach of the obligations of the Republic of Serbia under the Treaty, in particular Articles 18 and 19 thereof, and therefore sent an Opening Letter laying down its concerns.

(42) In its Reply, the Commission based its argumentation mainly on Serbia's Stabilization and Association Agreement with the EU and its Interim Agreement on Trade and trade-related matters.[16] Specifically, Article 39 of the Interim Agreement envisages that the Republic of Serbia needs to apply the principles to public enterprises and enterprises with special rights only after three years following the entry into force of the Interim Agreement, *i.e.* by 2012.[17] Therefore, the Regulation on Amendments and Supplements to the Regulation on the Rules for the State Aid Granting entered into force on 1 January 2012, governing the granting of State aid to public enterprises and enterprises with special rights. Furthermore, the Commission argued that the Constitution of the Republic of Serbia[18] prohibits retroactive effect of laws and other general acts (Article 197) and the application of the rules of State aid control to a period in which its application was not mandatory would infringe this provision.[19]

(43) The Secretariat analyzed the arguments brought forward by the Republic of Serbia in its Letter and Reply. However, they do not change the Secretariat's finding of an infringement; therefore, the Secretariat considers the preliminary legal assessment and the conclusions of the Opening Letter still valid.

1.a. Existence of State aid

(44) According to well-established case law, the first step in the assessment of the character and compatibility of support measures is to assess whether a measure constitutes State aid and is, therefore, subject to the State aid rules.[20] Only if the measures listed above constitute State aid, the Commission would have needed to assess them in compliance with the State aid *acquis*.

(45) The elements of the definition of State aid are the following:[21]

---

[15] Letter, p. 2.
[16] OJ 2010 L 28/2; Official Gazette of the Republic of Serbia No. 83/08.
[17] Reply, p. 3-4.
[18] Official Gazette of the Republic of Serbia No. 98/06.
[19] Reply, p. 10.
[20] E.g. Case 62/87 and 72/87, *Exécutif regional wallon* [1988] ECR 1573.
[21] See Article 18(1)(c) of the Treaty or Article 107 TFEU.

i. there must be a benefit or advantage;
ii. which is granted by the state or through state resources;
iii. which favours certain undertakings or certain energy resources (selectivity);
iv. which is liable to distort competition;
v. which may affect trade between Member States (in the case of the Energy Community, trade of Network Energy between the Contracting Parties).

(46) The measures listed under points 1), 2), and 3) in paragraph 18 above are State guarantees. Article 99 of the Regulation provides that "[a]*n individual state guarantee shall not constitute an instrument for granting state aid if it cumulatively meets the following conditions*": the enterprise is not in difficulties; the guarantee is linked to a specific financial transaction, for a fixed amount and a fixed time period; the guarantee does not cover more than 80% of the outstanding loan (not applicable in case of providers of SGEI); and the guarantee premium is calculated on the basis of market principles. Due to the lack of premium charged by the Republic of Serbia for the guarantees at issue, the last condition is not fulfilled. Due to the lack of any compensation for the guarantees issued, they constitute advantages. They were granted by the state, namely the Republic of Serbia, and favour one specific undertaking, namely *EPS*. They were also liable to distort competition and affect trade of Network Energy between the Contracting Parties because they strengthened the position of *EPS* in relation to its competitors[22] and the sector in which *EPS* is active is characterized by a substantial level of trade between Contracting Parties.[23]

(47) Also the transfer of property listed under point 5) above constitutes an advantage for *EPS* as it did not pay any compensation for the transfer that corresponds to the market price to the Republic of Serbia.[24] The property belonged to the Republic of Serbia and therefore constitutes state resources.

(48) In its Reply, the Commission argues that the transfer of ownership of land and buildings to *EPS* for the implementation of the project Kolubara B is governed by the Public Property Law[25] which is not selective and that, therefore, there is no advantage and impact on competition, since the Public Property Law applies to all state bodies and organisations, autonomous province bodies and local self-government units, public enterprises, capital companies founded by the Republic of Serbia, the Autonomous Province and local governments, as well as their subsidiaries. Furthermore, it states that assets in public ownership can be made available to other legal entities.

(49) The Secretariat notes that *EPS* is an undertaking in the sense of competition law, *i.e.* an entity engaged in an economic activity on the market, irrespective of the state's ownership. It follows that the transfer of property needs to be assessed against the applicable State aid provisions. This applies irrespective of the provisions of the Public Property Law. The transfer constitutes an advantage for *EPS* as the Republic of Serbia did not ask for any compensation for the transfer.[26] It was granted by the state, namely the Republic of Serbia, because it was state property, as defined in the Public Property Law. It also favours one specific undertaking,

---

[22] See, to that effect Cases 730/79, *Philipp Morris/Commission* [1980] ECR 2671, para. 11; C-182 and 217/03, *Belgium and Forum 187/Commission* [2006] ECR I-5479, para. 131.
[23] See, to that effect Cases 173/74, *Commission/Italy* [1974] ECR 709, para. 19; C-114/00, *Spain/Commission* [2002] ECR I-7657, para. 65.
[24] See for undervalue price e.g. Cases T-274/01, *Valmont/Commission* [2004] ECR II-3145, para. 45; T-366/00, *Scott/Commission* [2007] ECR II-797, para. 93.
[25] Official Gazette of the Republic of Serbia No. 72/2011, 88/2013 and 105/2014.
[26] For undervalue price see e.g. Cases T-274/01, *Valmont/Commission* [2004] ECR II-3145, para. 45; T-366/00, *Scott/Commission* [2007] ECR II-797, para. 93.

namely *EPS*. It is not the Public Property Law that is selective, but the individual measure, i.e. the transfer itself. Finally, the transfer is liable to distort competition and affect trade of Network Energy between the Contracting Parties because they strengthened the position of *EPS* in relation to its competitors[27] and the sector in which *EPS* is active is characterized by a substantial level of trade between Contracting Parties.[28] The transfer therefore constitutes State aid.

(50) The Secretariat therefore comes to the conclusion that the measures listed above constitute State aid.

1.b. Lack of compatibility assessment of State aid measures

(51) Article 18(1)(c) of the Treaty provides that any public aid which distorts or threatens to distort competition by favouring certain undertakings or certain energy resources shall be incompatible with the proper functioning of the Treaty, insofar as it may affect trade of Network Energy between the Contracting Parties. Article 19 of the Treaty explicitly provides for an obligation of the Contracting Parties to ensure that with regard to public undertakings and undertakings, to which special or exclusive rights have been granted, the principles of the Treaty, including the rules on State aid, are upheld. The provision imposes a deadline of six months after the Treaty's entry into force for ensuring that such undertakings are subjected to these principles.

(52) The Republic of Serbia is a Contracting Party to the Treaty which was signed on 25 October 2005. After its ratification, the Treaty – including Article 18 thereof – entered into force on 1 July 2006. According to Article 19 of the Treaty, the Republic of Serbia was therefore obliged to ensure that with regard to public undertakings and undertakings with special or exclusive rights the Treaty's State aid rules are upheld at the latest as of 1 January 2007.

(53) Articles 18 and 19 of the Treaty contain a legally binding obligation on the Contracting Parties to introduce a corresponding prohibition of State aid into their national legal systems. This has been done by the Republic of Serbia with the adoption of the Law on State Aid Control in 2009, which entered into force in 2010. The Law transposes the *acquis* on State aid. It does not contain any provision specifically exempting public undertakings from the application of State aid rules. As the Law needs to be interpreted in the light of the wording and the purpose of the Treaty,[29] in particular Articles 18 and 19 thereof, this means that the State aid regime applies – and applied already in 2010 – to undertakings irrespective of their public or private character.

(54) The Regulation merely contains more detailed rules for the assessment of different types of aid (see Article 1 and 24 of the Law); however, it does not limit or expand the application of the State aid prohibition contained in the Law. The amendments adopted in 2011 and in force since 2012 contain amendments to Article 97b regarding compensation for the provision of SGEI; however, they did not contain any exemption for public undertakings or undertakings with special rights nor do the amendments indicate that the Law did not apply to public undertakings or undertakings with special rights before.

(55) The Republic of Serbia set up the Commission and put it in charge of enforcing the Law. This means that according to Article 11 of the Law, any State aid needs to be notified to the

[27] See, to that effect Cases 730/79, *Philipp Morris/Commission* [1980] ECR 2671, para. 11; C-182 and 217/03, *Belgium and Forum 187/Commission* [2006] ECR I-5479, para. 131.
[28] See, to that effect Cases 173/74, *Commission/Italy* [1974] ECR 709, para. 19; C-114/00, *Spain/Commission* [2002] ECR I-7657, para. 65.
[29] See e.g. Case C-106/89, *Marleasing* [1990] ECR I-4135, para. 7.

Commission before being granted. Only in case of a positive decision by the Commission, the aid should be granted. Contrary to the Commission's assertions in its Letter (page 2), the Commission was therefore competent to assess the support measures as of 2010, including the measures listed under point 1), 2), 3), and 5) in paragraph 18 above.

(56) The measures were all granted after the entry into force of the Law in 2010. According to public sources,[30] the loan by the EBRD of EUR 60 million (measure 1) above) was disbursed in April 2010. The same time horizon applies to the KfW loan of EUR 16 million and the direct grant of EUR 9 million (measure 2) above).[31] The guarantee for the EBRD loan of EUR 80 million (measure 3) above) was signed and ratified in 2011[32]; the guarantee for the KfW loan of EUR 65 million and the direct grant of EUR 9 million (measure 4) above) in 2012.[33] The property in question (measure 5) above) was transferred to *EPS* by Decision of 29 July 2010 on the Amendments to the Decision on the establishment of the public enterprise for production, distribution and trade of electricity.[34]

(57) As regards the Commission's argument that the application of State aid rules to cases regarding public undertakings before their application became mandatory in 2012 would infringe the Constitution's prohibition of retroactive application,[35] the European Court of Justice has repeatedly found that the prohibition of retroactivity prohibits measures to take effect prior to their publication.[36] As it has been pointed out above, there was no exemption for public enterprises in place, and therefore the State aid prohibition already applied as of January 2010. As all support measures at stake were taken after the entry into force of the Law in 2010, there is no need to apply the legislation on State aid prohibition in a retroactive manner.

(58) Under EU law, Article 107 TFEU is enforced by the European Commission (see Article 108 TFEU). Any plan to grant State aid needs to be notified to the European Commission, who then decides whether it is compatible with the internal market, having regard to Article 107 TFEU. The Member State is not allowed to put the proposed measure into effect until the European Commission has rendered a final decision. However, although the substantial provision in the Treaty is identical with Article 107 TFEU, the institutional set-up in the Energy Community differs due to the lack of a centralized enforcement authority. It follows from Article 6 of the Treaty that in this situation, each Contracting Party is obliged to take all appropriate measures to ensure fulfilment of the obligations arising out of the Treaty and abstain from any measures that might jeopardise the attainment of the objectives of the Treaty. Therefore, the Contracting Parties are obliged to ensure enforcement of the State aid prohibition enshrined in Articles 18 and 19 of the Treaty. This obligation exists since the entry into force of the Treaty (1 July 2006) and the end of the deadline for Article 19 of the Treaty (1 January 2007).

(59) In its Reply,[37] the Commission bases its arguments mainly on Article 39 of the Interim Agreement which stipulates that "*by the end of the third year following the entry into force of this Agreement [i.e. by 2012], the principles set out in the EC Treaty, with particular reference*

[30] http://www.ebrd.com/documents/occo/eliibility-assessment-report.pdf;
http://www.ebrd.com/work-with-us/projects/psd/eps-power-ii.html.
[31] https://www.urgewald.org/sites/default/files/briefing_kfwkohle_april2013.pdf.
[32] The Guarantee Agreement between the Republic of Serbia and the EBRD was concluded on 28 July 2011 and ratified by the Serbian Parliament (Official Gazette of the Republic of Serbia No. 8/2011).
[33] The Guarantee Agreement between the Republic of Serbia and the KfW was concluded on 12 October 2012 and ratified by the Serbian Parliament on 24 December 2012 (Official Gazette of the Republic of Serbia No. 11/2012).
[34] Official Gazette of the Republic of Serbia No. 54/2010.
[35] Reply, p. 10.
[36] See e.g. Case C-84/78 *Tomadini* [1979] ECR 1801.
[37] Reply, p. 3-4.

to Art. 86 shall apply in Serbia to public undertakings and undertakings to which special and exclusive rights have been granted". However, this provision does not hinder the Commission to apply the State aid principles to public undertakings before 2012; it merely postpones the obligation to do so until 2012. Therefore, the Republic of Serbia would not infringe the Interim Agreement when assessing aid to public undertakings before 2012, in particular the measures listed under points 1), 2), 3), and 5) in paragraph 18 above. Therefore, there is no conflict between Article 39 of the Interim Agreement and the obligations of the Treaty regarding enforcement of the State aid *acquis*.

(60) As there is no conflict between Article 39 of the Interim Agreement and the Treaty, Article 103 of the Treaty does not apply. The Treaty does not affect any obligation under the Interim Agreement.

(61) In any case – although there is no conflict between the two treaties – the obligations arising from the Treaty are independent of any commitments made by individual Contracting Parties under the terms of any bilateral agreements. Thus, Article 39 of the Interim Agreement cannot exclude Serbia's obligation to implement the rules on State aid under the Treaty.

(62) As the measures listed under points 1), 2), 3), and 5) in paragraph 18 above constitute State aid, the effective enforcement of State aid rules would have required these measures to be assessed as to their compatibility with the State aid rules by the Commission. As the Commission did not assess the compatibility of these measures, the Secretariat is of the opinion that the Republic of Serbia infringed Articles 18 and 19 read in conjunction with Article 6 of the Treaty.

2. Incorrect compatibility assessment of State aid measure

(63) The measure identified under point 4) in paragraph 18 above takes the form of a guarantee by the Republic of Serbia for the loan that *EPS* obtained from the KfW in order to carry out the project "*Improving exploitation technology in Kolubara for increased efficiency of thermal power plants and reducing environmental impact*".

(64) In response to the Secretariat's request for information of November 2014, the Commission informed the Secretariat that it had not been notified and had not assessed any of the measures in advance. However, the Commission accepted that the measure identified under 4) in paragraph 18 above, fell under its competence and assessed it in its session on 24 April 2015. It found that the measure constitutes State aid but is nevertheless compatible because the implementation of the project "*contributes to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment*", which enables *EPS* to perform the activity of public interest. The Commission concluded that, since the project contributes to goals which are of general interest to all citizens of the Republic of Serbia, the measure was compatible and could be granted for the execution of an important project for the Republic of Serbia in accordance with Article 5 of the Law.

(65) However, the Secretariat came to the preliminary conclusion that compatibility assessment of this support measure does not comply with the Energy Community State aid *acquis* and therefore sent an Opening Letter laying down its concerns. In its Reply, the Commission reiterated its argumentation contained in the Letter.

(66) The Secretariat's assessment includes an analysis of the arguments brought forward by the Republic of Serbia in its Letter (and Reply). However, they do not change the Secretariat's

finding of an infringement; therefore, the Secretariat considers the preliminary legal assessment and the conclusions of the Opening Letter still valid.

(67) At the outset, the Secretariat recalls that the Energy Community *acquis* on State aid is based on the respective provisions of EU law. In particular, Article 18(1)(c) of the Treaty is based on Article 107(1) TFEU; Article 18(2) of the Treaty therefore states that any practices contrary to this Article shall be assessed on the basis of criteria arising from *inter alia* Article 107 TFEU (ex-Article 87 of the EC Treaty as attached in Annex III). In Article 19 of the Treaty, special reference is made to Article 106(1) and (2) TFEU (ex-Article 86 of the EC Treaty as attached in Annex III) which deal with public undertakings and undertakings with special or exclusive rights as well as SGEI.

(68) This position is supported by the case law of the European Commission as confirmed by the Court of Justice which is of relevance for the case at hand under Articles 18(2) and 94 of the Treaty.

(69) When assessing the guarantee identified under 4) in paragraph 18 above, the Commission itself came to the conclusion that it constitutes State aid.[38] It assessed the criteria for guarantees mentioned under Article 99 of the Regulation. Article 99 of the Regulation provides that "[a]*n individual state aid guarantee shall not constitute an instrument for granting state aid if it cumulatively meets the following conditions*": the enterprise is not in difficulties; the guarantee is linked to a specific financial transaction, for a fixed amount and a fixed time period; the guarantee does not cover more than 80% of the outstanding loan (not applicable in case of providers of SGEI); and the guarantee premium is calculated on the basis of market principles. Due to the lack of premium charged by the Republic of Serbia for the guarantee at issue, the Commission concluded that the last condition is not fulfilled and the guarantee in question constitutes State aid.

(70) Contrary to its (correct) conclusion on the existence of State aid, the Commission argued that the Republic of Serbia had the right to get reimbursed in case of activation of the guarantee.[39] This could be understood as to calling into question whether an advantage has been granted to *EPS*. However, according to settled case law of the European Court of Justice[40] and confirmed by the European Commission's Notice[41], the benefit of a state guarantee is that the risk associated with the guarantee is carried by the state instead of the borrower. Therefore, if this risk is not remunerated by an appropriate premium, the borrower enjoys an advantage,[42] regardless of whether the guarantor has a right to reimbursement. In addition, even in the case that no payments are ever made by the state under a guarantee, it nevertheless constitutes State aid because the advantage is granted at the moment when the guarantee is given and not when the guarantee is invoked or when the payments are made.[43]

(71) The Court of Justice has repeatedly recognized the broad discretion granted to the authority enforcing the EU State aid provisions (in the case of EU law, the European Commission under Article 107(3) TFEU), the exercise of which requires economic and social assessments which should balance the concerns of the Union as a whole.[44] The Court therefore limits its review

[38] Letter, p. 6.
[39] Letter, p. 3; Reply, p. 8.
[40] Case C-275/10, *Residex Capital IV CV v Gemeente Rotterdam* [2011] ECR I-13043, para. 7.
[41] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ 2008 C 155/02, para. 2.1.
[42] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ 2008 C 155/02, para. 2.2.
[43] Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, OJ 2008 C 155/02, para. 2.1.
[44] E.g. Cases C-301/87, *Boussac* [1990] ECR I-307, para. 49; C-303/88, *ENI Lanerossi* [1991] I-1433, para. 34.

to whether the authority complied with the rules of procedure and the rules relating to the duty to give reasons, to verify the accuracy of the facts relied on and that there has been no error of law, manifest error of assessment of the facts or misuse of power; the court may not substitute its own economic judgment for that of the State aid enforcement authority.[45] By consequence, the Secretariat suggests that in the Energy Community, the Ministerial Council's judgment as well as its own review of the Commission's decision in the framework of these proceedings is to be limited to those aspects.

