



South East Europe
Sustainable Energy
Policy



WINNERS AND LOSERS

Who benefits from high-level corruption in
the South East Europe energy sector?



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Lead Author

Marko Prelec, Balkans Policy Research Group

Case Study Editor

Pippa Gallop, CEE Bankwatch Network

Editor for SEE Change Net

Garret Tankosić-Kelly, SEE Change Net

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Cover Design

Ana Lukenda

Typesetting and Layout

Ivan Hrašovec



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* According to the UN, Kosovo is “under the United Nations Interim Administration Mission in Kosovo (UNMIK) established pursuant to Security Council Resolution 1244.” In this study it is referred to as “Kosovo”.

** According to the UN, the official name for Macedonia is “The former Yugoslav Republic of Macedonia”. In this study it is referred to as “Macedonia”.

South East Europe Sustainable Energy Policy Programme

With approximately 25 million potential new EU citizens in South East Europe, who are all energy consumers, energy is perhaps one of the most complex issues which is facing the region. It has inter-related and far reaching impacts on several areas, including society, the economy and the environment, particularly as South East Europe faces the imminent deregulation of the market in 2015 in a less than ideal governance environment.

The South East Europe Sustainable Energy Policy (SEE SEP) programme is designed to tackle these

challenges. This is a multi-country and multi-year programme which has 17 CSO partners from across the region (Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro and Serbia) and the EU. It is financially supported by the European Commission, Balkan Trust for Democracy and UNDP.

The contribution of the SEE SEP project will be to empower CSOs and citizens to better influence policy and practice towards a fairer, cleaner and safer energy future in SEE.



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PREFACE

Road to Europe

Last year, on July 1st, the European Union welcomed Croatia as the 28th Member State and the first country to complete the Stabilisation and Association Process. Faced with what it considers a “lesson learned” in admitting Bulgaria and Romania as full EU members before they had proven themselves able to fight corruption and organised crime at all levels, the EU expected Croatia to provide evidence of its suitability before accession talks were concluded. The Union wanted Croatia to establish a “convincing track record of convictions” in cases of high-level corruption.

Croatia came through, investigating, trying and convicting former Prime Minister Ivo Sanader for accepting more than 10 million euro in bribes from firms in Hungary – in the field of energy – and Austria. The case shows that high level corruption knows no borders and must be fought in earnest by EU member states and candidate countries alike.

The accession process today is built on strict but fair conditionality and the lessons learned from previous enlargements. One of the key lessons has been the importance of addressing “fundamentals first”, in line with the principles of the Copenhagen criteria:

First, the rule of law remains at the heart of the accession process. The new approach to the rule

of law that the EU launched in 2011 necessitates also a cultural change. It requires that, early in the process, countries ensure that they have administrative capacity and this has to be backed by political will. It gives countries maximum time to develop solid track records of implementation, delivering reforms that are deeply rooted and irreversible; and it ensures that citizens will feel the benefits during the process and not just at the end.

The rule of law is also of great economic relevance in terms of legal certainty and investor confidence – especially in the energy sector – and hence, key for achieving environmental and social sustainability. Citizens need and want a transparent, effective and impartial legal and regulatory system.

Second, it is crucial that the countries of the Western Balkans strengthen their economic governance. All are affected by high unemployment. The young unemployed need actions, they need decisions, they need jobs. Corruption works directly against providing jobs by siphoning off money into the bank accounts of those who need it least. Yet if economic governance is strengthened, the region has a significant potential for job creation in energy efficiency and sustainable energy.



Prospective member states face a significant challenge in the field of energy efficiency due to low levels of energy production and high levels of energy consumption. Recent events in Ukraine have also highlighted the need for more efficient use of energy. Eu funded investments in energy-saving measures in public buildings have brought a triple win for the environment, economy and employment. Yet there is much more to be done, including improvements in transmission efficiency and residential wastage, and fostering a culture of conservation.

Third, the importance of functioning of institutions guaranteeing democracy and ensuring that democratic processes are more inclusive cannot be overstated. National legislatures have a vital role in ensuring the transparent and democratic implementation of all policies, including energy.

Fourth, the EU focuses on respect for fundamental rights. It promotes freedom of expression in its dialogues with enlargement countries and supports excellence in investigative journalism, some of which is contained in this report. Candidates and prospective candidates for EU membership must ensure journalists can do their job without fear of violence and intimidation.

These elements constitute a process where candidates and potential candidates must build their credibility through a track record of reform and implementation. A commitment to fight corruption and organised crime even at the highest level, to build effective and transparent governing institutions, and political will to foster a vibrant civil society are key elements required for progress on the path to the European Union. This is no less true in the energy sector. The studies presented in this report show that the fruits of investment are large but so are the temptations.

The Energy Community developed a Regional Energy Strategy in 2012 which envisages almost EUR 30 billion of investment in South East Europe in the following decade. This is a both an opportunity and a major test of the core values on which the European Union is founded: democracy, rule of law and the respect for fundamental rights.

The re-forms needed for European accession work hand in glove with the development of safe, sustainable energy infrastructure in the states of South East Europe. It is up to the leaders, and to the civil societies, to build an energy sector that does not poison the environment through pollution, or government through corruption.



Executive Summary

Energy is already one of the biggest segments in the economies of South East Europe (SEE) and is set to grow even bigger if the ambitious plans of the region's governments are realised. The states party to the Energy Community Treaty plan about EUR 28.8 billion in energy investments from 2012 to 2020 in the Western Balkans.¹ Managing these investments will be an existential challenge for the SEE states. Their economies need secure sources of power, and their population needs that power to be clean.

Historically, projects on this scale have often been marked by corruption, which has driven reputable investors away and raised costs. It has also meant reduced opportunities for sustainable energy development, by wasting resources, distorting markets, diverting public interest towards private interests, biasing decision making against rational-sustainability criteria and in favour of vested interests.

Building a modern energy infrastructure must go hand in hand with strengthening the rule of law. The problem is complex and simple bribery is only a small part. Some forms of corruption

are very difficult or impossible to prosecute, or violate no laws. The task is not so much stamping out occasional abuses of public power for private gain, as it is the construction of well-ordered, reliable and transparent governing institutions bound by the rule of law.

Much of what is known about corruption in the energy sector comes from two complementary sources. Intergovernmental bodies like the Energy Community Secretariat and the European Commission (EC) report on standard setting, while reporters and civil society organisations (CSOs) investigate patronage and corruption. Some of the cases they publicised ended in court. For all involved including the prosecutors and judges, impartiality and independence have been hard-won qualities.

In the fight against energy corruption very often individuals, whether they be journalists, NGO activists, state prosecutors or whistleblowers from within the system, take on the lonely task of seeking justice. They work in a challenging, often hostile environment, vulnerable to official pressure or intimidation and to government abuse of its power to silence inconvenient voices.

¹ This figure includes Moldova. Annex 19, p.12.



CASE SUMMARIES

The case studies in this report are drawn from publicly available material, and several have been investigated or litigated. They do not represent the full scale or scope of energy sector corruption in each country, in part because it is only once a state begins to reform in earnest that the size of the problem becomes visible.

Albania 1: The money laundering investigation

The case of Argita Berisha is about the purchase of land in Albania not long before the government chose it as the site of an energy project, thus raising its value; the buyer's attorney was the daughter of then-Prime Minister Sali Berisha, while the administrator of the buyer's local firms was the brother-in-law of then-Minister of Transportation Lulzim Basha.

Albania 2: The hydro concession case

Albanian television viewers saw hidden-camera footage purporting to show then-deputy Prime Minister Ilir Meta trying to corrupt a hydropower concession, sparking widespread outrage. American and British forensic experts found the footage authentic, but the court rejected this for procedural reasons and named its own domestic experts who found it had been tampered with. Ilir Meta was also accused of taking a EUR 1 million bribe together with Dritan Prifti for favouring a business in a tender of crude oil. In January 2012, the High Court in Tirana acquitted Meta due to insufficient evidence.

Bosnia and Herzegovina: The EPBiH & EPHZHB energy trading case

EPBiH and EP HZHB are the two state-owned electricity companies in the Federation of Bosnia and Herzegovina – one of the political entities that compose the sovereign country of Bosnia and Herzegovina. State authorities on two occasions, more than ten years apart, decided to trade EP BiH's surplus electricity through traders, which was detrimental for the state companies and made a significant profit for the private trading companies involved.

Croatia 1: The HEP energy trading case

The HEP-TLM affair concerns the sale of electricity at below-market rates by Croatian provider HEP to two factories, TLM in Croatia and Aluminij in Bosnia and Herzegovina, which cost HEP about EUR 85 million. The state prosecutor alleges then-Prime Minister Ivo Sanader accepted more than EUR 1.5 million in bribes from a former subsidiary of Daimler with links to Aluminij, which also promised a favourable supply of aluminium to TLM.