(72) Based on the information at its disposal, the Secretariat is of the opinion that the reasoning as well as the conclusions drawn by the Commission constitute a manifest error of assessment and contradict Energy Community law for the following reasons.[46]

2.a. General Block Exemption Regulation

(73) The Commission stated that the project for which State aid was granted "*contributes to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment*".[47] This could suggest that the Commission considered the measure to fall under the General Block Exemption Regulation (GBER)[48] as aid for research and development and innovation (section 4) or as aid for environmental protection (section 7) and could therefore be compatible with the Energy Community internal market and exempted from the notification requirement. In order to come to such a conclusion, the Commission would have had to assess the following necessary conditions for such an exemption:

- The amount of the aid in order to assess whether the particular thresholds of Article 4 of the GBER are met;
- The transparency of the aid (Article 5 GBER), *i.e.* aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without any need to undertake a risk assessment[49];
- The incentive effect of the aid (Article 6 GBER), *i.e.* whether beneficiary would already engage under market conditions alone in activities or projects; as well as
- The aid intensity and that the measure does not exceed a certain level of eligible costs (Article 7 GBER and Article 25 or 26 GBER or Article 38 GBER).

[45] E.g. Cases C-225/91, *Matra/Commission* [1993] ECR I-3203, para. 25; T-110/97, *Kneissl Dachstein/Commission* [1999] ECR II-2881, para. 46.
[46] See e.g. Cases C-148/04, *Unicredito Italiano SpA* [2005] ECR I-11137, para. 72 *et seqq.*; T-254/00, 270/00 and 277/00, *Hotel Cipriani SpA e.a.* [2008] ECR II-3269, para. 125.
[47] Letter, p. 7.
[48] Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.
[49] Article 5 lists the categories of aid that are considered to be transparent. Guarantees fall under these categories (i) where the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice; or (ii) where before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation. The measure at hand does not fall under any of these two categories.

(74) However, the Commission did not assess these criteria indicated in the GBER neither in its decision of 24 April 2015 nor in its Reply and could therefore not rely on the GBER to find that the measure was compatible.

2.b. Services of General Economic Interest

(75) The Commission also stated that the measure was necessary for *EPS* to "*perform the activity of public interest for which it was established, that is, secure regular and safe distribution of electricity to households and small customers on the territory of the Republic of Serbia at preferential prices.*"[50] State aid in the form of public service compensation granted to certain undertakings entrusted with SGEI is considered compatible with the internal market and exempted from the requirement of notification, if it fulfils specific conditions set out in the so-called SGEI Decision.[51] However, based on the SGEI Decision, the Commission would have needed to assess the following:

- The SGEI Decision does only apply to aid below EUR 15 million, aid to hospitals and social services, aid to air and maritime links to islands as well as ports and airports below a certain number of passengers (Article 2(1)(a)). Therefore, the Commission would have had to assess the amount of the aid.
- There needs to be a specific entrustment act (Article 4). The Commission only lists the general provisions of the Energy Law, but does not elaborate on the concrete entrustment.
- The measure must control overcompensation (Articles 5 and 6). The Commission does not assess this criterion at all.
- The aid needs to be transparent (Article 7, see above). The Commission does not deal with this criterion.

(76) However, the Commission did not assess any of these criteria necessary to support a finding that the measure is covered by the SGEI Decision and therefore compatible, neither in its decision of 24 April 2015 nor in its Reply.

(77) In case State aid is granted as compensation for the provision of SGEI, such measure can also be declared compatible under Article 106(2) TFEU, to which Article 19 of the Treaty also explicitly refers and which is attached to the Treaty in its Annex III. This provision provides for a derogation from the competition rules as far as necessary for the provision of SGEI. The jurisprudence of the European Court of Justice has identified four conditions for Article 106(2) TFEU to apply,[52] which are expanded in detail in the European Commission's so-called SGEI Framework, spelling out the conditions under which such State aid can be found compatible with the internal market pursuant to Article 106(2) TFEU:[53]

- First, there must be an act of entrustment, specifying the nature and duration of the service. In the present case, however, the Commission only refers to the general provisions of the Energy Law and the Decision on the establishment of the public enterprise for generation, distribution and trade of electricity.

---

[50] Letter, p. 7.

[51] Commission Decision (EC) No 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest, OJ 2011 L 7/3.

[52] See, to that effect, Case T-289/03, *BUPA* [2008] ECR II-81.

[53] Communication from the (EU) Commission, European Union framework for State aid in the form of public service compensation, OJ 2012 C 8/15.

- Second, the entrustment must relate to the operation of a service of general economic interest. In the present case, however, the provisions of the Energy Law and the Decision on the establishment of the public enterprise for generation, distribution and trade of electricity do not specify the service of general economic interest that shall be compensated through the support measures, nor is the duration limited.
- Third, the derogation has to be necessary for the performance of the tasks assigned and proportional to that end. In the present case, no such assessment has been undertaken by the Commission.
- Fourth, the development of trade must not be effected to such an extent as would be contrary to the interests of the Community. In the present case, no such assessment has been undertaken by the Commission.

(78) The Commission did not assess these conditions in its decision of 24 April 2015 or in its Reply. Therefore, while mentioning that the activities of *EPS* were in the "general interest", the Commission could not find the measure to be compatible under Article 106(2) TFEU.

2.c. Compatibility under Article 107(3)(c) TFEU

(79) On the basis of Article 107(3)(c) TFEU, which is attached to the Treaty in its Annex III, State aid may be found compatible if it facilitates the development of certain economic activities and does not adversely affect trading conditions to an extent contrary to the common interest. Under the Guidelines on State aid for environmental protection and energy 2014-2020 (the Guidelines), the European Commission sets out the conditions under which aid for energy and environment may be considered compatible.[54] Under the Guidelines, a measure is considered compatible if the following criteria are met:

- Contribution to a well-defined objective of common interest: States intending to grant environmental or energy aid will have to define precisely the objective pursued and explain what is the expected contribution of the measure towards this objective.
- Need for state intervention: States need to demonstrate that the aid effectively targets a (residual) market failure.
- Appropriateness of the aid: The proposed aid measure must be an appropriate instrument to address the policy objective concerned, *i.e.* the same positive contribution to the common objective is not achievable through other less distortive policy instruments or other less distortive types of aid instruments.
- Incentive effect: The aid must not subsidize the costs of an activity that an undertaking would anyhow incur and must not compensate for the normal business risk of an economic activity.
- Proportionality of the aid: The aid has to be limited to the minimum needed to achieve the environmental protection or energy objective aimed for.
- Avoidance of undue negative effects on competition and trade: The negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be limited and outweighed by the positive effects in terms of contribution to the objective of common interest.
- Transparency of the aid: States must ensure the publication of specific information on a comprehensive State aid website.

[54] OJ 2014 C 200/01.

(80) Apart from these "common assessment criteria", the Guidelines prescribe special assessment criteria for different types of aid.

(81) The homogeneity principle as enshrined in Article 18(2) of the Treaty obliges national enforcement authorities and the Secretariat to ensure equal conditions of competition and a uniform application of State aid provisions throughout the Energy Community, based on precedence established by EU enforcement institutions. In its Policy Guidelines,[55] the Secretariat thus endorsed the Guidelines and announced to make them the point of reference for its own enforcement practice in the assessment of State aid cases in the sectors covered by the Guidelines to the extent they fall within the scope of the Treaty. The Secretariat further concluded that the Guidelines need to be followed by national enforcement authorities in order to ensure their uniform and homogeneous application in the entire Energy Community.

(82) Despite the argumentation of the Commission regarding the purpose of the aid (contribution to the advancement of the technology used for exploitation in Kolubara, with the aim of increasing the efficiency of thermal power plants and decreasing the impact it has on the environment),[56] it failed to assess the compliance of the guarantee with the requirements established under the Guidelines and listed above, in its decision of 24 April 2015 or in its Reply. The Commission could, therefore, not conclude on this basis that the aid is compatible.

2.d. Compatibility under Article 107(3)(b) TFEU

(83) Finally, the Commission claimed in its Letter that the aid in question was "allowed" due to its contribution to executing an important project for the Republic of Serbia in accordance with Article 107(3)(b) TFEU and the corresponding national provision (Article 5 of the Law).[57] Its conclusion was based on the assertion that the aid "*contribute[d] to reaching the goals which are of general interest to all citizens of the Republic of Serbia*". According to Article 107(3) TFEU, a measure may be considered compatible with the internal market if (b) it promotes the execution of an important project of common European interest.

(84) Article 107(3)(b) TFEU only covers projects that form part of a transnational European programme, supported jointly by a number of Member States' governments, or arises from concerted action by a number of Member States to combat a common threat such as environmental pollution.[58] In the same vein, in the context of the Energy Community, in order to be covered by this provision, a measure needs to contribute to the execution of an important project that is of interest for the Energy Community and not only one of its Contracting Parties. This means that the project must be of transnational interest or arise of transnational action. The transposition into Serbian law which covers "*the execution of an important project of the Republic of Serbia*" is not compliant with Energy Community law and neither is its application to the measure at stake.

(85) In any case, the Secretariat considers that the Commission failed to explain thoroughly in its decision of 24 April 2015 and in its Reply why and how the aid in question contributed to goals that were in the general interest of all citizens of Serbia. Moreover, even if one were to accept that purely domestic projects can provide a basis for the finding of compatibility under Article 107(3)(b) TFEU, the Commission would have had to analyze potential or actual negative

---

[55] Policy Guidelines by the Energy Community Secretariat on the Applicability of the Guidelines on State Aid for Environmental Protection and Energy 2014-2010, PG 04/2015 of 24 November 2015.
[56] Letter, p. 7.
[57] Letter, p. 7.
[58] Joined Cases 62/87 and 72/87, *Exécutif regional wallon and Glaverbel SA v Commission of the European Communities* [1988] ECR 1573, para. 22.

effects of the State aid measure on competition and trade and to compare such effects with the positive effects of the measure. When assessing aid under Article 107(3) TFEU, account must be taken of whether the aid measure is aimed at a well-defined common objective, is an appropriate instrument, well-targeted and proportionate to the targeted objective and does not adversely affect trading conditions to an extent contrary to the common interest.[59]

(86) In particular, pursuant to Article 107(3)(b) TFEU and with regard to important projects of common European interest, the European Commission has established four criteria to be fulfilled cumulatively as a prerequisite for considering State aid to be compatible with the internal market:[60]

- the aid must "promote" a project, meaning to take action which contributes to the implementation of the project;
- the project must be specific, precise and clearly defined;
- the project must be important both quantitatively and qualitatively, with an emphasis on the qualitative aspect;
- the project must be 'of common European interest' and as such be of benefit to the whole of the Union.

(87) Thus, allowing State aid based on Article 107(3)(b) TFEU requires a thorough and critical assessment of that measure's effect on competition and trade, on both the national and the Energy Community's market. The Commission's failure to assess the effects of the measure on competition on the market is particularly important considering the fact that *EPS* holds a dominant position in both generation and supply of electricity in the Republic of Serbia and that granting State aid in considerable amounts to an undertaking in such a position is likely to greatly affect small private generators and suppliers on the market, potentially even forcing them to leave the market in the future or discouraging the entry of new competitors.

(88) Considering all of the above, the Secretariat concludes that the Commission's reasoning indicates that it does not comply with the Energy Community State aid *acquis*.

V. Conclusion

(89) Based on the above legal assessment, the Secretariat concludes that by the Commission either not assessing or incorrectly assessing the compatibility of State aid measures, the Republic of Serbia has failed to comply with its obligations under the Treaty, in particular Articles 18 and 19 thereof.

(90) In accordance with Article 14(2) of the Dispute Settlement Procedures, the Republic of Serbia is requested to rectify the breaches identified in the present Reasoned Opinion within a time-limit of two months, i.e. by

28 April 2017

and notify the Secretariat of all steps undertaken in that respect.

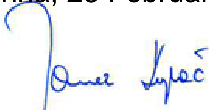
(91) Furthermore, in accordance with Article 15 of the Dispute Resolution and Negotiation Centre Rules, the Republic of Serbia may also request that the present dispute is mediated by a

[59] See e.g. Commission decision, State aid SA.33984 (2012/N) – United Kingdom; State aid M542/2010 – Poland.
[60] See e.g. Commission decision, State aid N157/2009; State aid N576/98 - United Kingdom; State aid N420/08 – United Kingdom; State aids SA.36558 and SA.38371 – Denmark; State aid SA.36662 – Sweden.

neutral third-party mediator. Should the Republic of Serbia wish to benefit from this option, it shall notify the Legal Counsel of such a request in line with Article 15(1) of the Dispute Resolution and Negotiation Centre Rules by

28 March 2017.

Vienna, 28 February 2017



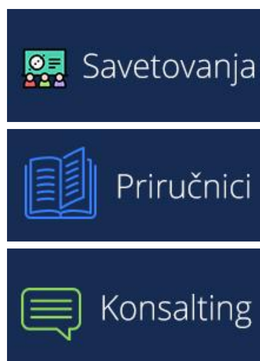
Janez Kopač
Director

Dirk Buschle
Deputy Director/Legal Counsel

Pravna i ekonomska izdanja
za uspešno i zakonito poslovanje

BUDITE NA PRAVNOJ STRANI
online@paragraf.rs
www.paragraf.rs

Preuzeto iz elektronske pravne baze Paragraf Lex



Ukoliko ovaj propis niste preuzeli sa Paragrafovog sajta ili niste sigurni da li je u pitanju važeća verzija propisa, poslednju verziju možete naći OVDE.

ZAKON
O JAVNOJ SVOJINI

("Sl. glasnik RS", br. 72/2011, 88/2013, 105/2014, 104/2016 - dr. zakon i 108/2016)

I OSNOVNE ODREDBE

Predmet uređivanja

Član 1

Ovim zakonom uređuje se pravo javne svojine i određena druga imovinska prava Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave.

Tri oblika javne svojine

Član 2

Javnu svojinu čini pravo svojine Republike Srbije - državna svojina, pravo svojine autonomne pokrajine - pokrajinska svojina i pravo svojine jedinice lokalne samouprave - opštinska, odnosno gradska svojina.

Predmet javne svojine

Član 3

U javnoj svojini su prirodna bogatstva, dobra od opšteg interesa i dobra u opštoj upotrebi, za koja je zakonom utvrđeno da su u javnoj svojini, stvari koje koriste organi i organizacije Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave, ustanove, javne agencije i druge organizacije čiji je osnivač Republika Srbija, autonomna pokrajina i jedinica lokalne samouprave i druge stvari koje su, u skladu sa zakonom, u javnoj svojini.

Pod javnom svojinom iz stava 1. ovog člana ne smatraju se stvari organizacija obaveznog socijalnog osiguranja.

Primena i odnos zakona

Član 4

Na sticanje, vršenje, zaštitu i prestanak prava javne svojine, primenjuju se odredbe zakona kojim se uređuje pravo privatne svojine, ako nešto drugo nije određeno ovim ili drugim zakonom.

Odredbe posebnih zakona kojima se uređuje režim stvari u javnoj svojini ne mogu biti u suprotnosti sa ovim zakonom.

Namena stvari

Član 5

Namena stvari u javnoj svojini određuje se zakonom ili odlukom nadležnog organa donetom na osnovu zakona, odnosno drugog propisa ili opšteg akta.

Odgovornost u odlučivanju, korišćenju i upravljanju

Član 6

Svako ko odlučuje o stvarima u javnoj svojini, ko ih koristi ili njima upravlja dužan je da postupa kao dobar domaćin i odgovoran je za to u skladu sa zakonom.

Finansijska sredstva

Član 7

Finansijska sredstva (novčana sredstva i hartije od vrednosti) u svojini Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave uređuju se posebnim zakonom.

Poseban režim za određene nepokretnosti

Član 8

Pravni režim građevinskog zemljišta, poljoprivrednog zemljišta, šuma i šumskog zemljišta u javnoj svojini uređuje se posebnim zakonom.

II JAVNA SVOJINA

1. Predmet javne svojine

Prirodna bogatstva

Član 9

Vode, vodotoci i njihovi izvori, mineralni resursi, resursi podzemnih voda, geotermalni i drugi geološki resursi i rezerve mineralnih sirovina, i druga dobra koja su posebnim zakonom određena kao prirodna bogatstva, u svojini su Republike Srbije.

Način i uslovi iskorišćavanja i upravljanja prirodnim bogatstvom uređuju se posebnim zakonom.

Na prirodnom bogatstvu može se steći koncesija ili pravo korišćenja, odnosno iskorišćavanja, u skladu sa posebnim zakonom.

Naknada za korišćenje prirodnog bogatstva pripada Republici Srbiji, autonomnoj pokrajini i jedinici lokalne samouprave, na čijoj teritoriji se nalazi prirodno bogatstvo, u skladu sa posebnim zakonom.

Dobra od opšteg interesa i dobra u opštoj upotrebi u javnoj svojini

Član 10

Dobra od opšteg interesa u javnoj svojini, u smislu ovog zakona, su stvari koje su zakonom određene kao dobra od opšteg interesa (poljoprivredno zemljište, šume i šumsko zemljište, vodno zemljište, vodni objekti, zaštićena prirodna dobra, kulturna dobra i dr.), zbog čega uživaju posebnu zaštitu.

Dobrima u opštoj upotrebi u javnoj svojini, u smislu ovog zakona, smatraju se one stvari koje su zbog svoje prirode namenjene korišćenju svih i koje su kao takve određene zakonom (javni putevi, javne pruge, most i tunel na javnom putu, pruzi ili ulici, ulice, trgovi, javni parkovi, granični prelazi i dr).

Način i uslovi iskorišćavanja i upravljanja dobrima u opštoj upotrebi i dobrima od opšteg interesa uređuju se posebnim zakonom.

Na dobrima u opštoj upotrebi može se steći pravo predviđeno posebnim zakonom (koncesija, zakup i sl.).

Svako ima pravo da dobra u opštoj upotrebi koristi na način koji je radi ostvarenja te namene propisan zakonom, odnosno odlukom organa ili pravnog lica kome su ta dobra data na upravljanje.

Dobra od opšteg interesa na kojima postoji pravo javne svojine su u svojini Republike Srbije, ako zakonom nije drukčije određeno.

Dobra u opštoj upotrebi su u svojini Republike Srbije, izuzev državnih puteva II reda, koji su u svojini autonomne pokrajine na čijoj se teritoriji nalaze, kao i izuzev nekategorisanih puteva, opštinskih puteva i ulica (koji nisu deo autoputa ili državnog puta I i II reda) i trgova i javnih parkova, koji su u svojini jedinica lokalne samouprave na čijoj teritoriji se nalaze.

Mreže

Član 11

Mreža, u smislu ovog zakona, jeste nepokretna stvar sa pripacima, odnosno zbir stvari, namenjenih protoku materije ili energije radi njihove distribucije korisnicima ili odvođenja od korisnika, a čiji je pojam bliže utvrđen posebnim zakonom.

Mreže predstavljaju dobro od opšteg interesa.

Mreža kojom se obavlja privredna delatnost pružanja usluga od strane pravnih lica osnovanih od nosilaca javne svojine je u javnoj svojini.

Izuzetno od stava 3. ovog člana, posebnim zakonom može biti utvrđeno da mreže iz tog stava mogu biti i u svojini pravnog lica koje je osnovala Republika Srbija za pružanje usluga ili njegovog zavisnog društva.

Mreža, odnosno deo mreže koji služi isključivo za potrebe jednog ili više lica može biti u svojini tog, odnosno tih lica.

Mreža na kojoj na dan stupanja na snagu ovog zakona postoji pravo privatne svojine ostaje u privatnoj svojini.

Izgradnja, održavanje i korišćenje mreža u javnoj svojini mogu biti predmet koncesije, saglasno posebnom zakonu.

Stvari koje koriste organi i organizacije

Član 12

Stvari u javnoj svojini koje koriste organi i organizacije Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave, u smislu ovog zakona, čine nepokretne i pokretne stvari i druga imovinska prava, koja služe za ostvarivanje njihovih prava i dužnosti.

Druge stvari i imovinska prava

Član 13

Pod drugim stvarima u javnoj svojini iz člana 3. ovog zakona podrazumevaju se stvari koje ne spadaju u prirodna bogatstva, dobra od opšteg interesa, mreže ili stvari koje koriste organi i organizacije iz člana 12. ovog zakona (građevinsko zemljište u javnoj svojini, druge nepokretnosti i pokretne stvari u javnoj svojini).

Druga imovinska prava, u smislu ovog zakona, jesu: pravo na patent, pravo na licencu, model, uzorak i žig, pravo korišćenja tehničke dokumentacije i druga imovinska prava utvrđena zakonom.

Druga imovinska prava pribavljaju se, koriste i njima raspolaže u skladu sa zakonom.

Ulaganje u kapital i prenos prava korišćenja

Član 14

Republika Srbija, autonomna pokrajina i jedinica lokalne samouprave mogu sredstva u javnoj svojini ulagati u kapital javnog preduzeća i društva kapitala, u skladu sa ovim i drugim zakonom.

Po osnovu ulaganja iz stava 1. ovog člana Republika Srbija, autonomna pokrajina i jedinica lokalne samouprave stiču udele ili akcije u javnim preduzećima i društvima kapitala i prava po osnovu tih akcija, odnosno udela.

Republika Srbija, autonomna pokrajina i jedinica lokalne samouprave mogu ustanovama i javnim agencijama i drugim organizacijama, izuzev javnih preduzeća i društava kapitala iz stava 1. ovog člana, čiji su osnivači, prenositi pravo korišćenja na stvarima na kojima imaju pravo javne svojine.

Susvojina na stvari u javnoj svojini

Član 15

Na stvari u javnoj svojini može postojati susvojina između različitih nosilaca javne svojine, kao i između nosilaca javne svojine i drugih pravnih i fizičkih lica, u skladu sa zakonom.

Nosioci prava javne svojine mogu zajednički ili sa drugim licima investirati u izgradnju dobara od opšteg interesa, dobara u opštoj upotrebi i drugih dobara i po tom osnovu, u skladu sa ovim i drugim zakonom, sticati pravo korišćenja ili drugo pravo (koncesija i sl.) i ubirati prihode po tom osnovu.

Autonomna pokrajina i jedinica lokalne samouprave ne mogu steći svojinu, odnosno susvojinu na stvarima, odnosno dobrima iz stava 1. ovog člana koje po ovom ili drugom zakonu mogu biti isključivo u svojini Republike Srbije.

Nemogućnost prinudnog izvršenja

Član 16

Prirodna bogatstva, dobra u opštoj upotrebi, mreže u javnoj svojini, vodno zemljište i vodni objekti u javnoj svojini, zaštićena prirodna dobra u javnoj svojini i kulturna dobra u javnoj svojini, ne mogu biti predmet prinudnog izvršenja.

Na nepokretnostima u javnoj svojini koje, u celini ili delimično, koriste organi Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave za ostvarivanje njihovih prava i dužnosti ne može se sprovesti prinudno izvršenje.

Predmet prinudnog izvršenja ne mogu biti objekti, oružje i oprema namenjeni odbrani i državnoj i javnoj bezbednosti.

Dobra iz stava 1. ovog člana ne mogu se otuđiti iz javne svojine.

Nemogućnost održaja i zasnivanja hipoteke

Član 17

Na stvarima iz člana 16. ovog zakona ne može se steći pravo svojine održajem, niti se može zasnovati hipoteka ili drugo sredstvo stvarnog obezbeđenja.

2. Nosioci prava javne svojine i korisnici stvari u javnoj svojini

Pravo javne svojine i pravo korišćenja

Član 18

Nosioci prava javne svojine su Republika Srbija, autonomna pokrajina i opština, odnosno grad (u daljem tekstu: jedinica lokalne samouprave).

Gradska opština ima pravo korišćenja na stvarima u svojini grada u čijem je sastavu.

Na stvarima koje pribavi gradska opština, pravo svojine stiče grad u čijem je sastavu gradska opština, a gradska opština ima pravo korišćenja.

Statutom grada može se predvideti da gradska opština ima pravo javne svojine na pokretnim i na nepokretnim stvarima neophodnim za rad organa i organizacija gradske opštine.

Mesne zajednice i drugi oblici mesne samouprave imaju pravo korišćenja na stvarima u javnoj svojini jedinice lokalne samouprave, u skladu sa zakonom i propisom, odnosno drugim aktom jedinice lokalne samouprave.

Ustanove i javne agencije i druge organizacije (uključujući i Narodnu banku Srbije) čiji je osnivač Republika Srbija, autonomna pokrajina ili jedinica lokalne samouprave, koje nemaju status državnog organa i organizacije, organa autonomne pokrajine, odnosno organa jedinice lokalne samouprave ili javnog preduzeća, odnosno društva kapitala, imaju pravo korišćenja na nepokretnim i pokretnim stvarima u javnoj svojini koje su im prenete na korišćenje.

Korisnici stvari u javnoj svojini

Član 19

Korisnici stvari u javnoj svojini su:

1) državni organi i organizacije;

2) organi i organizacije autonomne pokrajine i jedinice lokalne samouprave;

3) javna preduzeća, društva kapitala čiji je osnivač Republika Srbija, autonomna pokrajina i jedinica lokalne samouprave, kao i njihova zavisna društva, na osnovu ugovora zaključenog na osnovu akta nadležnog organa, a kojim nisu prenete u svojinu tog javnog preduzeća, odnosno društva.

Stvari u javnoj svojini mogu se dati na korišćenje i ostalim pravnim licima, koncesijom ili na drugi način predviđen zakonom.

Ako u slučaju iz stava 2. ovog člana davanje stvari na korišćenje ima karakter državne pomoći, na takve slučajeve primeniće se zakon koji uređuje kontrolu državne pomoći.

Organi i organizacije kao korisnici

Član 20

Državni organi i organizacije, organi i organizacije autonomne pokrajine i jedinice lokalne samouprave koriste nepokretne i pokretne stvari u javnoj svojini koje su namenjene izvršavanju njihovih nadležnosti.

Izuzetno od stava 1. ovog člana, nepokretnostima koje koriste državni organi i organizacije, organi i organizacije autonomne pokrajine i jedinice lokalne samouprave, u smislu ovog zakona, smatraju se i nepokretnosti u javnoj svojini koje neposredno

ne služe izvršavanju nadležnosti tih organa i organizacija, već za ostvarivanje prihoda putem davanja u zakup, odnosno na korišćenje (tzv. komercijalne nepokretnosti - poslovni prostor, stanovi, garaže, garažna mesta i dr.).

Republika Srbija, autonomna pokrajina i jedinica lokalne samouprave mogu neposredno, preko nadležnog organa, davati u zakup, odnosno na korišćenje nepokretnosti iz stava 2. ovog člana ili za ove namene osnovati javno preduzeće ili društvo kapitala.

Osnivačkim aktom javnog preduzeća, odnosno društva kapitala iz stava 3. ovog člana, odnosno ugovorom o davanju na korišćenje nepokretnosti iz stava 2. ovog člana tom preduzeću, odnosno društvu, u skladu sa zakonom, bliže se određuje nadležnost i postupak davanja u zakup, odnosno na korišćenje tih nepokretnosti i ostvarivanja prihoda Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave po tom osnovu (zakupnina, dobit i dr.).

Javna preduzeća i društva kapitala kao korisnici

Član 21

Javno preduzeće, društvo kapitala čiji je osnivač Republike Srbija, autonomna pokrajina ili jedinica lokalne samouprave i njihova zavisna društva, koja obavljaju delatnost od opšteg interesa, koriste nepokretnosti koje im nisu uložene u kapital, a na osnovu posebnog zakona, osnivačkog akta ili ugovora zaključenog sa osnivačem.

Društvo kapitala čiji je osnivač Republike Srbija, autonomna pokrajina ili jedinica lokalne samouprave, koje ne obavlja delatnost od opšteg interesa može po osnovu ugovora zaključenog sa osnivačem, uz naknadu ili bez naknade, koristiti nepokretnosti koje mu nisu uložene u kapital, a koje su neophodne za obavljanje delatnosti radi koje je osnovano.

Ugovor iz stava 2. ovog člana, sa društvom kapitala čiji je osnivač Republika Srbija, na osnovu akta Vlade, zaključuje direktor Republičke direkcije za imovinu Republike Srbije (u daljem tekstu: Direkcija) ili lice iz Direkcije koje on za to ovlasti, a sa društvom kapitala čiji je osnivač autonomna pokrajina, odnosno jedinica lokalne samouprave, na osnovu akta nadležnog organa autonomne pokrajine, odnosno jedinice lokalne samouprave - lice ovlašćeno u skladu sa propisom autonomne pokrajine, odnosno jedinice lokalne samouprave.

Osnivač privrednog društva iz stava 2. ovog člana učestvuje u dobiti društva koja se ostvari poslovanjem sredstvima koja mu je osnivač uneo u kapital i poslovanjem nepokretnostima koje mu je osnivač dao na korišćenje, u skladu sa zakonom i ugovorom kojim su te nepokretnosti društvu date na korišćenje.

Pravo korišćenja

Član 22

Nosioci prava korišćenja iz člana 18. ovog zakona imaju pravo da stvar drže i da je koriste u skladu sa prirodom i namenom stvari, da je daju u zakup i da njome upravljaju u skladu sa ovim i drugim zakonom.

Davanje u zakup stvari u svojini Republike Srbije iz stava 1. ovog člana, osim stvari koje koristi Narodna banka Srbije, vrši se po prethodno pribavljenoj saglasnosti Direkcije.

Aktom Direkcije iz stava 2. ovog člana daje se načelna saglasnost da se stvar da u zakup, opredeljuje se namena stvari za vreme trajanja zakupa, ali ne i budući zakupac i uslovi zakupa. Za promenu namene stvari za vreme trajanja zakupa neophodna je nova saglasnost Direkcije.

Ugovor o zakupu zaključen bez saglasnosti Direkcije iz st. 2. i 3. ovog člana ništav je.

Sredstva ostvarena davanjem u zakup stvari iz stava 1. ovog člana prihod su nosioca prava korišćenja koji je stvari dao u zakup.

Odredbe st. 1. do 5. ovog člana shodno se primenjuju i kod davanja u zakup stvari u svojini autonomne pokrajine i jedinice lokalne samouprave, s tim što o davanju saglasnosti odlučuje nadležni organ autonomne pokrajine, odnosno jedinice lokalne samouprave.

Vlada može odlučiti da se nepokretnost u svojini Republike Srbije na kojoj postoji pravo korišćenja iz člana 18. ovog zakona, koja nije u funkciji ostvarivanja nadležnosti, odnosno delatnosti nosioca prava korišćenja na toj stvari, kao i nepokretnost koja se koristi suprotno zakonu, drugom propisu ili prirodi i nameni nepokretnosti, oduzme od nosioca prava korišćenja.

U slučaju kad se nepokretnost izda u zakup bez saglasnosti nadležnog organa, smatraće se da se nepokretnost koristi suprotno zakonu u smislu stava 7. ovog člana.

Vlada može odlučiti da se nepokretnost u svojini Republike Srbije na kojoj postoji pravo korišćenja iz člana 18. ovog zakona oduzme od nosioca prava korišćenja i u slučajevima koji nisu navedeni u stavu 7. ovog člana, pod uslovom da se nosiocu prava korišćenja obezbedi korišćenje druge odgovarajuće nepokretnosti.

Odredbe st. 7. do 9. ovog člana shodno se primenjuju i kod oduzimanja nepokretnosti u svojini autonomne pokrajine i jedinice lokalne samouprave, s tim što o oduzimanju odlučuje nadležni organ autonomne pokrajine, odnosno jedinice lokalne samouprave.

Odredbe st. 7. do 10. ovog člana ne primenjuju se kod oduzimanja svojine, odnosno prava korišćenja na nepokretnostima u javnoj svojini u slučajevima kada je oduzimanje ovih prava uređeno posebnim zakonom.

Pravo korišćenja na nepokretnosti u javnoj svojini iz člana 18. ovog zakona prestaje i u slučaju njenog otuđenja iz javne svojine, na osnovu odluke Vlade, odnosno nadležnog organa autonomne pokrajine, odnosno jedinice lokalne samouprave, nezavisno od volje nosioca prava korišćenja na toj nepokretnosti, u slučaju prestanka nosioca prava korišćenja, kao i u drugim slučajevima utvrđenim zakonom.

Određivanje korisnika nepokretnosti

Član 23

O davanju na korišćenje nepokretnosti oduzete u skladu sa članom 22. st. 7. i 9. ovog zakona, kao i nepokretnosti koju Republika Srbija stekne nasleđem, poklonom ili jednostranom izjavom volje, ili na drugi zakonom određen način, odlučuje Vlada, ako zakonom nije drukčije određeno.

O davanju na korišćenje nepokretnosti oduzete u skladu sa članom 22. stav 10. ovog zakona, kao i nepokretnosti koju autonomna pokrajina, odnosno jedinica lokalne samouprave stekne nasleđem, poklonom ili jednostranom izjavom volje, ili na drugi zakonom određen način, odlučuje nadležni organ autonomne pokrajine, odnosno jedinice lokalne samouprave.

Upravljanje stvarima

Član 24

Državni organi i organizacije, organi i organizacije autonomne pokrajine i jedinica lokalne samouprave, nosioci prava korišćenja iz člana 18. i korisnici iz člana 21. ovog zakona upravljaju pokretnim i nepokretnim stvarima u javnoj svojini koje koriste.

Upravljanje stvarima u javnoj svojini, u smislu stava 1. ovog člana, jeste njihovo održavanje, obnavljanje i unapređivanje, kao i izvršavanje zakonskih i drugih obaveza u vezi sa tim stvarima, ako za određeni slučaj prava korišćenja, odnosno korišćenja zakonom nije nešto drugo propisano.

Upis prava javne svojine i prava korišćenja

Član 25

Pravo javne svojine i pravo korišćenja na nepokretnostima u javnoj svojini upisuju se u javne knjige o nepokretnostima i pravima na njima, u skladu sa zakonom kojim se uređuje upis prava na nepokretnostima.

U slučajevima iz člana 19. stav 1. tač. 1) i 2) ovog zakona, može se pored nosioca prava javne svojine upisati i korisnik nepokretnosti, ako je to aktom nadležnog organa određeno.