Croatia 2: The INA – MOL affair

Another Croatian case is INA-MOL, in which the court convicted then-Prime Minister Sanader for taking EUR 10 million in bribes from the Hungarian oil company MOL, in order to give MOL a dominant position in the Croatian oil company, INA. The state prosecutor has also indicted MOL group chairman Zsolt Hernádi, who has denied wrongdoing; Hungary has refused extradition.



Kosovo 1: The KEK contract libel case

In April 2012 Arbana Xharra of the independent daily newspaper *Zëri* wrote an article commenting that businessman Bejtush Zhugolli and two of his brothers, were financially supporting Prime Minister Thaçi's election campaign and that in return, they won lucrative contracts at the Kosovo Energy Corporation (KEK). Soon after the publication of the article, Bejtush Zhugolli sued Xharra and *Zëri*, however Xharra was found not guilty. When Selvi-je Bajrami, another journalist at *Zëri*, published a report on the first court session, Zhugolli also sued her, however she was also found not guilty.

Kosovo 2: The UNMIK/KEK affair

A German court convicted Jo Trutschler, manager of the Kosovo Energy Corporation (KEK) on behalf of UNMIK, of breach of trust and misusing an academic title and sentenced him to three years in prison. From 2000–2002 it was discovered that he had acquired about USD 4.3 million (then around EUR 3.7 million) and transferred the sum to fake companies in Gibraltar. UN investigators discovered that in addition Trutschler had falsified his diploma and claimed greater experience in management than he really had. Most of the money was recovered.

Macedonia: The electricity trading cartel case

In 2012 the Antimonopoly Commission of Macedonia filed misdemeanour charges against four electricity trading firms on suspicion that they created a cartel so they could dictate the price for electricity imports through their bids in a January 2012 tender. Later in the year the customs office also charged three electricity trading companies additional customs duties, saying that they had used various methods to evade paying these fees.

Montenegro 1: The KAP electricity theft affair

Between March and May 2013 the Montenegrin government allowed the Podgorica Aluminium Factory (KAP) to steal power from the European Energy Interconnection System after the Montenegrin electricity company cut them off for non-payment. The European Network of Transmission System Operators for Electricity (ENTSO-E) ordered Montenegro to return the stolen electricity or risk being excluded from the European network. The government agreed to do so, but the cost is being passed to taxpayers through the state budget and consumers through increased electricity bills.

Montenegro 2: The USAID affair

In 1999 USAID gave the Montenegrin government a donation of USD 11.9 million (then equivalent of EUR 13.4 million), part of which was to cover EPCG's debts for electricity imports from Elektroprivreda Republike Srpske in Bosnia and Herzegovina. However Serbian businessman Vuk Hamović, then a director of London-based CML, bought up EPCG's debts shortly before the USAID donations, giving rise to suspicions that the USAID money was being purposely diverted to CML. Investigations by the UK Serious Fraud Office, BiH Prosecutor and USAID Inspector General ended without prosecutions.

Serbia: The Kolubara mining scandal

In 2011 Serbian police arrested the former director of the Kolubara mining company and 16 others on charges of unlawfully harming the company through improper hire of equipment and falsification of hours of operation. The case has not yet been concluded.

Recommendations

To address the problems identified in this report, we recommend:

- Donors including states and the European Commission should make energy-related aid conditional on progressive compliance with the strengthened² terms of the Energy Community Treaty.
- The EC should closely monitor privatisation of state-owned energy firms and tendering for new projects.
- There are various paths to reform of state-owned energy firms. States that choose to privatise should do so by hiring a reputable, experienced international firm to handle the process, and should publicise all stages of the process, with ample time for public comment.
- States that retain controlling shares in energy firms should protect against corruption of directors, for example by assigning their proxy votes to an independent agency, or by electing directors in cooperation with employees.
- Operators of energy firms should be required to post data on generation, consumption, trading and price floatation available online in real time.
- The electricity import market can be a highly profitable business. Rules and regulations dealing with these imports must be strengthened, as well as oversight of the traders.
- The capacities of the institutions dealing with oversight of the work of electricity traders (customs offices, anticorruption and antimonopoly commissions, etc.) must be strengthened professionally and financially.

² The Energy Community should adopt the public procurement legislation and operationalise its state aid provisions

Their independence must be guaranteed. The capacities of the prosecutors and courts dealing with cases like this should be strengthened through additional training.

- To combat corruption in general, the EU should press centres of offshore banking to disclose assets to anti-corruption authorities and the public, notably those held by SEE public officials, including executives of publicly-owned firms, and their families.
- SEE states should make financial information, including asset declarations and tax returns of public officials and executives of publicly owned firms, available online.
- To enhance freedom of speech, the EU and/or OSCE should open hot lines in the delegations to take complaints of intimidation, undue influence or other forms of pressure against journalists.

To educate the public and protect the environment, SEE states should:

- Make frequently updated air and water quality data available online and in the print and electronic media
- Encourage pro-active publishing of information on energy-related decision making, but also making public documents on energy trade, new projects, privatisation, etc
- SEE states should make development of diversified sustainable renewable energy other than hydropower a high priority, setting ambitious targets for wind, solar and biomass for 2030.

In addition to these general recommendations, we further urge:

- **Albania** should strengthen the office of the public prosecutor and urgently advance plans



to reform its judiciary in cooperation with the EU;

- **Bosnia and Herzegovina** should address the weakness of the state transmission company Elektroprijenos (Transco); harmonise entity energy legislation, ensuring it complies with the acquis; and reform the three publicly owned energy producer and suppliers;
- **Kosovo** should urgently proceed with decommissioning of the Kosovo A plant and develop a diversified energy strategy;
- **Macedonia** should enact and implement stringent laws protecting freedom of speech and decriminalising defamation; the electricity import market is a highly-profitable business in Macedonia, as around 40% of all electricity in the country is imported due to lack of domestic production. Rules and regulations dealing with these imports must

be strengthened, as well as oversight of the traders.

- **Montenegro** needs to improve access to information related to public contracting in the energy sector, new energy sources, privatisation, etc. The role of police and prosecution must be also strengthened to comply with the need to have positive examples in processing corruption and organized crime in these sectors. Also, additional efforts should be put into individualisation of responsibilities for poor decision-making in the energy sector.
- **Serbia** should pursue the Kolubara case as swiftly as possible, remove state support for the coal sector and work to diversify its energy mix towards renewable energy with increased energy efficiency in order to decrease dependence on the Kolubara basin.



Introduction

Energy is already one of the biggest segments in the economies of South East Europe (SEE)³ and is set to grow even bigger if the ambitious plans of the region's governments are realised. The states party to the Energy Community Treaty plan about EUR 28.8 billion in energy investments from 2012 to 2020 in the Western Balkans.⁴ As in other transition countries, ageing energy generation infrastructure needs to be decommissioned within the next decade and the challenge will be how to replace it. The region relies heavily on two sources of power, coal and hydropower. Some states, such as Albania, are over-reliant on hydroelectric power and are vulnerable to erratic and possibly declining precipitation due to climate change. Others like Kosovo have the dubious blessing (or the resource curse) of dirty and energy inefficient⁵ lignite coal, capable of devastating effects on air quality and health.⁶

3 For the purposes of this paper, the region of South East Europe includes Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro and Serbia. According to the UN, Kosovo is "under the United Nations Interim Administrative Mission in Kosovo (UNMIK) established pursuant to Security Council Resolution 1244"; in this paper it is referred to as "Kosovo". According to the UN, the official name of Macedonia is "the former Yugoslav Republic of Macedonia"; in this paper it is referred to as "Macedonia". Bosnia and Herzegovina is also referred to as "Bosnia" or "BiH".

4 This figure includes Moldova. Annex 19, p.12.

5 Perhaps surprisingly, lignite's economics are getting worse and worse (eg. Šoštanj 6 in Slovenia is projected to lose EUR 50 million annually, so even on the money side it is not that attractive if high standards are applied).

6 A study by the European Bank for Reconstruction and Development found "natural resource rents reduce the chances of a country becoming more democratic".