3. Pribavljanje, raspolaganje i upravljanje stvarima u javnoj svojini

3.1. Opšte odredbe

Pojam raspolaganja

Član 26

Raspolaganjem stvarima u javnoj svojini, u smislu ovog zakona, smatra se:

1) davanje stvari na korišćenje;

2) davanje stvari u zakup;

3) prenos prava javne svojine na drugog nosioca javne svojine (sa naknadom ili bez naknade), uključujući i razmenu;

4) otuđenje stvari;

5) zasnivanje hipoteke na nepokretnostima;

6) ulaganje u kapital;

7) zalaganje pokretne stvari.

Stvari u javnoj svojini mogu se, u smislu stava 1. ovog člana, dati na korišćenje (sa naknadom ili bez naknade), ili u zakup drugom nosiocu javne svojine.

Nadležnost za odlučivanje

Član 27

O pribavljanju stvari i raspolaganju stvarima u svojini Republike Srbije, pod uslovima propisanim zakonom, odlučuje Vlada, ako zakonom nije drugačije određeno.

O pribavljanju i raspolaganju nepokretnostima u svojini Republike Srbije za potrebe državnih organa i organizacija, o prenosu prava javne svojine na nepokretnosti u svojini Republike Srbije na drugog nosioca prava javne svojine, kao i o pribavljanju i otuđenju prevoznih sredstava i opreme veće vrednosti za potrebe pomenutih organa i organizacija odlučuje Vlada, a o ostalim vidovima pribavljanja i raspolaganja pokretnim stvarima odlučuje funkcioner koji rukovodi organom, ako nešto drugo nije predviđeno ovim zakonom.

O pribavljanju i otuđenju pokretnih stvari za posebne namene, uključujući i prevozna sredstva i opremu veće vrednosti koje koristi ministarstvo nadležno za poslove odbrane i Vojska Srbije i koje za potrebe poslova bezbednosti koriste ministarstvo nadležno za unutrašnje poslove i službe bezbednosti, odlučuje rukovodilac tog organa, odnosno službi.

O otuđenju nepokretnosti u svojini Republike Srbije na kojima postoji pravo korišćenja iz člana 18. ovog zakona, kao i o zasnivanju hipoteke na tim nepokretnostima odlučuje Vlada.

O pribavljanju nepokretnosti u svojinu Republike Srbije za potrebe nosioca prava korišćenja iz člana 18. ovog zakona čiji je osnivač Republika Srbija, odlučuje nadležni organ tog nosioca prava korišćenja, uz prethodnu saglasnost Direkcije.

O davanju u zakup nepokretnosti iz stava 4. ovog člana, uključujući i otkaz ugovora, odlučuje nadležni organ nosioca prava korišćenja na nepokretnosti, saglasno članu 22. ovog zakona.

Izuzetno, o raspolaganju stvarima koje koristi Narodna banka Srbije odlučuje organ utvrđen zakonom kojim se uređuje položaj i nadležnosti Narodne banke Srbije, s tim što o otuđenju nepokretnosti i o zasnivanju hipoteke na tim nepokretnostima odlučuje Vlada.

Šta se smatra opremom veće vrednosti u smislu stava 2. ovog člana uređuje se uredbom Vlade.

O pribavljanju stvari i raspolaganju stvarima u svojini autonomne pokrajine, pod uslovima propisanim zakonom, odlučuje organ autonomne pokrajine određen u skladu sa statutom autonomne pokrajine.

O pribavljanju stvari i raspolaganju stvarima u svojini jedinice lokalne samouprave pod uslovima propisanim zakonom, odlučuje organ jedinice lokalne samouprave određen u skladu sa zakonom i statutom jedinice lokalne samouprave.

Ništav je akt o pribavljanju i raspolaganju stvarima u javnoj svojini koji je doneo nenadležni organ, kao i ugovor zaključen na osnovu takvog akta.

U pogledu utvrđivanja nadležnosti za odlučivanje o otuđenju nepokretnosti iz javne svojine, otuđenjem se smatra i odlučivanje o rashodovanju i rušenju objekta, osim u slučaju kad rušenje naloži nadležni organ zbog toga što objekat sklon padu ugrožava bezbednost, odnosno kad nadležni organ naloži rušenje objekta izgrađenog suprotno propisima o planiranju i izgradnji.

Nadležnost za pripremu akata o odlučivanju

Član 28

Priprema akata za Vladu o pribavljanju i raspolaganju stvarima u svojini Republike Srbije u smislu člana 27. st. 2. i 4. ovog zakona u nadležnosti je Direkcije, ako posebnim propisom za to nije utvrđena nadležnost drugog organa.

Organ nadležan za odlučivanje i predlaganje akata o pribavljanju, korišćenju, upravljanju i raspolaganju stvarima koje koriste organi autonomne pokrajine i jedinice lokalne samouprave utvrđuje se propisom autonomne pokrajine, odnosno jedinice lokalne samouprave.

Tržišni uslovi pribavljanja i otuđenja nepokretnosti

Član 29

Nepokretne stvari pribavljaju se u javnu svojinu i otuđuju iz javne svojine, polazeći od tržišne vrednosti nepokretnosti, koju je procenio poreski, odnosno drugi nadležni organ, u postupku javnog nadmetanja, odnosno prikupljanjem pismenih ponuda, ako zakonom nije drukčije određeno.

Pribavljanjem nepokretnih stvari, u smislu stava 1. ovog člana, smatra se i razmena nepokretnosti i izgradnja objekata.

Nepokretne stvari se mogu pribavljati u javnu svojinu besteretnim pravnim poslom (nasleđe, poklon ili jednostrana izjava volje), kao i eksproprijacijom na osnovu posebnog zakona.

Izuzetno od stava 1. ovog člana, nepokretne stvari se mogu pribaviti ili otuđiti neposrednom pogodbom, ali ne ispod od strane nadležnog organa procenjene tržišne vrednosti nepokretnosti (kod otuđenja), odnosno ne iznad te vrednosti (kod pribavljanja), ako u konkretnom slučaju to predstavlja jedino moguće rešenje. Predlog akta, odnosno akt o ovakvom raspolaganju mora da sadrži obrazloženje iz koga se može utvrditi postojanje ovih okolnosti.

Pribavljanje nepokretnosti neposrednom pogodbom putem razmene

Član 30

Izuzetno od člana 29. stav 1. ovog zakona, nepokretnosti se mogu pribaviti u javnu svojinu putem razmene neposrednom pogodbom, pod sledećim uslovima:

1) ako je takva razmena u interesu Republike Srbije, autonomne pokrajine ili jedinice lokalne samouprave, odnosno ako se time obezbeđuju veći prihodi za nosioca prava javne svojine ili bolji uslovi za efikasno vršenje njegovih prava i dužnosti;

2) ako se nepokretnosti razmenjuju pod tržišnim uslovima;

3) ako se, u slučaju kad je tržišna vrednost nepokretnosti u javnoj svojini veća od tržišne vrednosti nepokretnosti koja se pribavlja u javnu svojinu na ime razmene, ugovori doplata razlike u novcu u roku do 20 dana od dana zaključenja ugovora.

Predlog akta, odnosno akt o pribavljanju nepokretnosti iz stava 1. ovog člana mora da sadrži obrazloženje iz koga se može utvrditi postojanje okolnosti iz stava 1. tačka 1) ovog člana.

Otuđenje nepokretnosti ispod tržišne cene

Član 31

Izuzetno od člana 29. stav 1. ovog zakona, nepokretnosti se mogu otuđiti iz javne svojine i ispod tržišne cene, odnosno bez naknade, ako postoji interes za takvim raspolaganjem, kao što je otklanjanje posledica elementarnih nepogoda ili uspostavljanje dobrih odnosa sa drugim državama, odnosno međunarodnim organizacijama i u drugim slučajevima predviđenim posebnim zakonom.

Predlog akta, odnosno akt o otuđenju nepokretnosti mora da sadrži obrazloženje iz koga se može utvrditi postojanje razloga iz stava 1. ovog člana.

Ništavost ugovora

Član 32

Ugovor zaključen suprotno odredbama čl. 29 - 31. ovog zakona ništav je.

Pribavljanje i otuđenje pokretnih stvari

Član 33

Pribavljanje pokretnih stvari u javnu svojinu vrši se na način propisan zakonom kojim se uređuju javne nabavke.

Otuđenje pokretnih stvari iz javne svojine vrši se, po pravilu, u postupku javnog oglašavanja, odnosno prikupljanjem pismenih ponuda, na način kojim se obezbeđuje interes nosioca prava javne svojine.

Izuzetno od stava 2. ovog člana, otuđenje pokretnih stvari se može vršiti neposrednom pogodbom.

Otuđenje pokretnih stvari iz javne svojine može se vršiti i ispod tržišne cene, odnosno bez naknade, ako postoji interes za takvim raspolaganjem, kao što je otklanjanje posledica elementarnih nepogoda i u drugim slučajevima utvrđenim aktom Vlade.

Predlog akta, odnosno akt o otuđenju pokretnih stvari iz javne svojine mora da sadrži obrazloženje iz koga se može utvrditi postojanje razloga iz stava 4. ovog člana.

Slučajevi i uslovi pod kojima se može vršiti otuđenje pokretne stvari iz javne svojine neposrednom pogodbom i drugi slučajevi iz stava 4. ovog člana utvrđuju se uredbom Vlade.

Davanje stvari u zakup

Član 34

Stvari u javnoj svojini mogu se dati u zakup, polazeći od tržišne visine zakupnine za određenu vrstu stvari, u postupku javnog nadmetanja, odnosno prikupljanjem pismenih ponuda.

Izuzetno od stava 1. ovog člana, stvari u javnoj svojini se mogu dati u zakup neposrednom pogodbom, ako je to u konkretnom slučaju jedino moguće rešenje.

Stvari u javnoj svojini ne mogu se davati u podzakup.

Ugovor zaključen protivno odredbama ovog člana ništav je.

Uređivanje uslova i postupka

Član 35

Uslovi pribavljanja i otuđenja nepokretnosti neposrednom pogodbom i davanje u zakup stvari u javnoj svojini, kao i postupci javnog nadmetanja, odnosno prikupljanja pismenih ponuda, bliže se uređuju uredbom Vlade.

Nadležnost za zaključivanje ugovora

Član 36

Ugovore o pribavljanju i raspolaganju stvarima u svojini Republike Srbije iz člana 27. st. 2. i 4. ovog zakona, u slučajevima kada je akt o pribavljanju i raspolaganju donela Vlada, u ime Republike Srbije, zaključuje direktor Direkcije ili lice iz Direkcije koje on za to ovlasti, ako zakonom nije drukčije određeno.

Ugovor o pribavljanju i raspolaganju pokretnim stvarima iz člana 27. stav 3. ovog zakona zaključuje rukovodilac organa.

Ugovor o pribavljanju nepokretnosti u svojinu Republike Srbije iz člana 27. stav 5. ovog zakona, za potrebe nosioca prava korišćenja, u ime Republike Srbije zaključuju direktor Direkcije ili lice iz Direkcije koje on za to ovlasti i ovlašćeno lice nosioca prava korišćenja za čije se potrebe nepokretnost pribavlja u svojinu Republike Srbije.

Ugovor o davanju u zakup nepokretnosti u svojini Republike Srbije iz člana 27. stav 6. ovog zakona na kojoj postoji pravo korišćenja, na osnovu važeće saglasnosti Direkcije, zaključuje ovlašćeno lice nosioca prava korišćenja na toj nepokretnosti.

Ugovor o pribavljanju, otuđenju, uzimanju i davanju u zakup nepokretnosti koje se koriste za potrebe diplomatskih i konzularnih predstavništava Republike Srbije u inostranstvu zaključuje ministar nadležan za spoljne poslove ili lice koje on ovlasti, a za potrebe vojnih predstavništava - ministar odbrane ili lice koje on ovlasti.

Lice nadležno za zaključivanje ugovora o pribavljanju i raspolaganju stvarima u svojini autonomne pokrajine i jedinice lokalne samouprave, u ime autonomne pokrajine, odnosno jedinice lokalne samouprave, određuje se propisom autonomne pokrajine, odnosno jedinice lokalne samouprave.

Ugovor zaključen suprotno odredbama ovog člana ništav je.

Pribavljanje mišljenja i dostavljanje ugovora Republičkom javnom pravobranilaštvu

Član 37

Ugovori o pribavljanju i otuđenju nepokretnosti u svojini Republike Srbije zaključuju se po prethodno pribavljenom mišljenju Republičkog javnog pravobranilaštva.

Republičko javno pravobranilaštvo dužno je da mišljenje iz stava 1. ovog člana da u roku od 30 dana od dana prijema zahteva.

Direkcija je dužna da primerak zaključenog ugovora iz stava 1. ovog člana dostavi Republičkom javnom pravobranilaštvu u roku od 15 dana od dana zaključenja ugovora.

Pobijanje ugovora

Član 38

Republičko javno pravobranilaštvo dužno je da podnese tužbu za poništenje ugovora iz člana 37. stav 1. ovog zakona koji je zaključen suprotno propisima, odnosno ako ugovorena naknada odstupa od propisane naknade ili od naknade koja se mogla ostvariti u vreme zaključenja ugovora.

Tužba za pobijanje ugovora iz stava 1. ovog člana podnosi se u zakonom utvrđenom roku, a ako taj rok nije utvrđen zakonom - u roku od jedne godine od dana zaključenja ugovora.

Shodna primena odredaba o zaključenju i pobijanju ugovora

Član 39

Odredbe čl. 37. i 38. ovog zakona shodno se primenjuju i kod zaključenja i pobijanja ugovora o pribavljanju i raspolaganju nepokretnostima u svojini autonomne pokrajine i jedinice lokalne samouprave, s tim što kod raspolaganja tim nepokretnostima u svojini autonomne pokrajine, odnosno jedinice lokalne samouprave mišljenje daje, odnosno tužbu podnosi javno pravobranilaštvo autonomne pokrajine, odnosno jedinice lokalne samouprave, odnosno drugi organ ili lice koje saglasno odluci autonomne pokrajine, odnosno jedinice lokalne samouprave obavlja poslove pravne zaštite imovinskih prava i interesa autonomne pokrajine, odnosno jedinice lokalne samouprave.

3.2. Prirodna bogatstva i dobra od opšteg interesa

Sticanje prava na prirodnim bogatstvima i dobrima u opštoj upotrebi

Član 40

O sticanju prava na prirodnim bogatstvima i dobrima u opštoj upotrebi (član 9. stav 3. i član 10. stav 7. ovog zakona) odlučuje Vlada, ako posebnim zakonom nije drukčije određeno.

Upravljanje dobrima od opšteg interesa i dobrima u opštoj upotrebi

Član 41

Za upravljanje dobrima od opšteg interesa i dobrima u opštoj upotrebi u javnoj svojini mogu se osnivati javna preduzeća, javne agencije i društva kapitala.

Pod upravljanjem dobrima od opšteg interesa, u smislu stava 1. ovog člana, podrazumevaju se, zavisno od prirode dobra, uzgoj, staranje, izgradnja, održavanje, unapređivanje, iskorišćavanje i određivanje načina korišćenja dobra od opšteg interesa u javnoj svojini, u skladu sa posebnim zakonom.

Javna preduzeća, javne agencije i društva kapitala iz stava 1. ovog člana, dužni su da njima upravljaju savesno, zakonito i štiteći isključivo javni interes.

Zabranjeno je poverena dobra od javnog interesa koristiti u privatne, partijske ili druge nedozvoljene svrhe.

Direktori i članovi organa upravljanja u javnim preduzećima i javnim agencijama iz stava 1. ovog člana biraju se na javnom konkursu.

3.3. Ulaganje sredstava u javnoj svojini

Ulaganje u javna preduzeća i društva kapitala koja obavljaju delatnost od opšteg interesa

Član 42

Republika Srbija, autonomna pokrajina i jedinica lokalne samouprave mogu ulagati u kapital javnih preduzeća i društava kapitala koja obavljaju delatnost od opšteg interesa:

1) novac i hartije od vrednosti;

2) pravo svojine na stvarima u javnoj svojini, izuzev prirodnih bogatstava, dobara u opštoj upotrebi, mreža koje mogu biti isključivo u javnoj svojini i drugih nepokretnosti koje mogu biti isključivo u javnoj svojini;

3) druga imovinska prava koja se po opštim propisima mogu uložiti u kapital.

Vrednost stvari i prava iz stava 1. ovog člana procenjuje se na način utvrđen zakonom kojim se uređuje pravni položaj privrednih društava.

Po osnovu ulaganja nosioci javne svojine stiču akcije, odnosno udele, a uneti ulozi su svojina javnog preduzeća ili društva kapitala.

Šume i šumsko zemljište, vodno zemljište i vodni objekti u javnoj svojini kao i druga dobra od opšteg interesa u javnoj svojini kojima, saglasno posebnom zakonu, upravlja (gazduje) javno preduzeće ne ulaze u kapital tog preduzeća.

Ulaganje u društva kapitala koja ne obavljaju delatnost od opšteg interesa

Član 43

Republika Srbija, autonomna pokrajina i jedinica lokalne samouprave mogu u kapital društava kapitala koja ne obavljaju delatnost od opšteg interesa ulagati:

1) novac i hartije od vrednosti;

2) pravo svojine na stvarima u javnoj svojini, izuzev prirodnih bogatstava, dobara od opšteg interesa (uključujući i mreže) i dobara u opštoj upotrebi;

3) druga imovinska prava koja se po opštim propisima mogu uložiti u kapital.

Vrednost stvari i prava iz stava 1. ovog člana procenjuje se na način utvrđen zakonom kojim se uređuje pravni položaj privrednih društava.

Uneti ulozi u imovinu društva kapitala svojina su tog društva.

Po osnovu ulaganja nosioci javne svojine stiču akcije, odnosno udele.