The Ukrainian crisis has highlighted Europe's uneasy dependence on imports of Russian gas. Several SEE states are banking on Russia's South Stream gas pipeline, but European Commission (EC) objections may scuttle the project.⁷ Two other pipelines, the Ionian Adriatic and the Trans Adriatic, may or may not come to fruition. Only Croatia has significant nuclear⁸ and wind power, and no SEE state has much biomass or solar installed. Most discussion of energy investment focuses on lignite and unsustainable large hydropower projects that can damage unique freshwater ecosystems and landscapes.⁹

Investments in energy will operate in a context shaped by the region's gradual integration into the European Union. The road ahead is clear but not without its challenges: according to the EC, none of the accession states in SEE has a functioning market economy.¹⁰ The EU has made the rule of law the "heart of the enlargement process," noting that legality "supports the business environment, providing legal certainty for economic operators and stimulating investment,

Transition Report 2013: Stuck in Transition? EBRD, p.28.

7 Lawrence Norman, "EU tells Bulgaria to stop work on Gazprom's South Stream project", *Wall Street Journal* 3 June 2014".

8 The Krško plant, situated in Slovenia, planned to close in 2023 but for which a controversial lifetime extension may be sought.

9 "Fairer, cleaner, safer: Towards a more sustainable, people centered approach to energy development in South East Europe", SEE Change Network, August 2011.

10 "Enlargement Strategy and Main Challenges 2013–2014," European Commission COM(2013) 700, 16 October 2013, p.4. As an EU member, Croatia presumptively has a functioning market economy, as do Iceland and Turkey among the candidate countries.



jobs and growth.”¹¹ Part of this is the struggle against high-level corruption, a “serious concern in many enlargement countries”.¹² Another part is a free and independent media capable of sniffing out the scent of corrupt deals that leaders have hidden.

The states of South East Europe have shown little ability to absorb investments on this scale without systemic corruption and patronage. There is no reason to believe energy projects will fare differently absent significant shifts in policy on the domestic and international scenes. A seasoned observer has described the Balkan system as the “political control of the sources of economic wealth.”¹³ Each of the steps in an energy project can be used for personal or partisan advantage. The tender can produce bribes; construction firms connected to party leaders and their allies can be employed; the plant creates executive posts where surplus party leaders may be parked and lower level jobs for supporters; operating revenues fill government coffers; and finally the energy generated can be marketed below rates to favour other politically important concerns. “For a host of historical and current reasons,” argues a scholar of the issue, “the rule of law and the quality of public administration are very weak. It is difficult to see how the energy acquis can easily prosper in such a fragile environment.”¹⁴

CORRUPTION

There is a widespread perception of massive corruption in South East Europe, which is backed up by research findings from a range of sources

including Transparency International and the World Bank. Transparency’s Global Corruption Barometer is useful in that it measures a wide range of popular opinion and experience.¹⁵ The EC’s assessments in annual Progress Reports mostly match these quantitative findings, but they diverge on some countries at least in emphasis and tone – perhaps to reward countries that make an effort from a low starting point.

In **Albania** (before the recent change in government) an astonishing 81 percent of respondents rated the judiciary “corrupt or extremely corrupt”.¹⁶ Expert opinion concurs, with the country scoring 116th in the world.¹⁷ According to the World Bank, Albania scores very low on the rule of law (35th percentile; high scores are better) and worse on corruption (27th percentile).

Bosnia and Herzegovina suffers from a “weak legal framework” that is “vulnerable to corruption” and in its courts “very few cases of corruption result in criminal convictions, and even fewer reach final verdicts”.¹⁸ The EC agrees, bemoaning “a high level of corruption [while] effective prevention measures against money laundering are lacking” and “there are still serious shortcomings as regards the independence, effectiveness, accountability and impartiality of the judiciary”.¹⁹ 65 percent of respondents describe the judiciary as corrupt, but even more cited public officials and civil servants (67 percent) and political parties (77 percent). Experts rank it 72nd, while the World Bank places about midpoint on the globe with a percentile of 48 on the rule of law and 49 on corruption.

11 “Enlargement Strategy,” p.6.

12 “Enlargement Strategy,” p.7.

13 Raffi Gregorian, speech at Circle 99, Sarajevo, 19 October 2008, available at ohr.int. Gregorian argued “political parties extract wealth from the economy by two principal means ... by placing their cronies on the steering and management boards of public companies [and] by maintaining control over both construction land and agricultural land.”

14 Alan Riley, “Deploying the Energy Incentive: Reinforcing EU integration in South-East Europe,” CEPS Policy Brief No. 296, 8 July 2013, p.4.

15 Jesper Johnson and Deborah Hardoon, “Why, when and how to use the Global Corruption Barometer, Chr. Michaelsen Institute U4 Brief, July 2012.

16 Transparency International, Global Corruption Barometer 2013. All future references refer to “respondents” are to this survey and the same “corrupt or extremely corrupt” category.

17 Transparency International, Perceptions of Corruption Index 2013. The ranking is out of 177 countries surveyed, with 1 being the best position; future references to “experts” are to this ranking.

18 Transparency International, Overview.

19 “Enlargement Strategy,” p.35-36.

As the only EU member in this group, **Croatia** is no longer subject to the kind of EC attention focused on the others. And in some respects the newest EU member stands out; the World Bank gives it the best rule of law score in this group (60), and it won the highest Transparency expert rating (57th). Yet in other ways Croatia sits firmly with the rest of SEE: a whopping 71 percent of respondents said the judiciary was corrupt.

Kosovo has a serious problem with corruption and rule of law; 80 percent of respondents said the judiciary is corrupt and experts put it 111th in the world. The World Bank results are similar (36th percentile on rule of law, 30th on corruption). The EC worried that “Political interference in the work of the judiciary remains a serious concern.”²⁰

Macedonia offers a dramatic contrast between its speedy adoption of laws modelled on the EU *acquis* and its poor results in what those laws are designed to achieve. The EC praised Macedonia’s anti-corruption efforts, yet found that “corruption remains prevalent in many areas and continues to be a serious problem, indicating that the implementation of existing legislation has yet to make a concrete impact”. Meanwhile, “too many prosecutions fail to reach the judgment and sentencing stage, or take too long to do so due to repeated re-trials.”²¹ Research bears this out. 68 percent of respondents still believe the judiciary is corrupt while experts rank it 67th.

Montenegro tied with Macedonia at 67th worldwide on perceptions of corruption. The World Bank awarded relatively high scores of 55 each on the rule of law and corruption, though the EC warned, “corruption remains prevalent in many areas and remains a serious problem.”²²

Serbia scored worst on corruption among its own people, 82 percent of whom thought its judiciary corrupt, and almost as many (78 percent) felt the

same way about public officials and civil servants. Experts rate it 72nd, and the World Bank places it in the 44th percentile on rule of law and 48th on corruption.

The diversity of experiences in the region is striking, and suggests several patterns. Albania and Kosovo have the furthest to go in the struggle against corruption, but are middle of the pack on free press and civil society. Macedonia and Montenegro are both advancing rapidly in the anti-corruption measures demanded by the EU, yet present a degree of media suppression all but unknown in the EU (see below). Bosnia and Serbia perform at a similar level, yet the former plainly frustrates the EC with its stagnation while Serbia earns points for dramatic shifts in policy. Croatia leads the pack, though not nearly by the distance one would expect from a newly minted EU member state.

ENERGY

The states all need to find secure, clean sources of energy over the next decades but each has its unique set of challenges.

Albania has good hydropower resources, but is “over-dependent on hydropower and vulnerable to hydrological conditions”;²³ it plans to participate in the Trans Adriatic gas pipeline (TAP), if it is realised. The new government has announced an auction for new oil finds instead of negotiated concessions.²⁴ It has also struggled with privatisation of its energy assets. A scandal-ridden attempt to sell the state oil firm Albpetrol failed.²⁵ The state seized control of the privatised distributor CEZ Shpëndarje from its Czech owners, who have taken Albania to arbitration.²⁶ The Energy

20 EC, Kosovo* 2013 Progress Report, p.12.

21 EC, The former Yugoslav Republic of Macedonia 2013 Progress Report, p.11.

22 EC, Montenegro 2013 Progress Report, p.9.

23 EC, Albania 2013 Progress Report, p.30.

24 Benet Koleka, “Albania to auction 13 blocks for oil exploration,” Reuters, 6 May 2014.

25 Nicholas Watson, “Albania cancels murky Albpetrol sale,” *Financial Times Beyondbrics* blog, 13 February 2013; EC, Albania 2013 Progress Report.