Ulaganje u kapital građevinskog zemljišta u javnoj svojini

Član 44

Pravo svojine na građevinskom zemljištu u javnoj svojini može se ulagati u kapital javnog preduzeća i društva kapitala, u skladu sa zakonom kojim se uređuje građevinsko zemljište.

U kapital javnog preduzeća i društava kapitala osnovanih od Republike Srbije, autonomne pokrajine, odnosno jedinice lokalne samouprave može se ulagati pravo svojine na izgrađenom građevinskom zemljištu na kome su izgrađeni objekti koji se po ovom zakonu ulažu u kapital tih pravnih lica.

Pravo svojine na neizgrađenom građevinskom zemljištu može biti uloženo u kapital javnog preduzeća i društava kapitala osnovanih od Republike Srbije, autonomne pokrajine, odnosno jedinice lokalne samouprave, ukoliko je to neophodno za obavljanje delatnosti radi koje je to preduzeće, odnosno društvo osnovano i da je svrha korišćenja zbog koje se zemljište ulaže u skladu sa namenom predviđenom važećim planskim aktom.

Javno preduzeće i društvo kapitala iz stava 2. ovog člana koje stekne svojinu na građevinskom zemljištu po odredbama ovog člana, kao i po osnovu člana 82. ovog zakona, ne može otuđiti to zemljište, niti ga dati u dugoročni zakup, bez prethodne

saglasnosti osnivača tog javnog preduzeća, odnosno tog društva kapitala, s tim što se otuđenje, odnosno davanje u dugoročni zakup vrši po postupku za otuđenje, odnosno davanje u zakup građevinskog zemljišta u javnoj svojini, propisanom zakonom kojim se uređuje građevinsko zemljište.

Akt o otuđenju, odnosno davanju u dugoročni zakup građevinskog zemljišta suprotno stavu 4. ovog člana ništav je.

Sticanje svojine javnog preduzeća i društva kapitala

Član 45

Javno preduzeće i društvo kapitala čiji je osnivač, odnosno član Republika Srbija, autonomna pokrajina ili jedinica lokalne samouprave, koje na dan stupanja na snagu ovog zakona ima pravo korišćenja na nepokretnostima u državnoj svojini, koje čini deo ili ukupan kapital tih pravnih lica stiče pravo svojine na tim nepokretnostima saglasno odredbama čl. 42, 43. i 72. ovog zakona.

Odredba stava 1. ovog člana shodno se primenjuje i na nepokretnosti na kojoj je pravo korišćenja saglasno zakonu preneto na zavisna društva kapitala pravnih lica iz stava 1. ovog člana.

Radi sprovođenja odredaba st. 1. i 2. ovog člana izvršiće se, po potrebi, odgovarajuće promene osnivačkog akta, odnosno statuta, vezane za izmene u kapitalu i ulozima, promene u poslovnoj evidenciji i upis u registar privrednih subjekata.

Odredbe ovog člana ne primenjuju se na tzv. komercijalne nepokretnosti koje je Republika Srbija, odnosno autonomna pokrajina, odnosno jedinica lokalne samouprave poverila javnom preduzeću, odnosno društvu kapitala u smislu člana 20. st. 2 - 4. ovog zakona.

4. Stvari u javnoj svojini koje koriste organi i organizacije Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave

4.1. Organi i organizacije

Koje stvari koriste

Član 46

Državni organi i organizacije koriste nepokretne i pokretne stvari u svojini Republike Srbije namenjene izvršavanju prava i dužnosti Republike Srbije, koje su pribavljene za potrebe tih organa i organizacija ili su im date na korišćenje.

Organi i organizacije autonomne pokrajine koriste nepokretne i pokretne stvari u svojini autonomne pokrajine namenjene izvršavanju prava i dužnosti autonomne pokrajine, koje su pribavljene za potrebe tih organa i organizacija ili su im date na korišćenje.

Organi jedinice lokalne samouprave koriste nepokretne i pokretne stvari u svojini jedinice lokalne samouprave namenjene izvršavanju prava i dužnosti jedinice lokalne samouprave, koje su pribavljene za potrebe tih organa ili su im date na korišćenje.

Organi i organizacije iz st. 1. do 3. ovog člana koriste i nepokretnosti u javnoj svojini iz člana 20. stav 2. ovog zakona.

Pojam organa i organizacija

Član 47

Državni organi i organizacije, u smislu ovog zakona, su Narodna skupština, predsednik Republike, Vlada, Ustavni sud, Zaštitnik građana, Vojska Srbije, Visoki savet sudstva, Državno veće tužilaca i drugi državni organi i organizacije u skladu s Ustavom i zakonom.

Pod organima i organizacijama autonomne pokrajine, u smislu ovog zakona, podrazumevaju se organi i organizacije organizovani na osnovu i u skladu sa statutom autonomne pokrajine.

Pod organima i organizacijama jedinice lokalne samouprave, u smislu ovog zakona, podrazumevaju se organi i organizacije organizovani u skladu sa zakonom i statutom jedinice lokalne samouprave.

4.2. Vršenje svojinskih ovlašćenja

Primena propisa

Član 48

Pribavljanje, korišćenje, upravljanje i raspolaganje stvarima u javnoj svojini koje koriste organi i organizacije (u daljem tekstu: organi) Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave vrši se u skladu s ovim zakonom i na osnovu njega donetim podzakonskim aktima, ako ovim zakonom nije drukčije određeno.

Način korišćenja, održavanja i upravljanja stvarima

Član 49

Organi Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave dužni su da stvari u javnoj svojini koriste na način kojim se obezbeđuje efikasno vršenje njihovih prava i dužnosti, kao i racionalno korišćenje i očuvanje tih stvari.

Vlada će bliže urediti vršenje poslova u vezi sa korišćenjem, održavanjem i upravljanjem stvarima u javnoj svojini koje koriste organi Republike Srbije, ako za određene vrste nepokretnosti nije nešto drugo propisano ovim ili drugim zakonom.

Korišćenje, održavanje i upravljanje stvarima u javnoj svojini koje koriste organi autonomne pokrajine i jedinice lokalne samouprave bliže će se urediti propisom nadležnog organa autonomne pokrajine, odnosno jedinice lokalne samouprave.

Odgovornost funkcionera i zaposlenih

Član 50

Funkcioner koji rukovodi organom, odnosno drugo ovlašćeno lice, stara se o zakonitosti i odgovoran je za zakonito korišćenje i upravljanje stvarima u javnoj svojini koje koristi taj organ.

Zaposleni u organima odgovorni su za savesno i namensko korišćenje stvari u javnoj svojini koje koriste u obavljanju poslova.

Postupanje sa stvarima koje nisu neophodne za vršenje poslova organa

Član 51

Stvari u javnoj svojini koje nisu neophodne za vršenje poslova iz delokruga organa Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave mogu se dati na korišćenje drugom organu tog nosioca javne svojine ili drugom organu drugog nosioca javne svojine na određeno ili neodređeno vreme, dati u zakup drugom pravnom ili fizičkom licu, zameniti za drugu stvar ili otuđiti.

4.3. Vrste stvari

Vrste stvari

Član 52

Stvari u javnoj svojini koje koriste organi Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave za vršenje njihovih prava i dužnosti obuhvataju nepokretne i pokretne stvari.

Nepokretne stvari, u smislu stava 1. ovog člana, jesu: službene zgrade i poslovne prostorije, stambene zgrade i stanovi, garaže i garažna mesta, nepokretnosti za reprezentativne potrebe, nepokretnosti za potrebe diplomatskih i konzularnih predstavništava i nepokretnosti za posebne namene.

Pokretne stvari, u smislu stava 1. ovog člana, jesu: prevozna sredstva, predmeti istorijskodokumentarne, kulturne i umetničke vrednosti, oprema, potrošni materijal i pokretne stvari za posebne namene.

Pokretne stvari, u smislu stava 1. ovog člana, su i novac i hartije od vrednosti, koji se uređuju posebnim zakonom.

4.3.1. Nepokretne stvari

Službene zgrade i poslovne prostorije

Član 53

Službene zgrade i poslovne prostorije, u smislu ovog zakona, su: zgrade, delovi zgrada i prostorije izgrađene, kupljene i na drugi način pribavljene od strane Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave.

Raspored službenih zgrada i poslovnih prostorija u svojini Republike Srbije vrši Vlada, a raspored službenih zgrada i poslovnih prostorija u svojini autonomne pokrajine, odnosno jedinice lokalne samouprave vrši nadležni organ autonomne pokrajine, odnosno jedinice lokalne samouprave.

Stambene zgrade i stanovi

Član 54*

Stambenim zgradama, u smislu ovog zakona, smatraju se stambene zgrade, stanovi, garaže i poslovni prostor u stambenim zgradama, koji su izgradnjom, kupovinom ili po drugom osnovu pribavljeni u svojinu Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave za potrebe organa Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave.

Za zaposlene u ministarstvu nadležnom za poslove odbrane kriterijume i postupak davanja stanova u zakup i njihove kupovine i dodeljivanje stambenih zajmova propisuje ministar nadležan za poslove odbrane.

Za zaposlene u Narodnoj banci Srbije kriterijume i postupak davanja stanova u zakup i njihove kupovine i dodeljivanja stambenih zajmova, u skladu sa uredbom iz stava 2. ovog člana, opštim aktom utvrđuje Guverner Narodne banke Srbije.

Visinu zakupnine za korišćenje stambenih zgrada, stanova i garaža propisuje Vlada, odnosno nadležni organ autonomne pokrajine, odnosno jedinice lokalne samouprave.

Stambenim zgradama i stanovima smatraju se takođe i stambene zgrade i stanovi u javnoj svojini namenjeni za socijalno stanovanje čiji je pravni režim propisan posebnim zakonom.

Nadležnost Direkcije

Član 55

Poslove državne uprave u vezi sa pribavljanjem, upravljanjem i raspolaganjem stambenim zgradama, stanovima i drugim nepokretnostima koje koriste državni organi obavlja Direkcija, ako zakonom nije drukčije određeno.

Stambene zgrade i stanovi za potrebe organa odbrane

Član 56

O pribavljanju i raspolaganju stambenim zgradama, stanovima, garažama i poslovnim prostorom u stambenim zgradama koje koriste ministarstvo nadležno za poslove odbrane i Vojska Srbije odlučuje Vlada na predlog Direkcije.

Način korišćenja, upravljanja i održavanja stambenih zgrada, stanova, garaža i poslovnog prostora iz stava 1. ovog člana propisuje ministar nadležan za poslove odbrane.

Nepokretnosti za reprezentativne potrebe

Član 57

Nepokretnosti za reprezentativne potrebe, u smislu ovog zakona, jesu rezidencije, gostinske vile i druge nepokretnosti koje služe za potrebe reprezentacije Republike Srbije.

Vlada utvrđuje koje se nepokretnosti smatraju sredstvima za reprezentativne potrebe u smislu stava 1. ovog člana, propisuje način njihovog korišćenja i određuje organ koji obavlja poslove održavanja ovih nepokretnosti.

Predsedniku Republike i predsedniku Vlade, za vreme obavljanja te funkcije, omogućuje se korišćenje posebnih rezidencija.

Nepokretnosti za reprezentativne potrebe autonomne pokrajine i jedinice lokalne samouprave uređuju se aktom autonomne pokrajine, odnosno jedinice lokalne samouprave.

Nepokretnosti za potrebe diplomatsko-konzularnih predstavništava

Član 58

Nepokretnosti za potrebe diplomatsko-konzularnih predstavništava u svojini Republike Srbije u inostranstvu koriste se u skladu sa zakonom kojim se uređuju spoljni poslovi.

Nepokretnosti za posebne namene

Član 59

Nepokretnosti za posebne namene, u smislu ovog zakona, su nepokretne stvari za vojne potrebe koje koristi ministarstvo nadležno za poslove odbrane i Vojska Srbije i nepokretne stvari za potrebe poslova bezbednosti iz delokruga ministarstva nadležnog za unutrašnje poslove i službi bezbednosti.

Šta se smatra nepokretnim stvarima za posebne namene iz stava 1. ovog člana bliže se uređuje posebnim zakonom.

4.3.2. Pokretne stvari

Prevozna sredstva

Član 60

Prevozna sredstva, u smislu ovog zakona, jesu motorna vozila, vazduhoplovi, plovni objekti, šinska vozila i druga sredstva koja služe za potrebe organa Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave i zaposlenih u tim organima.

Prevozna sredstva se koriste za obavljanje službenih poslova organa iz stava 1. ovog člana, u skladu s potrebama i njihovom namenom.

Vlada uređuje način korišćenja prevoznih sredstava u svojini Republike Srbije.

Način korišćenja prevoznih sredstava u svojini autonomne pokrajine i jedinice lokalne samouprave uređuje se propisom autonomne pokrajine, odnosno jedinice lokalne samouprave.

Oprema i potrošni materijal

Član 61

Opremom i potrošnim materijalom, u smislu ovog zakona, smatraju se računarski sistemi, birotehnička oprema, sredstva veza, laboratorijska oprema, kancelarijski nameštaj i drugi predmeti potrebni za rad organa.

Predmeti posebne vrednosti

Član 62

Predmeti istorijskodokumentarne, kulturne i umetničke vrednosti, u smislu ovog zakona, jesu pisani i drugi istorijski dokumenti, skulpture, slike, predmeti od plemenitih metala, tapiserije i drugi predmeti likovne i primenjene umetnosti, kao i drugi predmeti i dela od istorijsko-dokumentarnog, kulturnog i umetničkog značaja u javnoj svojini.

Predmeti iz stava 1. ovog člana mogu se, na zahtev muzeja i drugih kulturnih institucija, dati na korišćenje radi izlaganja.

O davanju predmeta iz stava 2. ovog člana zaključuje se ugovor u pismenom obliku, kojim se posebno uređuju pitanja osiguranja, prevoza, čuvanja, zaštite i vraćanja tih predmeta.

Vlada bliže uređuje način korišćenja, upravljanja, čuvanja i zaštite predmeta istorijsko-dokumentarne, kulturne i umetničke vrednosti u javnoj svojini.

Pokretne stvari za posebne namene

Član 63

Pokretne stvari za posebne namene, u smislu ovog zakona, jesu: naoružanje, vojna i tehnička oprema, prevozna sredstva i druge pokretne stvari za vojne potrebe koje koristi ministarstvo nadležno za poslove odbrane i Vojska Srbije i koje za potrebe poslova bezbednosti koriste ministarstvo nadležno za unutrašnje poslove i službe bezbednosti.

Šta se smatra pokretnim stvarima za posebne namene iz stava 1. ovog člana bliže se uređuje posebnim zakonom.

4.4. Evidencija stvari u javnoj svojini

Nadležnost i način vođenja evidencije

Član 64

Organi Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave vode evidenciju o stanju, vrednosti i kretanju sredstava u javnoj svojini koje koriste, u skladu sa zakonom.

Organi iz stava 1. ovog člana vode posebnu evidenciju nepokretnosti u javnoj svojini koje koriste.

Organi Republike Srbije, autonomne pokrajine i jedinice lokalne samouprave dužni su da podatke iz evidencije nepokretnosti iz stava 2. ovog člana dostavljaju Direkciji, koja vodi jedinstvenu evidenciju nepokretnosti u javnoj svojini.

Vlada uredbom propisuje sadržinu i način vođenja evidencije nepokretnosti iz stava 2. ovog člana, kao i rokove dostavljanja podataka i način vođenja jedinstvene evidencije iz stava 3. ovog člana.

Organi autonomne pokrajine i jedinice lokalne samouprave dužni su da vode evidenciju nepokretnosti u svojini autonomne pokrajine, odnosno jedinice lokalne samouprave koje koriste, u skladu sa uredbom iz stava 4. ovog člana.

Javno preduzeće, društvo kapitala, zavisno društvo kapitala, ustanova ili drugo pravno lice čiji je osnivač Republika Srbija, autonomna pokrajina ili jedinica lokalne samouprave vodi evidenciju nepokretnosti u javnoj svojini koje koristi.

Podatke iz evidencije nepokretnosti iz stava 6. ovog člana, javno preduzeće, društvo kapitala, zavisno društvo kapitala, ustanova, javna agencija i drugo pravno lice čiji je osnivač Republika Srbija, dostavljaju Direkciji, koja vodi jedinstvenu evidenciju nepokretnosti u javnoj svojini.

Podatke iz evidencije nepokretnosti iz stava 6. ovog člana, javno preduzeće, društvo kapitala, zavisno društvo kapitala, ustanova ili drugo pravno lice čiji je osnivač autonomna pokrajina ili jedinica lokalne samouprave dostavljaju nadležnom organu osnivača, koji te podatke dostavlja Direkciji, koja vodi jedinstvenu evidenciju nepokretnosti u javnoj svojini.

Nadležni organ autonomne pokrajine, odnosno jedinice lokalne samouprave vodi jedinstvenu evidenciju nepokretnosti u svojini autonomne pokrajine, odnosno jedinice lokalne samouprave, u skladu sa uredbom iz stava 4. ovog člana.

4.5. Primanje i davanje poklona u odnosima sa inostranstvom

Primanje i zadržavanje poklona

Član 65

Pokloni koje funkcioneri, poslanici, državni službenici i druga lica, za koja je odlučeno da u odnosima sa inostranstvom predstavljaju Republiku Srbiju, prime od predstavnika strane države, organizacije ili institucije u stranoj državi ili stranog državljanina, međunarodne organizacije ili njenog organa, postaju svojina Republike Srbije.

Pokloni koje predstavnici autonomne pokrajine ili jedinice lokalne samouprave dobiju u vršenju poslova predstavljanja autonomne pokrajine, odnosno jedinice lokalne samouprave u međunarodnoj saradnji, postaju javna svojina autonomne pokrajine, odnosno jedinice lokalne samouprave.