26 EC, Albania 2013 Progress Report, p.15. The Czech Republic was reportedly considering blocking Albania’s bid for EU candidacy; “Prague Ready to Block



Community judged it as “among the least compliant” in the Community and hampered by a restrictive market model that will “never provide the level of flexibility required to allow for the entry of new market players”.²⁷

The energy sector in **Bosnia and Herzegovina** shares the country’s fragmentation and complexity, with three regulatory frameworks, three (different) main producers, four suppliers and a single, barely functional transmission company.²⁸ Yet its main problem is transmission. The state transmission company is chronically “largely incapable of performing its legal obligations for maintenance, development, planning and investment in the transmission infrastructure”.²⁹ Gas supply is politically divisive with the Federation of BiH participating in the planned Ionian Adriatic Pipeline (IAP) project while RS seeks to join the planned South Stream line in Serbia, which may violate EC norms. Bosnia’s gas sector lags “behind all the other [Energy Community parties] including the newcomers” on compliance.³⁰ Bosnia and Herzegovina is also reliant, perhaps over-reliant, on hydropower.

Croatia is the only state in the region to draw on nuclear power through its shared ownership of the Krško plant in neighbouring Slovenia. It has a reasonably competitive market and a relatively diverse mix of sources including a small but growing wind sector.³¹ Like Albania, Croatia recently launched a tender for gas and oil exploration.³²

Kosovo has abundant lignite coal, an estimated 10.9 billion tonnes economically exploitable, yet the coal is of relatively poor quality and highly polluting.³³ Lignite accounts for almost all of Kosovo’s electricity production and heat; it has no gas or oil plants and minimal renewable sources.³⁴ More than a third of electricity is lost.³⁵ The government’s energy strategy is heavily biased toward replacement of the ageing and highly polluting Kosovo A plant with a new lignite-burning plant, with little serious effort put into energy efficiency or renewable sources. An estimated 835 people in Kosovo die each year due to urban air pollution while many more are sickened.³⁶

Macedonia relies on hydro, coal, gas and oil-fired plants for its power and has a partly liberalised market with an Austrian-owned supplier, EVN Makedonija. Yet important market rules remain unimplemented and its regulator is weak.³⁷

Montenegro is heavily reliant on lignite and hydropower and suffered a huge financial loss when the mammoth Podgorica Aluminium Plant (KAP) made “unauthorised and unpaid” withdrawals from the energy grid, causing the state system to draw on other European providers at high cost; the total burden on the state reached 3% of GDP.³⁸

Serbia is heavily lignite and hydropower-dependent, with a fleet of ageing power stations. In terms of gas it continues to rely on the South Stream project in a manner the Energy

Albania’s EU Alignment over ČEZ dispute”, Prague Post 9 June 2014.

27 Energy Community Secretariat, Annual Implementation Report 2013, p.28.

28 Energy Community Secretariat, Annual Implementation Report 2013, p.29ff.

29 EC, Bosnia 2013 Progress Report, p.45.

30 Energy Community Secretariat, Annual Implementation Report 2013, pp.98–101.

31 Energy Community Secretariat, Annual Implementation Report 2013, p.37ff.

32 Andrew MacDowall, “Croatian oil & gas: an Adriatic game-changer?” *Financial Times Beyondbrics* blog, 5 May 2014.

33 Daniel M. Kammen et al., “Sustainable Energy Options for Kosovo: An analysis of resource availability and cost,” University of California at Berkeley working paper, 20 May 2012, p.19.

34 Energy Community Secretariat, Annual Implementation Report 2013, p.43.

35 Technical and non-technical losses combined. EC, Kosovo* 2013 Progress Report, p.41.

36 World Bank Country Environmental Analysis, Kosovo, 2010, Table 2.5. An explosion in Kosovo A killed four workers and injured many more on 6 June 2014.

37 Energy Community Secretariat, Annual Implementation Report 2013, pp.49–53.

38 This represents the amount of debt assumed by the state after the plant’s bankruptcy; EC, Montenegro 2013 Progress Report.

Community and the EC have repeatedly identified as in violation of EU norms.³⁹

Business on this scale offers temptations that even leading EU-based corporations find irresistible. In December 2011, Deutsche Telekom and its Hungarian subsidiary Magyar Telekom paid USD 95.2 million in fines to the U.S. Department of Justice for using “sham contracts to funnel millions of dollars in corrupt payments to foreign officials” in Macedonia and Montenegro, “who could help them keep competitors out and win business.”⁴⁰ According to U.S. court documents Daimler AG and several subsidiaries improperly paid tens of millions of dollars to officials of at least 22 states including Croatia, Serbia and Montenegro, “to assist in securing contracts.”⁴¹ As described in this report, a Croatian court convicted former Prime Minister Ivo Sanader of accepting a payment of EUR 10 million from MOL, the Hungarian energy firm. Croatia also asked Hungary to extradite the chairman of the MOL group; Hungary refused, saying its courts had already investigated the matter and found it baseless.⁴² These cases that have reached a judicial conclusion may be the tip of a very large iceberg. Yet they show how the rule of law should operate, in that not even the most senior state officials are immune from prosecution.

Corruption can be the simple sale of a public good for private gain, but it can also “arise through other less obvious forms, which may involve collusion between parties typically from both the

public and private sectors, and may be legal in many countries.”⁴³ It is a system comprising legal and illegal behaviours, which has evolved out of the traditional practices of command economies and adapted many of their features.⁴⁴ Bribery is only a small part of it. One face of corruption is the construction permit that never appears, the regulation that inexplicably changes, the tax inspectors that comb through one company or indeed noisy NGOs’ books regularly while leaving a neighbour’s unopened, the public spending that migrates to municipalities that voted the right way. Another is the network of patron-client relations centred on senior party leaders and extending, through multiple levels, to the remotest village.

This system allows elites to manage and control the economy, creates jobs and some growth, at least in good times, surfing a wave of general European prosperity. Since 2008 the European crisis has exposed the system’s limits. The rents required to keep it running may make the region unattractive in hard times. Investment has dried up. According to World Bank data, foreign direct investment (FDI)⁴⁵ to Serbia fell from USD 3 billion in 2008 to USD 355 million in 2012; FDI to Bosnia fell from USD 1 billion to USD 350 million; FDI to Croatia from USD 6.1 to USD 1.4 billion; FDI to Kosovo from USD 537 to USD 293 million; FDI to Macedonia from USD 612 to USD 283 million. Albania attracted steady rates of FDI, and Montenegro’s FDI fell from USD 975 to USD 618 million. Growth plummeted, unemployment rose.

The systemic nature of Balkan corruption makes it resistant to change through prosecution. Large numbers of people stand to benefit from

39 Energy Community Secretariat, Annual Implementation Report 2013, p.119; EC, Serbia 2013 Progress Report, p.31.

40 Kara Novaco Brockmeyer, U.S. Securities and Exchange Commission official, cited in Jonathan Stempel, “Deutsche Telekom in \$95 million bribery settlement”, Reuters, 29 December 2011.

41 “Daimler AG and Three Subsidiaries Resolve Foreign Corrupt Practices Act Investigation and Agree to Pay \$93.6 Million in Criminal Penalties”, U.S. Department of Justice press release, 1 April 2010.

42 “Budapest Municipal Court declined the request of the Croatian State Prosecutor’s Office for the extradition of MOL Group Chairman-CEO”, MOL press release, 7 October 2013.

43 Daniel Kaufmann and Pedro C. Vicente, “Legal Corruption,” World Bank working paper, October 2005, p.2.

44 See Dale F. Gray, *Reforming the Energy Sector in Transition Economies: Selected Experience and Lessons*, World Bank Discussion Paper No. 296 (1995), pp.1-4.

45 In our view there are several weaknesses in Foreign Direct Investment but it serves as one indicator of a region’s economic strength.



large-scale energy investments. While a lucky investigator can catch a cash payoff on hidden camera or through a cooperating witness, many corrupt practices amount to an abuse of discretion and the trading of favours, acts that are virtually impossible to prosecute.⁴⁶ This would be challenging even for strong states with a deep tradition of prosecutorial and judicial independence.

Unfortunately, criminal justice institutions in most of South East Europe are both weak and politicised. Some of the weakness is structural. On 1 June 2014, for example, the Council of Europe's experts on money laundering and terrorism publicly warned Bosnia it had failed to address weakness in its anti-money laundering and terrorist financing armament.⁴⁷

International Crisis Group reported that a senior Bosnian prosecutor, asked whether he faced political pressures despite having been appointed by a nonpartisan, internationally designed process, replied there was no way to build a successful case against any important person, above the level of, say, a small town mayor or the director of a minor-league company. If one tried, the police would botch the investigation, witnesses would recant under pressure, or judges would refuse to convict.⁴⁸ The problem is not limited to domestic officials; in Kosovo, three separate international

agencies have fought essentially without success to prosecute senior government officials for more than a decade.⁴⁹ Throughout the region rumours of high-level corruption on an epic scale are rife but convictions are essentially absent.

FREEDOM OF SPEECH AND MEDIA

It is notable that several of the most egregious energy corruption cases exposed in the region have included brave work by investigative journalists and csos, shining a light into dark corners of the sector. They work in a challenging, often hostile environment, as shown by organisations including the OSCE, Freedom House and Reporters Without Borders (RWB).

Albania RWB ranks Albania 89th in the world while Freedom House assigns it a poor press freedom score (49, low scores are better).⁵⁰

In **Bosnia and Herzegovina** many media are divided along political and national lines, to the point that a group of journalists asked for and got a criminal indictment against another group of reporters. State pressure is a problem, with a Republika Srpska court fining a journalist for defaming the entity Prime Minister Milorad Dodik – now entity President – and reports of wiretaps on media outlets.⁵¹ RWB ranks Bosnia 66th in the world, while Freedom House gives a poor score of 50.

The press in **Croatia** suffers from abuse of laws against defamation; the journalists' association

46 Several examples of this kind of behaviour can be seen in two investigative projects conducted by the Organized Crime and Corruption Reporting Project (OCCRP). See Saska Cvetkovska and Pavla Holcova, "The Landlord Spy", 8 May 2014 (on Macedonia) and the series "First Bank – First Family" (on Montenegro), both at reportingproject.net.

47 The CoE's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) noted that "the majority of the objectives of the action plan" adopted in October 2011 "had still not been fully addressed, since necessary amendments to remedy important deficiencies ... had not been adopted" while other key legislation had been rejected. "Public Statement under Step 3 of MONEYVAL's Compliance Enhancing Procedures in Respect of Bosnia and Herzegovina", 1 June 2014.

48 International Crisis Group, "Bosnia: What does Republika Srpska Want?" 6 October 2011, p.9.

49 These are the UN Interim Administrative Mission in Kosovo (UNMIK), the UN International Criminal Tribunal for the former Yugoslavia (ICTY) and the EU Rule of Law mission, EULEX. Bosnia and Herzegovina also had international prosecutors and judges working within its national courts from 2005 to 2012.

50 Reporters Without Borders, World Press Freedom Index 2014 (ranking of world states, with 1 being best); Freedom House, "Freedom of the Press 2014" (score out of 100, low scores indicate a free press).

51 OSCE Representative on Freedom of the Media, "Regular Report to the Permanent Council", 28 November 2013, pp.7-8.

counts over 40 criminal insult cases pending.⁵² RWB placed it only one spot higher than Bosnia on press freedom (though Freedom House rated it significantly better with a 40).

Kosovo RWB ranked Kosovo 80th in the world on press freedom, while the EC noted that “Threats against journalists and editors have continued to be reported and journalists continue to face political pressure and intimidation.”⁵³

Macedonia was the only SEE state to imprison a journalist in 2013.⁵⁴ It has a very serious problem with media freedom, where it ranks 123rd, between Mali and Angola and one of the worst scores in Europe; Freedom House rated it worst in SEE with a score of 57. Recently, police harassed reporters covering a demonstration and forced them to erase video footage.⁵⁵

Montenegro is in a similar situation; the EC expressed “serious concern” about “involvement of public officials, in particular police officers, in cases of intimidation and assault against journalists” and “the recent rise in cases of violence against journalists.”⁵⁶ The OSCE repeatedly warned authorities about attacks on journalists, notably those working for the daily Vijesti and the weekly Monitor, “a clear assault on freedom of speech” that can “create a chilling effect on media and lead to self-censorship.”⁵⁷ RWB rated Montenegro 114th on press freedom, bracketed by Qatar and Tajikistan.

Serbia There is a major disagreement on media that may reflect late developments; RWB rated

Serbia best in SEE and 54th in the world, while observers including the OSCE warn of a sharp chill in press freedom.⁵⁸ The EC noted “threats and violence against journalists remain a significant factor in self-censorship” but otherwise handled Serbia gently, crediting its breakthrough in relations with Kosovo and its anti-corruption drive.⁵⁹

Governments in the region have a history of harassing – or worse – reporters and civil society activists who look too closely or too publicly into the cosy world of patronage economics and corruption. The institutions charged with protecting them too often fail. When the executive director of a leading human rights NGO in Bosnia’s Republika Srpska received threats, he turned to the Ministry of Internal Affairs, only to be told by the Minister himself that he could not protect him or his family if he continued speaking out. Crusading reporters “face a hostile environment, including threats and attacks”.⁶⁰

Pressure has two sides, with visible abuse of journalists the more dramatic and frightening, but perhaps less important of the two. Many Balkan media companies depend on direct or indirect government favour in the form of advertising revenue or subsidies. Editors know the consequence of crossing the powerful can be an advertising drought that can lead to bankruptcy; direct threats are seldom necessary. Reporters Without Borders rated Serbia the best in the region. Yet in one week in June 2014, its Prime Minister demanded a public apology from the OSCE for criticism of press freedom; Parliament slashed the budget of the state ombudsman after he criticised media censorship; and not a single daily paper dared print a story alleging a minister

52 “Criminal insult used for silencing journalists in Croatia, says OSCE media freedom representative,” OSCE press release, 8 April 2014.

53 EC, Kosovo* 2013 Progress Report, p.15. Freedom House did not rate Kosovo.

54 OSCE Representative on Freedom of the Media, “Regular Report to the Permanent Council”, 28 November 2013, pp.16–17.

55 “OSCE Representative deeply worried about police intimidating journalists at demonstrations in Skopje,” OSCE press release, 21 May 2014.

56 EC, Montenegro 2013 Progress Report, p.42.

57 OSCE Representative on Freedom of the Media, “Regular Report to the Permanent Council”, 28 November 2013, p.18.

58 “Government online censorship in Serbia worrying trend, says OSCE media freedom representative,” OSCE press release, 27 May 2014; see also Milica Popović, “Serbia: is the freedom of the press endangered?” London School of Economics blog post (blogs.lse.ac.uk) 2 June 2014.

59 EC, Serbia 2013 Progress Report, p.44.

60 “Balkans: More effort needed to end abuses”, press release, Human Rights Watch, 21 January 2014.



had plagiarised his Ph.D. dissertation until it had blown up on social media.⁶¹

Since the Energy Community Treaty, which incorporates some of the relevant parts of the EU acquis, already binds the region, the energy industry can become a template for the broader good neighbourly relations that often elude the countries of Southeastern Europe. The clearest example of this is the fraught relationship between Serbia and its now-independent former province of Kosovo. In October 2011 the Energy Community Secretariat found Serbia in violation of the treaty with respect to several issues, including non-payment for transmission through Kosovo.⁶² Under strong EU pressure, the general managers of the Kosovo and Serbian operators signed a binding agreement on 12 February 2014. The Secretariat called this a “milestone in normalizing the relations between the two electricity system operators”, but it is also a milestone on the way to a normal bilateral relationship between two states.⁶³

Managing energy investment is an existential challenge for the states of South East Europe in many ways. The region is highly vulnerable to the effects of climate change, notably to dramatic shift in rainfall and extremes of temperature.⁶⁴ On the positive side, the region has high potential for energy efficiency and sustainable

renewable energy investments. Yet if future investments proceed along the same corrupt, patronage-based paths laid down by other large projects, the countries of the region will have missed perhaps their best opportunity to build the kind of prosperous, free and rule-based societies their people long for.

Today, Croatia is the only regional actor with a chance of handling large-scale investment properly. Whatever capacity it has comes from the painful lessons of the INA-MOL case and the rigours of EU accession. Yet it is still fertile soil for other kinds of corruption and patronage. In addition poor planning and a dearth of public participation mean that Croatia still pursues poorly thought-out energy projects that are not likely to be the best options for the country. The rest of the region lags far behind and will have to develop new institutions amounting to a new economic culture based on legal norms instead of personal connections. The role of the European Union will be paramount. The lion's share of energy investment will come from EU-based firms. The scandal at the heart of the INA-MOL case must not be repeated. Adoption of European legal norms, and gradual exposure to the large European market, can provide the transformational impetus needed. Energy is central to the ‘de-Balkanisation’ of the Balkans and, its transition to well-run government and sustainable economic growth.

61 Marija Ristić, “Serbian Ombudsman Under Fire After Criticising Govt”, *Balkan Insight*, 2 June 2014;

62 See “Serbia and Kosovo: The Path to Normalisation”, International Crisis Group, 19 February 2013, p. 23.

63 “Electricity transmission system operators of Serbia and Kosovo* sign first-ever agreement governing their bilateral relations”, 12 February 2014, energy-community.org.

64 The Notre Dame Global Adaptation Index, which measures vulnerability and readiness, rates Albania 62nd, Bosnia 64th, Croatia 36th, Macedonia 50th and Serbia 74th (Kosovo was not rated separately).