Izuzetno od st. 1. i 2. ovog člana, funkcioneri, poslanici, državni službenici i druga lica za koja je odlučeno da u odnosima sa inostranstvom predstavljaju Republiku Srbiju, odnosno predstavnici autonomne pokrajine ili jedinice lokalne samouprave u poslovima međunarodne saradnje, mogu steći pravo svojine na prigodnom poklonu manje vrednosti, koji ne može biti u novcu, a koji se daje za uspomenu ili u znak međunarodne saradnje ili solidarnosti.

Pod prigodnim poklonom manje vrednosti, u smislu ovog zakona, podrazumeva se poklon čija vrednost ne prelazi iznos utvrđen zakonom kojim se uređuje sprečavanje sukoba interesa pri vršenju javnih funkcija.

Procena vrednosti, prijava i predaja poklona

Član 66

U pogledu procene vrednosti, prijave i predaje poklona u svojinu primaocu poklona shodno se primenjuju odgovarajuće odredbe kojima se uređuje sprečavanje sukoba interesa pri vršenju javnih funkcija.

Uređivanje čuvanja i korišćenja poklona u javnoj svojini

Član 67

Vlada uređuje način i rokove predaje, čuvanja i korišćenja poklona koji ostaju u javnoj svojini.

Davanje poklona

Član 68

Predstavnicima međunarodne organizacije ili njenih organa, strane države, organa strane države, organizacije ili institucije strane države ili stranom državljaninu mogu se, na osnovu odluke nadležnog organa, izuzetno, za uspomenu ili u znak međunarodne saradnje ili solidarnosti iz javne svojine dati prigodni pokloni manje vrednosti domaće proizvodnje.

Narodna skupština, odnosno telo koje ona ovlasti, predsednik Republike i Vlada mogu odlučiti da se šefu strane države, predsedniku parlamenta strane države ili predsedniku vlade strane države može dati poklon čija je vrednost veća od iznosa predviđenog u članu 65. stav 4. ovog zakona.

4.6. Nadzor

Nadležnost i izveštavanje

Član 69

Nadzor nad primenjivanjem odredaba ovog zakona i na osnovu njega donetih podzakonskih propisa o pribavljanju, korišćenju, upravljanju i raspolaganju stvarima u svojini Republike Srbije vrši ministarstvo nadležno za poslove finansija.

Izuzetno od odredbe stava 1. ovog člana, nadzor nad primenjivanjem odredaba ovog zakona i drugih propisa u vezi sa pribavljanjem, korišćenjem, upravljanjem i raspolaganjem stvarima u svojini Republike Srbije koje koristi ministarstvo nadležno za poslove odbrane, Vojska Srbije i vojne službe bezbednosti vrši ministarstvo nadležno za poslove odbrane, stvarima koje koristi ministarstvo nadležno za unutrašnje poslove - to ministarstvo, a stvarima koje koristi Bezbednosno-informativna agencija - ta agencija.

Nadzor nad primenjivanjem odredaba ovog zakona i na osnovu njega donetih podzakonskih propisa o pribavljanju, korišćenju, upravljanju i raspolaganju stvarima u svojini autonomne pokrajine, odnosno jedinice lokalne samouprave, vrši organ utvrđen propisom autonomne pokrajine, odnosno jedinice lokalne samouprave.

U vršenju nadzora iz st. 1 - 3. ovog člana nadležni organi imaju pravo neposrednog uvida u evidenciju i dokumentaciju o pribavljanju, korišćenju, upravljanju i raspolaganju stvarima u javnoj svojini.

O utvrđenom stanju organi iz st. 1. i 2. ovog člana imaju pravo i dužnost da obaveste Vladu i da predlože mere za otklanjanje utvrđenih nepravilnosti ili nezakonitosti.

Obaveze korisnika sredstava kod kojih se vrši nadzor

Član 70

Organi i drugi korisnici sredstava u javnoj svojini kod kojih se vrši nadzor dužni su da organu koji vrši nadzor omoguće uvid u evidenciju i dokumentaciju o pribavljanju, korišćenju, upravljanju i raspolaganju stvarima u javnoj svojini, kao i da mu daju potrebna objašnjenja i pruže pomoć u vršenju tog nadzora.

Dostavljanje izveštaja

Član 71

Direkcija podnosi Vladi godišnji izveštaj o stanju nepokretnosti u javnoj svojini, najkasnije do 31. maja tekuće godine za prethodnu godinu.

Ministarstvo nadležno za poslove odbrane i ministarstvo nadležno za unutrašnje poslove podnose Direkciji godišnje izveštaje o stanju nepokretnosti u svojini Republike Srbije koje koriste, najkasnije do 31. marta tekuće godine za prethodnu godinu.

III USPOSTAVLJANJE JAVNE SVOJINE REPUBLIKE SRBIJE, AUTONOMNE POKRAJINE I JEDINICE LOKALNE SAMOUPRAVE

Osnovna pravila

Član 72

Nepokretnosti, pokretne stvari i druga sredstva (u daljem tekstu: sredstva) koja su, na osnovu Zakona o sredstvima u svojini Republike Srbije ("Službeni glasnik RS", br. 53/95, 3/96 - ispravka, 54/96, 32/97 i 101/05 - dr. zakon), na dan stupanja na snagu ovog zakona u državnoj svojini, postaju sredstva u javnoj svojini Republike Srbije, ako ovim zakonom nije drukčije određeno.

Prirodna bogatstva, dobra od opšteg interesa, dobra u opštoj upotrebi u državnoj svojini (izuzev dobara koja po ovom zakonu pripadaju Autonomnoj pokrajini Vojvodine i jedinici lokalne samouprave), kao i sredstva koja na dan stupanja na snagu ovog zakona koriste Republika Srbija, državni organi i organizacije, ustanove i druge organizacije čiji je osnivač Republika Srbija, danom stupanja na snagu ovog zakona postaju sredstva u javnoj svojini Republike Srbije.

Na sredstvima iz stava 1. ovog člana, uključujući i sredstva u inostranstvu, koja koriste autonomna pokrajina, odnosno jedinica lokalne samouprave uspostavlja se pravo javne svojine autonomne pokrajine, odnosno pravo javne svojine jedinice lokalne samouprave, pod uslovima i na način propisan ovim zakonom.

Sredstvima iz stava 3. ovog člana, koja koriste autonomna pokrajina, odnosno jedinica lokalne samouprave smatraju se sredstva u državnoj svojini na kojima su na dan stupanja na snagu ovog zakona upisani kao korisnici autonomna pokrajina, organi i organizacije autonomne pokrajine, odnosno jedinica lokalne samouprave i organi i organizacije jedinice lokalne samouprave, kao i sredstva koja autonomna pokrajina, odnosno jedinica lokalne samouprave i ovi organi i organizacije koriste na osnovu pravnog osnova koji može predstavljati osnov za njihov upis u javnu knjigu kao korisnika sredstava. Ako je kao korisnik sredstava u državnoj svojini upisana mesna zajednica, odnosno druga organizacija sa odgovarajućim nazivom (mesni narodni odbor i sl.), pravo javne svojine stiče jedinica lokalne samouprave, a mesna zajednica pravo korišćenja.

Pod sredstvima iz stava 3. ovog člana smatraju se i sredstva:

- koja koriste ustanova i druga organizacija čiji je osnivač autonomna pokrajina, odnosno jedinica lokalne samouprave, odnosno mesna zajednica;

- komunalne mreže;

- ulice, trgovi, javni parkovi na kojima pravo javne svojine stiče jedinica lokalne samouprave na čijoj su teritoriji;

- dobra koja koriste javna preduzeća čiji je osnivač Autonomna pokrajina Vojvodina saglasno Zakonu o utvrđivanju nadležnosti Autonomne pokrajine Vojvodine a koja im nisu uložena, niti po ovom zakonu mogu biti uložena u kapital, osim dobara koja po zakonu mogu biti isključivo u svojini Republike Srbije;

- u potpunosti izgrađena iz budžeta Autonomne pokrajine Vojvodine, iz dela koji se po Ustavu Republike Srbije koristi za finansiranje kapitalnih rashoda, pod uslovom da ta sredstva mogu biti u javnoj svojini Autonomne pokrajine Vojvodine, u skladu sa ovim zakonom;

- kanalske mreže na teritoriji Autonomne pokrajine Vojvodine, osim ako su deo plovnih puteva;

- objekti na teritoriji bivših jugoslovenskih republika koji su bili u društvenoj svojini, na kojima je kao nosilac prava raspolaganja bila ili je upisana Autonomna pokrajina Vojvodina, odnosno jedinica lokalne samouprave ili ustanova čiji je osnivač Autonomna pokrajina Vojvodine, odnosno jedinica lokalne samouprave.

U nepokretne stvari iz st. 4. i 5. ovog člana ne ulaze nepokretnosti u državnoj svojini koje su organu i organizaciji, ustanovi i drugoj organizaciji date na privremeno korišćenje.

Na nepokretnostima u državnoj svojini na kojima pravo korišćenja ima javno preduzeće i društvo kapitala čiji je osnivač ili član Republika Srbija, autonomna pokrajina, odnosno jedinica lokalne samouprave, uspostavlja se, pod uslovima i na način propisan ovim zakonom, svojina tog javnog preduzeća odnosno društva kapitala, izuzev na komunalnim mrežama, na nepokretnostima iz člana 20. stav 2. ovog zakona i na nepokretnostima koje se na osnovu ovog zakona ne mogu ulagati u kapital, odnosno koja mogu biti isključivo u javnoj svojini.

Odredba stava 7. ovog člana shodno se primenjuje i na nepokretnosti kod kojih je pravo korišćenja preneto saglasno zakonu na zavisna društva kapitala pravnih lica iz tog stava.

Odredbe st. 7. i 8. ovog člana ne primenjuju se na nepokretnosti u državnoj svojini koje su date na privremeno korišćenje.

Po osnovu sticanja svojine javnog preduzeća i društva kapitala na nepokretnostima iz stava 7. ovog člana, Republika Srbija, autonomna pokrajina, odnosno jedinica lokalne samouprave stiču akcije ili udele u javnom preduzeću odnosno društvu kapitala, ukoliko akcije, odnosno udele po tom osnovu nisu stekle do dana stupanja na snagu ovog zakona.

Na pokretnim stvarima koje koriste organi i organizacije iz stava 4. ovog člana i pravno lice iz st. 7. i 8. ovog člana, autonomna pokrajina, odnosno jedinica lokalne samouprave, odnosno pravno lice stiče pravo svojine danom stupanja na snagu ovog zakona.

Radi sprovođenja odredaba ovog člana izvršiće se, po potrebi, promene osnivačkog akta, odnosno statuta, promene u poslovnoj evidenciji i upis u registar privrednih subjekata.

Odredbe ovog člana u pogledu sticanja javne svojine autonomne pokrajine i jedinice lokalne samouprave, ne primenjuju se na dobra od opšteg interesa koja nisu navedena u stavu 2. ovog člana i na građevinsko zemljište koje je na dan stupanja na snagu ovog zakona u državnoj svojini.

Organ nadležan za vođenje javne evidencije o nepokretnostima i pravima na njima izvršiće, po službenoj dužnosti, upis prava javne svojine Republike Srbije na nepokretnostima iz stava 2. ovog člana.

Član 73

Autonomnoj pokrajini Vojvodini pripadaju i sredstva stvorena ulaganjima AP Vojvodine, koja su joj potrebna za ostvarivanje njenih nadležnosti na poslovima uređenim Ustavom Republike Srbije, zakonom i Zakonom o utvrđivanju nadležnosti AP Vojvodine.

Vlada Republike Srbije će svojim aktom utvrditi sredstva iz stava 1. ovog člana u roku od 180 dana od dana stupanja na snagu ovog zakona, na poslovima rudarstva i energetike, sajmova i drugih privrednih manifestacija, javnog informisanja, zaštite kulturnih dobara, nauke i tehnološkog razvoja i drugih poslova predviđenih Zakonom o utvrđivanju nadležnosti AP Vojvodine.

Nepokretnosti neophodne Republici Srbiji

Član 74

Izuzetno od odredaba člana 72. stav 4. i stav 5. alineja prva ovog zakona na nepokretnostima koje na dan stupanja na snagu ovog zakona faktički koriste Republika Srbija, odnosno državni organi i organizacije, Republika Srbija danom stupanja na snagu ovog zakona stiče:

- javnu svojinu ukoliko na nepokretnostima na dan stupanja na snagu ovog zakona nisu kao korisnici ili nosioci prava korišćenja upisani drugi nosioci javne svojine, ili od njih osnovane ustanove i druge organizacije;

- javnu svojinu ukoliko su nepokretnosti namenjene za reprezentativne potrebe državnih organa i Republike Srbije ili služe za smeštaj stranih diplomatsko-konzularnih predstavništava, bez obzira na stanje korisnika, odnosno nosioca prava korišćenja u javnom registru nepokretnosti i prava na njima;

- pravo besteretnog korišćenja u trajanju od 10 godina ukoliko su na nepokretnostima na dan stupanja na snagu ovog zakona upisani kao korisnici ili nosioci prava korišćenja drugi nosioci javne svojine ili od njih osnovane ustanove i druge organizacije.

Pravo besteretnog korišćenja u smislu stava 1. alineja treća ovog člana stiče se i u slučaju delimičnog korišćenja određene nepokretnosti - na delu koji se faktički koristi, a prema popisu koji će sačiniti korisnici nepokretnosti.

U slučajevima iz stava 1. alineja treća i stava 2. ovog člana, nadležni organi Republike Srbije i Autonomne pokrajine Vojvodine, odnosno jedinice lokalne samouprave mogu se sporazumeti da se umesto predmetne nepokretnosti Republici Srbiji, odnosno državnim organima i organizacijama obezbedi korišćenje druge nepokretnosti pod istim uslovima.

Građevinsko zemljište

Član 75

Konstituisanje prava javne svojine na građevinskom zemljištu u državnoj svojini uređuje se posebnim zakonom.

Način sticanja javne svojine na nepokretnostima i podnošenje zahteva

Član 76

Pravo javne svojine autonomne pokrajine i jedinice lokalne samouprave na nepokretnostima iz člana 72. ovog zakona stiče se upisom prava javne svojine u javnu knjigu o nepokretnostima i pravima na njima.

Nadležni organ autonomne pokrajine, odnosno jedinice lokalne samouprave podnosi nadležnom organu za upis prava na nepokretnostima zahtev za upis prava javne svojine autonomne pokrajine, odnosno jedinice lokalne samouprave na osnovu odredaba ovog zakona.

Uz zahtev iz stava 2. ovog člana podnosi se izvod iz javne knjige u koju se upisuju prava na nepokretnostima ili druga isprava kojom se dokazuje pravo korišćenja, odnosno svojstvo korisnika nepokretnosti, kao i potvrda Republičke direkcije za imovinu da su nepokretnosti prijavljene za jedinstvenu evidenciju nepokretnosti u državnoj svojini saglasno zakonu.

U slučaju kad nepokretnost nije evidentirana kod Direkcije korisnik nepokretnosti je dužan da podnese evidencionu prijavu na propisanom obrascu.

Rok za podnošenje zahteva

Član 77

Autonomna pokrajina i jedinica lokalne samouprave podnose zahtev za upis prava javne svojine iz člana 76. stav 2. ovog zakona u roku od pet godina od dana stupanja na snagu ovog zakona.

Ukoliko se zahtev za upis prava javne svojine za određenu nepokretnost ne podnese u roku iz stava 1. ovog člana, nadležni organ za upis prava na nepokretnostima, izvršiće, po službenoj dužnosti, na toj nepokretnosti upis prava javne svojine Republike Srbije, uz zadržavanje postojećeg upisa prava korišćenja, odnosno korisnika.

U slučaju iz stava 2. ovog člana, ukoliko autonomna pokrajina, odnosno jedinica lokalne samouprave ne podnese zahtev za upis prava javne svojine u smislu stava 1. ovog člana, u roku od 10 godina od dana stupanja na snagu ovog zakona, nadležni organ za upis prava na nepokretnostima izvršiće, po službenoj dužnosti, brisanje prava korišćenja, odnosno korisnika.

Rešenje po zahtevu za upis

Član 78

Po zahtevu za upis nadležan organ donosi rešenje, koje dostavlja podnosiocu zahteva i Republičkom javnom pravobranilaštvu.

Protiv rešenja iz stava 1. ovog člana može se izjaviti žalba u roku od 30 dana od dana prijema rešenja.

Upis prava vrši se na osnovu pravosnažnog rešenja iz stava 1. ovog člana.

Zahtev za upis prava javne svojine autonomne pokrajine i jedinice lokalne samouprave na nepokretnostima iz člana 72. ovog zakona usvojiće se ako je uz zahtev ili naknadno organu nadležnom za upis dostavljena potvrda Direkcije da za tu nepokretnost nije podneta prijava u skladu sa Zakonom o prijavljivanju i evidentiranju oduzete imovine ("Službeni glasnik RS", broj 45/05).

Za nepokretnosti koje su prijavljene i evidentirane u skladu sa Zakonom iz stava 4. ovog člana, zahtev za upis prava javne svojine autonomne pokrajine i jedinice lokalne samouprave na nepokretnostima iz člana 72. ovog zakona usvojiće se ako je uz zahtev ili naknadno organu nadležnom za upis dostavljeno jedno od sledeća dva rešenja:

1) rešenje kojim se odbija zahtev za vraćanje imovine i obeštećenje;

2) rešenje kojim se utvrđuje pravo na obeštećenje.

Izuzetno od stava 4. ovog člana, ako su za to ispunjeni propisani uslovi, organ nadležan za upis dozvoliće upis javne svojine autonomne pokrajine i jedinice lokalne samouprave i kad nije dostavljena jedna od isprava iz stava 4. ovog člana, pod uslovom da se iz podnetog zahteva i dostavljene dokumentacije nedvosmisleno može utvrditi da je vraćanje predmetne nepokretnosti u naturalnom obliku ranijem vlasniku, odnosno njegovom zakonskom nasledniku isključeno po zakonu kojim se uređuje vraćanje oduzete imovine i obeštećenje.

Posledice odbijanja zahteva

Član 79

Ukoliko zahtev za upis prava javne svojine autonomne pokrajine, odnosno jedinice lokalne samouprave bude pravnosnažno odbijen, smatraće se da je nepokretnost u javnoj svojini Republike Srbije i nadležni organ izvršiće, po službenoj dužnosti, upis tog prava.

Posebna svojinska ovlašćenja autonomne pokrajine i jedinice lokalne samouprave

Član 80

Danom stupanja na snagu ovog zakona na nepokretnostima iz člana 72. st. 4. i 5. ovog zakona uspostavljaju se posebna svojinska ovlašćenja autonomne pokrajine, odnosno jedinice lokalne samouprave, u skladu sa odredbama ovog zakona.

Autonomna pokrajina i jedinica lokalne samouprave mogu preduzimati sve akte raspolaganja nepokretnostima iz stava 1. ovog člana, osim otuđenja nepokretnosti iz javne svojine bez saglasnosti Vlade.

O otuđenju nepokretnosti iz stava 1. ovog člana odlučuje Vlada na predlog koji može podneti autonomna pokrajina, odnosno jedinica lokalne samouprave, a prihod po osnovu otuđenja nepokretnosti uplaćuje se u budžet autonomne pokrajine, odnosno jedinice lokalne samouprave.

Akti otuđenja nepokretnosti iz člana 72. st. 4. i 5. ovog zakona suprotno odredbama ovog člana ništavi su.

Odredbe st. 1 - 4. ovog člana primenjivaće se do pravosnažnosti rešenja o upisu prava javne svojine po zahtevu iz člana 76. stav 2, odnosno po zahtevu iz člana 82a stav 1. ovog zakona.

U svemu ostalom, u pogledu raspolaganja i korišćenja nepokretnosti iz stava 1. ovog člana, do pravosnažnosti rešenja o upisu iz stava 5. ovog člana shodno će se primenjivati odgovarajuće odredbe ovog zakona.

Prekršaj

Član 81

Kaznom zatvora od 30 do 60 dana i novčanom kaznom od 100.000 do 150.000 dinara kazniće se za prekršaj odgovorno lice u organu autonomne pokrajine i jedinice lokalne samouprave koji donese akt o otuđenju nepokretnosti suprotno članu 80. stav 2. ovog zakona, kao i lice u organu autonomne pokrajine i jedinice lokalne samouprave koje na osnovu takvog akta potpiše ugovor o otuđenju nepokretnosti.

Upis prava svojine javnog preduzeća i društva kapitala

Član 82

Pravo svojine javnog preduzeća i društva kapitala na nepokretnostima iz člana 72. st. 7, 8. i 9. ovog zakona, stiče se upisom u javnu evidenciju o nepokretnostima i pravima na njima.

Uz zahtev za upis prava svojine iz stava 1. ovog člana podnosi se izvod iz javne knjige u kojoj se upisuju prava na nepokretnostima ili druga isprava kojom se dokazuje pravo korišćenja, akt o saglasnosti nadležnog organa osnivača, izmena osnivačkog akta i potvrda Direkcije da su nepokretnosti prijavljene radi upisa u jedinstvenu evidenciju nepokretnosti u skladu sa zakonom.

Javno preduzeće odnosno društvo kapitala, kao i njihova zavisna društva podnose zahtev za upis prava svojine u roku od pet godina od dana stupanja na snagu ovog zakona.

Neće se dozvoliti upis prava svojine javnog preduzeća i društva kapitala na:

1) prirodnim bogatstvima;

2) dobrima u opštoj upotrebi;

3) mrežama u javnoj svojini;

4) nepokretnostima iz člana 20. stav 2. ovog zakona koje su poverene javnom preduzeću, odnosno društvu kapitala, odnosno njihovom zavisnom društvu radi davanja u zakup odnosno na korišćenje;

5) nepokretnostima koje koriste organi i organizacije nosioca prava javne svojine na tim nepokretnostima;

6) poljoprivrednom i građevinskom zemljištu i drugim nepokretnostima koje nisu uložene, niti se mogu uložiti u kapital javnog preduzeća i društva kapitala, odnosno koje mogu biti isključivo u javnoj svojini.

Odredbe člana 78. st. 4, 5. i 6. ovog zakona shodno će se primenjivati i kod rešavanja po zahtevu za upis prava svojine javnog preduzeća i društva kapitala na nepokretnostima iz stava 1. ovog člana.

Upis prava svojine javnog preduzeća i društva kapitala na nepokretnostima iz stava 1. ovog člana ne može se izvršiti bez pisane saglasnosti osnivača, koju daje nadležni organ autonomne pokrajine, odnosno jedinice lokalne samouprave, a za javna preduzeća i društva kapitala čiji je osnivač Republika Srbija - Vlada, na predlog ministarstva nadležnog za oblast kojoj pripada delatnost javnog preduzeća, odnosno društva kapitala.

Upis prava svojine javnog preduzeća i društva kapitala neće se dozvoliti i u drugim slučajevima postojanja zabrane upisa, odnosno sticanja svojine javnog preduzeća i društva kapitala.

Ukoliko se zahtev za upis prava svojine za određenu nepokretnost ne podnese u roku iz stava 3. ovog člana, ili taj zahtev bude pravosnažno odbijen, organ nadležan za upis prava na nepokretnostima izvršiće, po službenoj dužnosti, upis prava javne svojine Republike Srbije - ako je reč o zahtevu javnog preduzeća, odnosno društva kapitala čiji je osnivač Republika Srbija, a ako je reč o zahtevu javnog preduzeća odnosno društva kapitala čiji je osnivač autonomna pokrajina, odnosno jedinica lokalne samouprave - organ nadležan za upis izvršiće, po službenoj dužnosti, upis prava javne svojine autonomne pokrajine odnosno jedinice lokalne samouprave ako su za to ispunjeni uslovi propisani ovim zakonom.

Do upisa prava svojine podnosioca zahteva za upis, odnosno prava javne svojine osnivača iz stava 8. ovog člana, javno preduzeće i društvo kapitala koji imaju pravo korišćenja zadržavaju pravo korišćenja na predmetnim nepokretnostima sa pravima i obavezama koje imaju na dan stupanja na snagu ovog zakona. Otuđenje ovog prava ne može se izvršiti bez saglasnosti osnivača, a akt o otuđenju suprotno ovoj odredbi ništav je.

Zabrana za upis iz stava 4. tačka 4) ovog člana nije smetnja da se nepokretnost u javnoj svojini, na osnovu odluke Vlade, odnosno nadležnog organa autonomne pokrajine, odnosno jedinice lokalne samouprave, u skladu sa ovim zakonom, prenese u svojinu javnog preduzeća, odnosno društva kapitala.

Član 82a

Izuzetno od člana 77. stav 2. i člana 82. stav 8. ovog zakona, upis prava javne svojine autonomne pokrajine i jedinice lokalne samouprave, odnosno prava svojine javnog preduzeća i društva kapitala, izvršiće se i u slučaju kad se zahtev za upis ne podnese u roku iz člana 77. stav 1. i člana 82. stav 3. ovog zakona, na osnovu naknadnog zahteva za upis prava svojine, ako su za to ispunjeni uslovi propisani ovim zakonom.

Naknadni zahtev za upis prava svojine iz stava 1. ovog člana može se podneti najkasnije do 31. decembra 2017. godine.

Poreski tretman

Član 83

Sticanje prava javne svojine autonomne pokrajine i jedinice lokalne samouprave ili utvrđivanje prava privatne svojine na osnovu odredaba ovog zakona ne smatra se prometom dobara u smislu zakona kojim se uređuje porez na dodatu vrednost, odnosno prenos apsolutnih prava.

Prilikom podnošenja zahteva na upis prava na nepokretnostima, autonomna pokrajina i jedinica lokalne samouprave kao podnosioci zahteva nisu u obavezi da plate administrativne i sudske takse, niti troškove za rad i pružanje usluga Republičkog geodetskog zavoda, koji padaju na teret tog organa. Autonomna pokrajina i jedinica lokalne samouprave dužne su da plate naknadu za rad geodetske organizacije u slučaju kad je njeno angažovanje neophodno za pravilno rešenje zahteva.

IV PRELAZNE I ZAVRŠNE ODREDBE

Postupci pokrenuti po Zakonu o sredstvima

Član 84

Postupci po osnovu čl. 8, 8a i 8b Zakona o sredstvima u svojini Republike Srbije ("Službeni glasnik RS", br. 53/95, 3/96 - ispravka, 54/96, 32/97 i 101/05 - dr. zakon - u daljem tekstu: Zakon o sredstvima) koji su započeti do dana stupanja na snagu ovog zakona obustavljaju se danom stupanja na snagu ovog zakona.

Postupci započeti do dana stupanja na snagu ovog zakona po osnovu člana 48. Zakona o sredstvima, u kojima do dana stupanja na snagu ovog zakona nije doneta odluka Vlade o utvrđivanju udela državne svojine u pravnom licu, nastaviće se i okončati u skladu sa Zakonom o sredstvima.

Postupci po osnovu člana 48. Zakona o sredstvima u kojima je do dana stupanja na snagu ovog zakona doneta odluka Vlade o utvrđivanju udela državne svojine u pravnom licu okončaće se u skladu sa propisima koji su bili na snazi u vreme otpočinjanja postupka.

Konvalidacija

Član 85

Vlada može naknadno dati saglasnost u smislu čl. 8. i 8a Zakona o sredstvima na ugovor o pribavljanju nepokretnosti u državnu svojinu, odnosno o otuđenju nepokretnosti iz državne svojine zaključen do dana stupanja na snagu ovog zakona, ako su za punovažnost tog ugovora ispunjeni svi propisani uslovi, osim postojanja saglasnosti Vlade i ako su obaveze po takvom ugovoru u potpunosti izvršene.

Kod pribavljanja nepokretnosti saglasnost se može dati i ako nije sproveden postupak javnog nadmetanja, odnosno prikupljanja pismenih ponuda, a prethodne i naknadne saglasnosti Vlade za takvo pribavljanje nepokretnosti date do dana stupanja na snagu ovog zakona ostaju na snazi.

Danom stupanja na snagu ovog zakona vrši se konvalidacija svih ugovora o nabavci stanova koje je, nakon stupanja na snagu Zakona o sredstvima, do 7. novembra 2001. godine, kao ugovorna strana, u ime Republike Srbije, zaključilo Ministarstvo unutrašnjih poslova.

Prestanak važenja zakona i primena podzakonskih akata

Član 86

Danom stupanja na snagu ovog zakona prestaju da važe Zakon o sredstvima u svojini Republike Srbije ("Službeni glasnik RS", br. 53/95, 3/96 - ispravka, 54/96, 32/97 i 101/05 - dr. zakon) i Zakon o imovini Savezne Republike Jugoslavije ("Službeni list SRJ", br. 41/93, 50/93 - dr. zakon, 24/94 - dr. zakon, 28/96 - dr. zakon, 30/96 i 30/00 - US).

Podzakonski akti doneti na osnovu zakona iz stava 1. ovog člana primenjivaće se do donošenja podzakonskih akata na osnovu ovog zakona, ako nisu u suprotnosti sa ovim zakonom.

Dostavljanje podataka Direkciji

Član 87

Do sticanja prava javne svojine autonomne pokrajine i jedinice lokalne samouprave, svi podaci o evidenciji nepokretnosti u javnoj svojini dostavljaju se Republičkoj direkciji za imovinu, u skladu sa propisima koji važe na dan stupanja na snagu ovog zakona.

Upis po službenoj dužnosti prava javne svojine Republike Srbije

Član 88

Nadležni organ za upis prava na nepokretnostima dužan je da po stupanju na snagu ovog zakona, bez odlaganja, po službenoj dužnosti izvrši upis prava javne svojine Republike Srbije na nepokretnostima na kojima je u evidenciji nepokretnosti i prava na njima upisano pravo Savezne Republike Jugoslavije, odnosno Državne zajednice Srbija i Crna Gora.

Rok za donošenje podzakonskih akata

Član 89

Podzakonski akti na osnovu ovlašćenja iz ovog zakona doneće se u roku od šest meseci od dana stupanja na snagu ovog zakona.

Primena Zakona na teritoriji Autonomne pokrajine Kosovo i Metohija

Član 90

Do prestanka funkcionisanja međunarodne uprave uspostavljene u skladu sa Rezolucijom 1244 Saveta bezbednosti Ujedinjenih nacija, na teritoriji Autonomne pokrajine Kosovo i Metohija, u pogledu pitanja koja se odnose na sredstva u svojini Republike Srbije primenjivaće se odgovarajuće odredbe Zakona o sredstvima u svojini Republike Srbije ("Službeni glasnik RS", br. 53/95, 3/96 - ispravka, 54/96, 32/97 i 101/05 - dr. zakon).

Stupanje na snagu

Član 91

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u "Službenom glasniku Republike Srbije".

Samostalni član Zakona o izmeni Zakona o javnoj svojini

("Sl. glasnik RS", br. 88/2013)

Član 2

Ovaj zakon stupa na snagu danom objavljivanja u "Službenom glasniku Republike Srbije".

Samostalni član Zakona o izmenama Zakona o javnoj svojini

("Sl. glasnik RS", br. 105/2014)

Član 3

Ovaj zakon stupa na snagu narednog dana od dana objavljivanja u "Službenom glasniku Republike Srbije".

Samostalni član Zakona o izmeni i dopuni Zakona o javnoj svojini

("Sl. glasnik RS", br. 108/2016)

Član 3

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u "Službenom glasniku Republike Srbije".

ZAKON

O RATIFIKACIJI UGOVORA O GARANCIJI (EPS, PROJEKAT II) IZMEĐU SRBIJE I CRNE GORE I EVROPSKE BANKE ZA OBNOVU I RAZVOJ

("Sl. list SCG - Međunarodni ugovori", br. 5/2004)

ČLAN 1

Ratifikuje se Ugovor o garanciji (EPS, Projekat II) između Srbije i Crne Gore i Evropske banke za obnovu i razvoj, potpisan 21. oktobra 2003. godine u Beogradu, u originalu na engleskom jeziku.

ČLAN 2

Tekst Ugovora u originalu na engleskom jeziku i u prevodu na srpski jezik glasi:

(Broj 27005)

UGOVOR O GARANCIJI

(EPS, Projekat II)

IZMEĐU SRBIJE I CRNE GORE I EVROPSKE BANKE ZA OBNOVU I RAZVOJ

Datum 21. oktobar 2003.

UGOVOR O GARANCIJI

Ugovor zaključen 21. oktobra 2003. godine, između Srbije i Crne Gore ("Garant") i Evropske banke za obnovu i razvoj ("Banka").

PREAMBULA

Budući da su, Garant, Republika Srbija i J. P. Elektroprivreda Srbije zatražili pomoć od Banke za finansiranje dela Projekta;

Budući da je, u skladu s Ugovorom o zajmu koji nosi datum ovog dokumenta, između J. P. Elektroprivrede Srbije, kao Zajmoprimca i Banke ("Ugovor o Zajmu", kako je definisano u Standardnim uslovima), Banka saglasna da odobri zajam Zajmoprimcu u iznosu od EUR 60.000.000, u skladu sa uslovima koji su predviđeni u Ugovoru o Zajmu i na koje se poziva Ugovor o Zajmu, ali samo pod uslovom, između ostalih, da Garant garantuje izvršenje obaveze Zajmoprimca iz Ugovora o Zajmu, onako kako je navedeno u ovom Ugovoru; i

Budući da se Garant, pošto je Banka pristupila zaključenju ugovora o Zajmu sa Zajmoprimcem, saglasio da garantuje izvršenje tih obaveza Zajmoprimca.

Stoga, strane ovog Ugovora se ovim sporazumevaju kako sledi:

Član I

STANDARDNI POJMOVI I USLOVI; DEFINICIJE

Tačka 1.01. Inkorporacija Standardnih pojmova i uslova

Sve odredbe Standardnih uslova Banke iz februara 1999. godine, u skladu sa izmenama iz Ugovora o zajmu, ovim postaju sastavni deo ovog Ugovora i primenjuju se u svrhe ovog Ugovora, imajući istu pravosnažnost i pravno dejstvo kao da su u potpunosti ovde navedeni (te odredbe, uz odgovarajuće modifikacije, se u daljem tekstu nazivaju "Standardni uslovi").

Tačka 1.02. Definicije

Gde god se u Ugovoru (uključujući i Preambulu) koriste, osim ukoliko se drukčije ne naznači ili ako kontekst drukčije ne zahteva, uslovi definisani u Preambuli imaju značenja koja su im data u istoj, uslovi definisani u Standardnim uslovima i Ugovoru o Zajmu imaju odgovarajuća značenja koja su navedena u njima, a sledeći pojam ima sledeća značenja:

"Ovlašćeni predstavnik Garanta" znači Ministar za međunarodne ekonomske odnose Garanta.

Tačka 1.03. Tumačenje

U ovom Ugovoru pozivanje na određeni Član ili Tačku, osim ukoliko se u ovom Ugovoru drukčije ne naznači, moraju da se tumače kao pozivanje na određeni Član ili Tačku ovog Ugovora.

Tačka 1.04. Potvrda

Garantu su dostavljeni Ugovor o Zajmu i Ugovor o podršci projektu, i ovim Republika Srbija potvrđuje prijem istih.