Albania: The money laundering investigation

DATE OF INCIDENT: The transactions in question took place June-October 2007. An investigation was launched on 9 October 2008. The Ansar incident became known in a tv interview, on 15 January 2013. No investigation has been launched.

PERSONS INVOLVED:

- Ms. Argita Malltezi Berisha – Lawyer, daughter of ex-Prime Minister of Albania Sali Berisha
- Mr. Erion Isufi, brother in law of Lulzim Basha (right hand of ex-Prime Minister, Sali Berisha, former Minister of Transport),
- Flutura Kola, former law partner of Ms. Argita Berisha
- Damir Fazlić, a Bosnian citizen and owner of several businesses in Albania.
- Mr. Zafar Ansar – Pakistani businessman

SUMMARY: Ms. Argita Berisha was accused in 2007 of ties with a Bosnian businessman, Mr. Damir Fazlić, investing in land properties in Albania. Being the daughter of the then Prime Minister, she could have had privileged information on the future plans of the government affecting property values. Such information could have been used by her client, Damir Fazlić, to buy land cheaply and then sell it at higher prices. Ms. Berisha was also accused in 2013 of asking for a bribe of 1–3% of the investment from a Pakistani businessman, Zafar Ansar in the form of a ‘success fee’. The businessman was referred by the Albanian embassy to use her as legal advisor for a thermal power plant project he wanted to carry out in Albania.

CURRENT STATUS: According to the media, Ms. Berisha’s wealth is currently being assessed by the agency responsible for monitoring the property of public servants. In April 2014, the Socialist Party, through its member of parliament, Mr. Taulant Balla, asked for an investigation of Ms. Berisha in the Zafar Ansar case. The Damir Fazlić case was closed without any charge by the prosecution.

Three months after the Democratic Party, led by Mr. Sali Berisha, won elections in July 2005, the daughter of the new Prime Minister Berisha, Ms. Argita Berisha, opened a law partnership with Ms. Flutura Kola. After two months they legally separated the partnership, but continued to work at the same address.

Ms. Berisha and Ms. Kola were among the lawyers of Mr. Damir Fazlić, who became acquainted with Mr. Sali Berisha during the election campaign of July 2005, where Fazlić worked for the consultancy firm BG & R, contracted by the Democratic Party for the campaign. In September of

that year, Damir Fazlić, registered within 2 days 3 companies with headquarters in the same building, in Tirana, with administrator Mr. Erion Isufi, the brother in law of the then Minister of Transport and right hand of the Prime Minister, Mr. Lulzim Basha.

One of the businesses was Crown Acquisitions. The aim of the businesses was property development: to buy land and sell it later at higher prices (as explained by Mr. Fazlić). Crown Acquisitions officially bought land in the Porto Romano area near Durres in August 2007.



In May 2007 Mr. Fazlić, through a company registered in Cyprus, became indirect owner of 40% of shares in Rompetrol Albania. Rompetrol Albania at the time owned several hectares of land bought in early 2005 in the Porto Romano area. Rompetrol Albania and his other business, Alpha, had as its accountant Ms. Shpresa Breshani, nephew of Mr. Sali Berisha, while Flutura Kola had power of attorney of Rompetrol Albania.

In July 2007, Crown Acquisitions was sold to Altaria Research Ltd, with headquarters in Cyprus, for EUR 1.7 million. Altaria Research Ltd – which also owns Serbia’s Rudnap energy trading company – was represented by Flutura Kola. At the time of sale Crown Acquisitions owned no assets. It legally bought the land assets two months after their sale. This transaction raised suspicions and Tirana’s prosecutor began an investigation for money laundering against Damir Fazlić on 9 October 2008. No formal charges were brought.

On 23 April 2008, the Government approved Decision no. 703, declaring the Porto Romano area an energy park designed for large energy projects. A then Member of Parliament, Erion Brace, accused the Prime Minister Sali Berisha and his daughter Argita Berisha, of enabling the land’s value to increase by 50 percent and enriching its owner, Mr. Fazlić, in no time with this decision.



Through their political connections, Mr. Fazlić and Ms. Berisha could have had access to information affecting the future value of the land (like decisions at the government level) – information to which the land sellers did not have access. They also could affect decisions threatening the value of the properties.

The Albanian criminal code does not explicitly penalise such behaviour. Nevertheless, its effects are similar to corruption: political persons or their relatives earn remuneration they would not otherwise get through exclusive information that enriches the remunerator to the detriment of other persons.

Similar behaviour, when privileged information is used to earn profit from the sale of shares, is now penalised with new amendments to the Albanian criminal code (since 2012).

Ms. Argita Berisha’s office was also used as legal advisor in 2007 for the project of a thermal power plant by a Pakistani businessman, Zafar Ansar. In 2013 he accused her of asking for a “success fee” (in other words a bribe) of 1–3% of the project value. The businessman made public their e-mail correspondence on the success fee.

In Ansar’s case it was the Albanian embassy’s staff which introduced him to the Prime Minister’s daughter’s legal office.

According to the invoice issued by Ms. Berisha and presented by Mr. Ansar, she charged 200 EUR/hour for her legal consultancy services. Such



fees are excessive for Albanian standards, but were considered normal by Ms. Berisha.

The Socialist Party has accused Ms. Argita Berisha of using the public administration to refer business clients to her private practice.

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Albania: The hydro concession case

DATE OF INCIDENT: The alleged incident became known on 11 January 2011

PERSONS INVOLVED:

- Mr. Ilir Meta, Deputy Prime Minister (accused of bribery but not convicted due to lack of evidence)
- Mr. Dritan Prifti, Minister of Economy (accused of bribery but not convicted due to lack of evidence)
- Mr. Leonard Beqiri, Deputy Minister of Economy (accused of bribery but not convicted due to lack of evidence)

SUMMARY: The former Prime Minister, Ilir Meta, was accused by the then Minister of Economy, Dritan Prifti, of asking him to favour a business in the tender procedure for a hydropower concession. As a reward they would be paid with EUR 700,000 and a 7 percent share in the plant. Ilir Meta was also accused of taking a EUR 1 million bribe together with Dritan Prifti for favouring a business in a tender of crude oil.

CURRENT STATUS: Ilir Meta was declared innocent by a High Court Decision dated 16. Jan. 2012 due to insufficient evidence. After the sequestration of Dritan Prifti's laptop, to be used as evidence against Ilir Meta, another video clip was discovered, where Dritan Prifti himself and his Deputy Minister, were counting EUR 69,000 of banknotes from a suitcase. Therefore, Mr. Dritan Prifti, ex-Minister of Economy, and Leonard Beqiri, his deputy, were accused of bribery before the High Court in March 2012, two months after Ilir Meta was declared innocent. But in September 2012 the prosecution withdrew the charges against Dritan Prifti and Leonard Beqiri for bribery, also due to insufficient evidence.

The hydropower plants in Albania are paid a feed-in tariff, and the business is very profitable. Therefore, there have often been allegations of bribery or using political and family connections to obtain concessions for hydropower plants.

In this case, on 11 January 2011, on Top Channel tv, the investigative daily programme Fiks Fare broadcasted a video clip, registered on March 2010, in which the former Deputy Prime Minister, Ilir Meta, and the former Economy Minister, Dritan Prifti, could apparently be heard discussing favours over a contract. After the video broadcast Prifti accused Meta of asking him to favour the company Vëllezërit Tola Ltd in the concession for the Egnatia –Shushicë hydropower plant. As a reward they would gain a seven per cent stake in the investment and a EUR 700,000 bribe.

Ilir Meta was also accused of taking together with Dritan Prifti, the then Minister of Economy, EUR 1 million for favouring the company Halilaj Holding Group sh.a. in a tender for 50,000 tonnes of crude oil by the state oil company. Ilir Meta was formally accused by the General Prosecution of bribery and brought before the High Court (being Deputy Prime Minister).

The High Court did not accept the expertise of foreign experts Glenn Bard and Adrian Philips – chosen by the general prosecutor – on the video clip, claiming procedural breaches. Instead, the High Court chose Albanian experts to verify the authenticity of the video clip. The video clip was deemed by the new experts not to be the original, with a high probability of being manipulated, therefore the court did not accept it as proof.



Ilir Meta was declared innocent and the issue was closed.

Based on the second clip, Mr. Dritan Prifti, then Minister of Economy, was himself accused of bribery together with his Deputy Leonard Beqiraj. The general prosecutor withdrew those charges too citing insufficient evidence.

The video clip showed them counting EUR 69,000. The clip was deleted from the recording device by Prifti, but was recovered by the expert involved in Ilir Meta's case, Glenn Bard.

Following the scandal there was a massive protest in front of the government offices, as a result of which 4 persons were killed with firearms by the national guards.