Član II

GARANCIJA; OSTALE OBAVEZE

Tačka 2.01. Garancija

Garant ovim bezuslovno garantuje, kao primarni obveznik, a ne samo kao jemac, pravovremeno i precizno plaćanje bilo kojeg ili svih iznosa koji dospeju za plaćanje po Ugovoru o Zajmu, bilo u roku naznačenom za dospeće, bilo u rokovima pre dospeća ili na drugi način, kao i tačno izvršenje svih ostalih obaveza Zajmoprimca, sve kako je predviđeno u Ugovoru o Zajmu.

Tačka 2.02. Završetak projekta

Ako u bilo kom trenutku postoji razuman razlog za verovanje da će sredstva na raspolaganju Zajmoprimcu biti nedovoljna za pokrivanje procenjenih troškova neophodnih za realizaciju Projekta, Garant će hitno preduzeti mere, zadovoljavajuće za Banku, kako bi obezbedio Zajmoprimcu, ili doveo do toga da se Zajmoprimcu obezbede sredstva u iznosu koji je potreban za izmirenje njegovih troškova i potreba.

Tačka 2.03. Ostale obaveze

(a) Garant neće nametati nikakve direktne ili indirektne poreze, dažbine, takse ili druge naplate bilo koje vrste inostranim konsultanatima koje Banka ili Zajmoprimac angažuju na realizaciji Projekta, a koji se finansiraju iz sredstava Zajma ili sredstava tehničke saradnje koje Banka stavi na raspolaganje, osim u onoj meri u kojoj se takvi porezi, dažbine, takse i naplate plaćaju iz sredstava koja ne potiču ni iz Zajma, ni iz sredstava tehničke saradnje koja Banka stavlja na raspolaganje.

(b) Garant je dužan da preduzme sve neophodne mere (i potvrdiće Banci da su takve mere preduzete) da osigura da bilo koja pravna lica, agencije ili preduzeća, plate fakture Zajmoprimca u potpunosti, prosečno u roku od 60 dana od datuma fakturisanja.

Član III

RAZNO

Tačka 3.01. Obaveštenja

Sledeće adrese navode se u svrhe koje su navedene u tački 10.01. Standardnih uslova:

U ime Garanta:
Ministar za međunarodne ekonomske odnose Srbije i Crne Gore
Bulevar Mihaila Pupina 2
11070 Novi Beograd
Srbija i Crna Gora

Na ruke: Odeljenja za finansijske odnose s inostranstvom
Fax: +381 11 311 4018

U ime Banke:
European Bank for Reconstruction and Development
One Exchange Square
London EC 2A 2JN
United Kingdom

Attn: Operation Administration Unit
Fax: +44 20 7338 6100

Tačka 3.02. Pravno mišljenje

U smislu Tačke 9.03. (d) Standardnih Uslova i u skladu sa Tačkom 6.02. (c) Ugovora o Zajmu, mišljenje ili mišljenja pravnog savetnika će u ime Garanta dati Ministar spoljnih poslova Garanta.

U potvrdu čega su strane ovog Ugovora, postupajući preko svojih za to propisno ovlašćenih predstavnika, odredile da se ovaj Ugovor potpiše u šest primeraka i uruči u Beograd, Republika Srbija, napred naznačenog dana i godine.

Srbija i Crna Gora	Evropska banka za obnovu i razvoj
Branko Lukovac, s. r.	Anthony Marsh, s. r.
ministar za međunarodne ekonomske odnose	direktor energetskog sektora

ČLAN 3

Ovaj zakon stupa na snagu narednog dana od dana objavljivanja u "Službenom listu SCG - Međunarodni ugovori".

ZAKON

O DAVANJU GARANCIJE REPUBLIKE SRBIJE NEMAČKOJ FINANSIJSKOJ ORGANIZACIJI KFW PO ZADUŽENJU JP "ELEKTROPRIVREDA SRBIJE" ZA FINANSIRANJE PROJEKTA ZA NABAVKU RUDARSKE OPREME ZA POTREBE POVRŠINSKOG KOPA "TAMNAVA - ZAPADNO POLJE"

("Sl. glasnik RS", br. 34/2006)

Član 1

Republika Srbija preuzima obavezu da kao garant izmiri obaveze JP "Elektroprivreda Srbije" po zaduženju kod nemačke finansijske organizacije KFW, u iznosu do 16 miliona evra.

Član 2

Garanciju iz člana 1. ovog zakona Republika Srbija (u daljem tekstu: Garant) daje nemačkoj finansijskoj organizaciji KFW na ime obaveze iz Ugovora o zajmu i finansiranju između KFW, Frankfurt na Majni i JP "Elektroprivreda Srbije", zaključenog 24. decembra 2003. godine u Beogradu i Prvog adenduma Ugovora o zajmu i finansiranju između KFW, Frankfurt na Majni (u daljem tekstu: KFW) i JP "Elektroprivreda Srbije" (u daljem tekstu: Zajmoprimac), zaključenog 22. avgusta 2005. godine.

Član 3

Otplatu zajma vrši Zajmoprimac, na račun KFW-a, u evrima.

Sredstva za otplatu zajma obezbediće Zajmoprimac, iz sopstvenih prihoda.

Zajmoprimac je dužan da sredstva za otplatu zajma obezbeđuje prema planu otplate za svaku povučenu tranšu, u iznosu koji uključuje glavnicu, obračunatu kamatu, proviziju na nepovučena sredstva i prateće troškove zaduživanja.

Član 4

Ako po osnovu izdate garancije Garant izvrši obavezu umesto Zajmoprimca, ima pravo na povraćaj glavnice, kamate, provizije na nepovučena sredstva, pratećih troškova zaduživanja i pratećih troškova koji nastanu zbog neizvršenja, odnosno neblagovremenog izvršenja obaveze, do visine iznosa izmirene obaveze, kao i pravo da od Zajmoprimca naplati obračunatu zakonsku kamatu.

Pravo na povraćaj sredstava iz stava 1. ovog člana Garant će ostvariti tako što će inicirati naplatu sa računa Zajmoprimca na osnovu ovlašćenja dobijenog od Zajmoprimca ili drugih instrumenata obezbeđenja, u skladu sa propisima kojima se uređuje platni promet.

Član 5

Danom stupanja na snagu ovog zakona prestaje da važi Zakon o davanju kontragarancije Republike Srbije Srbiji i Crnoj Gori po zaduženju JP "Elektroprivreda Srbije" kod nemačke finansijske organizacije KFW ("Službeni glasnik RS", broj 61/05).

Član 6

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u "Službenom glasniku Republike Srbije".

ZAKON

O POTVRĐIVANJU UGOVORA O GARANCIJI (EPS PROJEKAT ZA KOLUBARU) IZMEĐU REPUBLIKE SRBIJE I EVROPSKE BANKE ZA OBNOVU I RAZVOJ

("Sl. glasnik RS - Međunarodni ugovori", br. 8/2011)

ČLAN 1

Potvrđuje se Ugovor o garanciji (EPS Projekat za Kolubaru) između Republike Srbije i Evropske banke za obnovu i razvoj, potpisan 28. jula 2011. godine u Beogradu.

ČLAN 2

Tekst Ugovora o garanciji (EPS Projekat za Kolubaru) između Republike Srbije i Evropske banke za obnovu i razvoj, u originalu na engleskom i prevodu na srpski jezik glasi:

(Operativni broj 41923)

UGOVOR
O GARANCIJI (EPS PROJEKAT ZA KOLUBARU) IZMEĐU REPUBLIKE SRBIJE I EVROPSKE BANKE ZA OBNOVU I RAZVOJ

Dana 28. jula 2011. godine

SADRŽAJ

ČLAN I - STANDARDNE ODREDBE I USLOVI; DEFINICIJE

Član 1.01. Primenjivanje standardnih odredbi i uslova

Član 1.02. Definicije

Član 1.03. Tumačenje

ČLAN II - GARANCIJA; OSTALE OBAVEZE

Član 2.01. Garancija

Član 2.02. Izvršenje projekta

Član 2.03. Ostale obaveze

Član 2.04. Stupanje garancije na snagu

ČLAN III - RAZNO

Član 3.01. Obaveštenja

Član 3.02. Pravno mišljenje

UGOVOR O GARANCIJI

UGOVOR sačinjen dana 28. jula 2011. godine između **REPUBLIKE SRBIJE** (u daljem tekstu "Garant") i **EVROPSKE BANKE ZA OBNOVU I RAZVOJ** (u daljem tekstu "Banka").

PREAMBULA

S OBZIROM NA TO DA su Garant i Javno preduzeće "Elektroprivreda Srbije", Beograd zatražili pomoć od Banke u finansiranju dela ovog Projekta;

S OBZIROM NA TO DA u skladu sa Ugovorom o zajmu koji nosi datum ovog ugovora, a koji je potpisan između Javnog preduzeća "Elektroprivreda Srbije", Beograd kao Zajmoprimca i Banke ("Ugovor o zajmu" kako je definisan u Standardnim odredbama i uslovima), Banka je saglasna da odobri zajam Zajmoprimcu u iznosu do EUR 80 miliona za, između ostalog, nabavku i ugradnju bager-transporter-odlagač sistema i sistema za snabdevanje energijom za površinski kop "Polje C" u Rudarskom basenu Kolubara, pod odredbama i uslovima navedenim u Ugovoru o zajmu, ili na koje se poziva Ugovor o zajmu i pod uslovom da Garant jemči za obaveze Zajmoprimca na osnovu Ugovora o zajmu kako je navedeno u ovom ugovoru; i

S OBZIROM NA TO DA je Garant, radi stupanja Banke u Ugovor o zajmu sa Zajmoprimcem, saglasan da jemči za navedene obaveze Zajmoprimca.

NA OSNOVU TOGA, strane su saglasne kako sledi:

ČLAN I

STANDARDNE ODREDBE I USLOVI; DEFINICIJE

Član 1.01. Primenjivanje standardnih odredbi i uslova

Sve odredbe Standardnih odredbi i uslova Banke od 1. oktobra 2007. godine ovim se uključuju i obezbeđuje njihovo primenjivanje na ovaj ugovor sa istom snagom i dejstvom kao da su u potpunosti navedene u ovom ugovoru.

Član 1.02. Definicije

Kad god se koriste u ovom ugovoru (uključujući i Preambulu), ukoliko nije drugačije naznačeno ili kontekst drugačije ne nalaže, termini definisani u Preambuli imaju odgovarajuća značenja koja su im data u istoj, termini definisani u Standardnim odredbama i uslovima i u Ugovoru o zajmu imaju značenja koja su im data u istima, a sledeći termini imaju sledeće značenje:

"Ovlašćeni predstavnik	označava ministra finansija
Garanta"	Garanta.

Član 1.03. Tumačenje

U ovom ugovoru, svako pozivanje na neki konkretan član ili odeljak, ukoliko nije drugačije naznačeno u ovom ugovoru, smatraće se pozivanjem na taj konkretan član ili odeljak ovog ugovora.

ČLAN II

GARANCIJA; OSTALE OBAVEZE

Član 2.01. Garancija

Garant ovim bezuslovno garantuje, kao primarni dužnik, a ne samo kao garant, uredno i blagovremeno plaćanje svakog i svih iznosa dospelih za plaćanje na osnovu Ugovora o zajmu, bilo o redovnom datumu dospeća, usled ubrzavanja ili na drugi način, kao i blagovremeno izvršavanje svih ostalih obaveza Zajmoprimca, sve u skladu sa Ugovorom o zajmu.

Član 2.02. Izvršenje Projekta

Kad god postoji razuman povod da se veruje da sredstva koja su na raspolaganju Zajmoprimcu neće biti dovoljna za pokrivanje predviđenih izdataka potrebnih radi izvršavanja Projekta, Garant će bez odlaganja da preduzme mere koje će Banka smatrati zadovoljavajućim da obezbedi Zajmoprimcu, ili da organizuje da se Zajmoprimcu obezbedi onakva podrška kakva bude potrebna za izvršavanje svih njegovih obaveza na osnovu Ugovora o zajmu radi uspešne realizacije Projekta.

Član 2.03. Ostale obaveze

(a) Garant neće nametnuti nikakve direktne ni indirektne poreze na strane konsultante koje Banka ili Zajmoprimac budu angažovali u sprovođenju Projekta i finansirali iz sredstava Zajma ili bilo kojih sredstava za tehničku saradnju koje Banka bude stavila na raspolaganje, ukoliko ih bude.

(b) Garant će do 31. decembra 2011. godine, podneti Narodnoj skupštini Republike Srbije predlog zakona koji obezbeđuje Agenciji za energetiku Republike Srbije da postepeno stekne punu kontrolu za utvrđivanje nivoa tarifa elektroenergetskog sektora.

Član 2.04. Stupanje garancije na snagu

Ovaj ugovor stupa na snagu u skladu sa članom IX Standardnih odredbi i uslova, kao i po odgovarajućem potvrđivanju ovog ugovora od strane Narodne skupštine Republike Srbije.

ČLAN III

RAZNO

Član 3.01. Obaveštenja

Sledeće adrese su navedene za potrebe člana 10.01 Standardnih odredbi i uslova:

Za Garanta:
Ministarstvo finansija Republike Srbije
Kneza Miloša broj 20
Beograd 11 000
Republika Srbija
Na ruke: Ministar finansija
Faks: + 381 11 361 89 61
Za Banku:
Evropska banka za obnovu i razvoj
One Exchange Square
London EC2A 2JN
Velika Britanija
Na ruke: Jedinica za administrativno poslovanje
Fax: +44 20 7338 6100

Član 3.02. Pravno mišljenje

Za potrebe člana 9.03(b) Standardnih odredbi i uslova a u skladu sa članom 6.02(b) Ugovora o zajmu, mišljenje ili mišljenja pravnih savetnika davaće u korist Garanta Ministarstvo pravde Republike Srbije.

POTVRĐUJUĆI NAPRED NAVEDENO, strane su preko svojih uredno ovlašćenih predstavnika potpisale ovaj ugovor u šest (6) primeraka na engleskom jeziku i zaključile ga u Beogradu, Republika Srbija, gore navedenog datuma i godine.

REPUBLIKA SRBIJA
Potpisao: ______________________________
Ime: Dušan Nikezić
Funkcija:

EVROPSKA BANKA
ZA OBNOVU I RAZVOJ
Potpisao: ______________________________
Ime: Hildegard Gacek
Funkcija:

ČLAN 3

Ovaj zakon stupa na snagu osmog dana od dana objavljivanja u "Službenom glasniku Republike Srbije - Međunarodni ugovori".

Na osnovu člana 4. stav 2. Zakona o javnim preduzećima i obavljanju delatnosti od opšteg interesa („Službeni glasnik RS”, br. 25/00, 25/02, 107/05, 108/05 – ispravka i 123/07 – dr. zakon) i člana 43. stav 1. Zakona o Vladi („Službeni glasnik RS”, br. 55/05, 71/05 – ispravka, 101/07 i 65/08),

Vlada donosi

ODLUKU

o dopunama Odluke o osnivanju javnog preduzeća za proizvodnju, distribuciju i trgovinu električne energije

Član 1.

U Odluci o osnivanju Javnog preduzeća za proizvodnju, distribuciju i trgovinu električne energije („Službeni glasnik RS”, broj 12/05), u članu 7. posle stava 1. dodaju se novi st. 2. i 3. koji glase:

„Sredstva koja su navedena u Spisku sredstava Javnog preduzeća „Elektroprivreda Srbije”, Beograd, koji je odštampan uz ovu odluku i čini njen sastavni deo, kao i druga evidentirana sredstva koja su u funkciji završetka izgradnje TE „Kolubara B” i izgradnje TE „Nikola Tesla B3”, u svojini su Javnog preduzeća.

Javno preduzeće može sredstva iz stava 2. ovog člana, da unese kao ulog u privredna društva koja će osnovati sa strateškim partnerima radi završetka izgradnje TE „Kolubara B” i izgradnje TE „Nikola Tesla B3”, u realizaciji Strategije razvoja energetike Republike Srbije do 2015. godine i programom za njeno ostvarivanje.”

Dosadašnji stav 2. postaje stav 4.

Član 2.

Posle člana 26. dodaje se novi član 26a koji glasi:

„26a

Kada Javno preduzeće ulaže kapital sa domaćim ili stranim licem u osnivanje drugog društva kapitala, radi izgradnje energetskih objekata i obavljanja delatnosti od opšteg interesa iz predmeta svog poslovanja (zajedničko ulaganje), kao i u postojeće privredno društvo koje obavlja energetske ili druge delatnosti, na odluku o tom ulaganju saglasnost daje osnivač.

Pored davanja saglasnosti iz stava 1. ovog člana, osnivač utvrđuje osnovne elemente ugovora o poveravanju obavljanja delatnosti od opšteg interesa kada je ulog Javnog preduzeća u osnivanje privrednog društva radi izgradnje energetskih objekata i obavljanja delatnosti od opšteg interesa, manjinski u odnosu na ukupno unete uloge.”

Član 3.

U postupcima zajedničkog ulaganja u kojima je Vlada dala prethodnu saglasnost na akta Javnog preduzeća o ulaganju kapitala, kao i u tenderskim postupcima koji su započeti do dana objavljivanja ove odluke, odnosno čija je realizacija u toku, u kojim je ulog Javnog preduzeća manjinski u odnosu na ukupno unete uloge, Vlada će posebnim aktom utvrditi osnovne elemente ugovora o poveravanju obavljanja delatnosti od opšteg interesa.

Član 4.

Ovu odluku objaviti u „Službenom glasniku Republike Srbije”.

05 broj 023-5263/2010-1

U Beogradu, 29. jula 2010. godine

Vlada

Prvi potpredsednik Vlade –
zamenik predsednika Vlade,

Ivica Dačić, s.r.

Deo dokumenta je u pripremi i može se videti po objavljivanju celog dokumenta u Pravnoj bazi.
Celom dokumentu se iz Registra može pristupiti preko taba "otvori relacije" ili "otvori prečišćen tekst".