In the last general elections in June 2013 Ilir Meta's party had sweeping gains, and he is now chairperson of the Albanian parliament. Dritan Prifti does not have an official position any more.

The tendering of concessions in Albania is a very contentious issue. The process is considered often opaque, and approval is seen as often being given based on personal benefit. In the last few years more than 440 hydropower plant concessions have been issued, but only around 10 percent of them have been built and are producing energy.

Research by Balkan Insight into complaints and administrative investigations carried out by the Procurement Advocate Office, AVP, shows more than a third of the tenders have turned out to be problematic. None has resulted in actual prosecution.

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Bosnia and Herzegovina: The EPBiH and EPHZHB energy trading case

DATE OF INCIDENT: The incidents came to light in 1998 and again in late 2011.

PERSONS INVOLVED:

FIRST OCCASION:

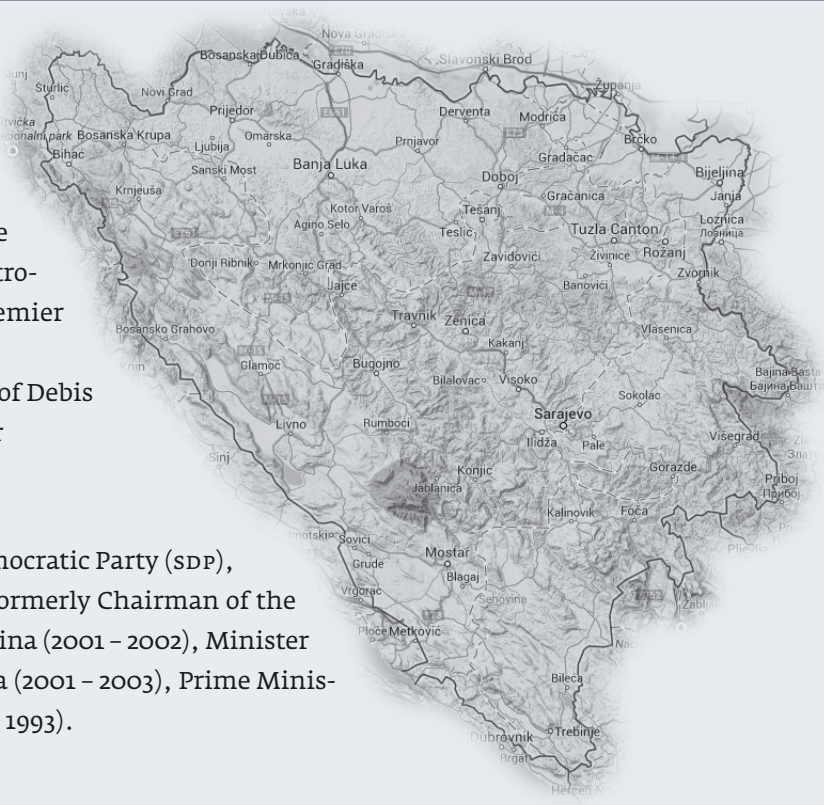
- Edhem Bičakčić (Federation of BiH Prime Minister 1997–2001; General Director of Elektroprivreda BiH 1992–1997) and former Vice Premier Dragan Čović (1998–2001)
- Volker Schmidt and Peter Heier – managers of Debis International, former subsidiary of Daimler

SECOND OCCASION:

- Rudnap – electricity trading company
- Zlatko Lagumdžija – leader of the Social Democratic Party (SDP), and currently Minister of Foreign Affairs. Formerly Chairman of the Council of Ministers of Bosnia and Herzegovina (2001 – 2002), Minister of Foreign Affairs of Bosnia and Herzegovina (2001 – 2003), Prime Minister (1993) and Deputy Prime Minister (1992 – 1993).
- Elvedin Grabovica – EPBiH Director
- Damir Fazlić – businessman

SUMMARY: EPBiH and EPHZHB are the two state-owned electricity companies in the Federation of Bosnia and Herzegovina, one of the political entities making up the sovereign country of Bosnia and Herzegovina. Federation of BiH authorities on two occasions, more than ten years apart, decided to trade EPBiH's surplus electricity through traders, which was detrimental for the state companies and made a significant profit for the private ones. Former Prime Minister Edhem Bičakčić and Vice Premier Dragan Čović made a contract with German company Debis International on the sale of surplus electricity from EPBiH for six years in 1998. After the SDP's arrival to power, Zlatko Lagumdžija annulled the agreement at the end of 2003, one year before the contract's expiry. However the same Zlatko Lagumdžija, SDP leader, when his party regained control over EPBiH after the 2010 elections, allowed the same practice of EPBiH using a private trading company to sell electricity to EPHZHB, just changing the mediator. EPBiH Director, Elvedin Grabovica, also a member of the SDP, sold part of the electricity surplus for 2011 through the Serbia-based company Rudnap without a tender.

CURRENT STATUS: On the first occasion Paddy Ashdown, then Bosnia and Herzegovina's High Representative, impeached Edhem Bičakčić for several issues and excluded him from any further involvement in EPBiH on March 13 2003. Ashdown also prohibited him from performing advisory functions or employment in any public company. A later High Representative lifted the ban on 3 July 2006. However, no high level politician has ever been convicted of corruption in Bosnia and Herzegovina. Political parties are widely perceived to control the prosecutors. The Debis managers were replaced by Daimler in 2008 but no further action was taken against them. On the second occasion, no action appears to have been taken against Grabovica.





In late 2011 a scandal was publicised in which ЕРБІН's electricity surplus had been sold to Serbian company Rudnap without a tender.

Elvedin Grabovica, ЕРБІН's director, was selling the electricity surplus to the Serbian company Rudnap, represented by Damir Fazlić from Banja Luka.

Grabovica cancelled an earlier scheduled tender for the sale of the electricity surplus for the fourth quarter of 2011. In the annulled tender, an excellent price was achieved (the highest in 2011) of EUR 64.5 per megawatt-hour. The same electricity was sold later by Grabovica without a tender to Rudnap at a lower price of around EUR 59 per megawatt-hour.

Grabovica managed to increase ЕРБІН's annual income by increasing the electricity tariff by 15 percent from July 2011; so domestic consumers partly covered this loss.

Due to Grabovica's poor business decisions, according to Slobodna Bosna weekly magazine, ЕРБІН lost about 10 million KM (EUR 5.1 million), despite this price increase. It is difficult to accurately determine the extent of damage resulting from the electricity resale in the Federation of BiH, but it is a symptomatic fact that the public companies that participated in this arrangement operated with business losses in 2012.

ЕРБІН's net profit in 2011 was almost four times lower than anticipated: instead of 6.5 million KM (EUR 3.3 million), as Grabovica expected, it turned out to be only 1.4 million KM (EUR 0.7 million). ЕР НЗНБ passed off incomparably worse. Its operating loss was 44 million KM (EUR 22.5 million) by the end of 2012.

This is just part of a larger affair which has been ongoing since 1998 when former Prime Minister Edhem Bićakčić and Vice Premier Dragan Čović made an agreement with the German company Debis International on the sale of surplus electricity. In exchange, Debis committed to provide favourable credit lines for various projects in the

Federation of Bosnia and Herzegovina and also to purchase two Airbus aircraft. This agreement was concluded in 1998 for six years.

Paddy Ashdown, then Bosnia's High Representative, impeached Edhem Bićakčić and excluded him from any further involvement in ЕРБІН on March 13 2003. Ashdown also prohibited him from performing advisory functions or employment in any public company. In 2009 a separate trial against Bićakčić and Čović resulted in an acquittal.

After the SDP's coming to power, Zlatko Lagumdžija annulled the agreement in November 2003, one year before its expiry.

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Croatia: The HEP energy trading case

DATE OF INCIDENT: The sale of the electricity in question was approved by HEP in 2007. Investigation of the case began in 2010, and the first indictment against Ivan Mravak was issued in January 2012.

PERSONS INVOLVED:

- Former HEP board chair Ivan Mravak
- Former Croatian Prime Minister Ivo Sanader

SUMMARY: The Zagreb County State Attorney's Office has issued an indictment against former HEP board chair Ivan Mravak, who is accused of abuse of office on the orders of former Prime Minister Ivo Sanader. In April 2014 Zagreb County Court confirmed the indictment. Former Croatian Prime Minister and Croatian Democratic Union (HDZ) leader Ivo Sanader was also indicted for defrauding the state-run HEP power provider of HRK 650 million (EUR 85 million) by encouraging Mravak to sell electricity to the Sibenik-based TLM light metal factory and Bosnia's Aluminij Mostar company below the market price, however the indictment has currently been withdrawn for amendments.

CURRENT STATUS: Former HEP board chair Ivan Mravak was indicted in January 2012 for abusing his office on the orders of former Prime Minister Sanader. Former Prime Minister Ivo Sanader was indicted in September 2013. The prosecution however has withdrawn the indictment for amendments and is expected to re-issue it again around September of this year.

The Croatian Bureau for Combating Corruption and Organized Crime (USKOK) included Sanader in its investigation into HEP's finances in January 2012, based on a statement by the former Croatian Deputy Prime Minister Damir Polančec who revealed the details of Sanader's involvement in the case while he was on trial for another corruption case. Polančec stated that Sanader pushed him, former head of HEP Ivan Mravak, and Ivan Koštan, the former head of Croatian Aluminium company TLM, to sign a set of contracts.

According to the indictment issued by the Croatian Office of the State Prosecutor (DORH), Mravak's approval of the contracts is not in line with Croatian trade law nor with HEP's regulations. On April 12, 2007, Mravak led HEP's Supervisory Board and Board of Directors to believe that the contracts between HEP and TLM and Aluminij

Mostar would be beneficial to the company. He is accused of abuse of office on the orders of former Prime Minister Sanader. As a consequence, HEP lost around EUR 85 million in a deal that provided Alumniji Mostar with electricity well below the market price, and guaranteed a supply of high quality aluminum to TLM from Mostar. Mravak has pleaded guilty and will be the key witness for the prosecution.

Indictments against Mravak's former advisor, retired general Ivan Kapular, and former HEP Supervisory Board member Zdenko Juričić, were also issued. Although Polančec and Koštan were originally indicted as well, the State Attorney's Office eventually decided to drop their charges.

In September 2013, Sanader was indicted on the charge that while he was Prime Minister, he



**CASE
PENDING**

forced Mravak to sell electricity to two aluminium producing firms, TLM in Sibenik, Croatia, and Aluminij in Mostar, Bosnia, at a cheaper than market price.

According to DORH, Sanader received between EUR 1.5 million and EUR 2.2 million from Debis, a former subsidiary of the German company Daimler, which had business ties to Aluminij Mostar, to facilitate the Aluminij Mostar and TLM contracts with HEP. Sanader denied the charges, claiming the decision to sell cheaper electricity was a unanimous decision of the government that he led. Meanwhile, the prosecution has withdrawn the indictment for amendments and has until September this year to re-issue it.

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Croatia: The INA – MOL Affair

DATE OF INCIDENT: An indictment against former Prime Minister Sanader was issued in November 2011, and the trial concluded in November 2012. Zsolt Hernádi was indicted in March 2014 and is pending trial.

PERSONS INVOLVED:

- Ivo Sanader, former Prime Minister of Croatia,
- Zsolt Hernádi, Chairman and CEO of Hungarian Oil and Gas Public Limited Company (MOL)

SUMMARY: Former Prime Minister Ivo Sanader was charged for taking EUR 10 million in bribes from the Hungarian oil company MOL, in order to give MOL a dominant position in the Croatian oil company, INA. Sanader was tried and sentenced for 7 years in prison in the INA – MOL affair. Additionally, the court ordered him to pay a fine of EUR 5 million. In October 2013, Croatian police issued an international arrest warrant for Zsolt Hernádi on charges of bribing Sanader.

CURRENT STATUS: Ivo Sanader was sentenced to three-and-a-half years in prison in a separate case connected to the Hypo Alpe Adria Bank and for seven years in the MOL-INA case. He was also ordered to pay a fine of EUR 5 million in November 2012. In March 2014, Zsolt Hernádi was indicted on charges that he bribed Ivo Sanader to give MOL management rights in INA. Hernádi denies any wrongdoing.

In 2002 the Law on Privatisation of INA was approved, allowing the Hungarian oil company MOL to buy 25% plus one share in November 2003 for USD 505 million (EUR 516 million) after winning a long auction process.

In 2008, MOL purchased an additional 22.15 percent of INA's shares, thus increasing its ownership to 47.16 percent and reducing the government's share to 44.84 percent. MOL gained operational control over INA.

Following these events, the Croatian Parliament formed a special Parliamentary Commission to investigate the privatisation, claiming there was a lack of transparency in the process. In December 2010, MOL increased its total share to 47.26 percent. On 15 March 2011 the Croatian Financial Services Supervisory Agency (HANFA) suspended trade in INA shares and filed a report to the State Attorney's Office, claiming there were irregularities in the exchange.

The following month, USKOK (Bureau for Combating Corruption and Organized Crime) charged Croatian former Prime Minister Ivo Sanader with taking EUR 10 million in bribes from the Hungarian oil company MOL Chairman, Zsolt Hernádi, in order to give MOL a dominant position in the Croatian oil company, INA. Zagreb County court sentenced Ivo Sanader to three-and-a-half years in prison in a separate case on the Hypo Alpe Adria Bank and for seven years in the MOL-INA case. He was also ordered to pay a fine of EUR 5 million. Sanader rejected all the accusations in this case when questioned by uskok. His defence team claimed that the case was launched based on a deposition by the owner of the petrochemical company Dioki, Robert Jezić, who, by blaming Sanader, tried to secure a better position for himself in proceedings that were ongoing against him. Half of the EUR 10 million were allegedly paid through Jezić's companies in Switzerland.

**SANADER
GUILTY**

Former Deputy Prime Minister Damir Polančec had also been a suspect in the case, but uskok gave up prosecuting him because it had not found any evidence of Polančec aiding Sanader in the abuse of office.

In October 2013, Croatian police issued an arrest warrant for Hernádi, and on 31 March 2014 uskok indicted him on charges that he bribed former Prime Minister Ivo Sanader to give MOL management rights in INA. If the Zagreb County Court upholds uskok's indictment, it will try Hernádi in absentia. Meanwhile, MOL has announced the possibility of selling its 49.1 percent of INA shares.

**HERNÁDI CASE
PENDING**

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Kosovo: The KEK contract libel case

DATE OF INCIDENT: 2012

PERSONS INVOLVED:

- Arbana Xharra, journalist at Zëri newspaper
- Bejtush, Mehdi and Ilmi Zhugolli, businessmen
- Selvije Bajrami, journalist at Zëri
- Kosovo Energy Corporation (KEK)

SUMMARY: In April 2012 Arbana Xharra of the independent daily newspaper Zëri wrote an article commenting that the Zhugolli brothers businessmen were financially supporting Prime Minister Thaçi's election campaign and that in return, they won lucrative contracts at the Kosovo Energy Corporation (KEK). Soon after the publication of the article, Bejtush Zhugolli sued Xharra and Zëri, however Xharra was found not guilty. When Selvije Bajrami, another journalist at Zëri, published a report on the first court session, Zhugolli also sued her, however she was also found not guilty.

CURRENT STATUS: The court cases were concluded in favour of the Zëri journalists

On 2 April 2012 Arbana Xharra of the independent daily newspaper Zëri wrote an article commenting on a deal between three brothers named Zhugolli and Prime Minister Hashim Thaçi. Quoting anti-corruption watchdogs and public procurement reports, she said that Ilmi, Bejtush, and Mehdi Zhugolli, who all own private companies, were financially supporting the Prime Minister's election campaign. In return, Thaçi is said to have passed the businessmen very lucrative contracts at the Kosovo Energy Corporation (KEK) and Electricity Transmission System Operator KOSTT worth around EUR 70 million between 2008 and 2010.

The companies Eco Trade, owned by Mehdi Zhugolli, and ACDC-KOS owned by Ilmi Zhugolli won around ten contracts from KEK and KOSTT related to replacement of installations, supply of equipment, and repair of transmission lines. Most of the contracts were awarded directly, ie. without a competitive tender.

Soon after the publication of Xharra's article, Bejtush Zhugolli sued her and Zëri for damaging the image of his business, and asked for damages of EUR 700,000. The case was accepted and

processed very quickly by local standards: the first court session took place on 25 April 2012.

When Selvije Bajrami, also a journalist at Zëri, published a report on the first court hearing, Zhugolli also sued her, demanding compensation of EUR 300,000, a sum that was later reduced to just under EUR 34,000.

After three court hearings, the judge at the Economic Court in Prishtina, Fetije Sadiku, rejected the lawsuit against Xharra in January 2013, arguing that the article she wrote was based on official documents and that she only quoted her sources but did not give her opinion. In April 2014 the case against Bajrami was also rejected on similar grounds.

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Kosovo: The UNMIK/KEK affair

DATE OF INCIDENT: The investigation started in 2001 and finished in 2003.

PERSONS INVOLVED:

- The ex-Executive Manager of KEK, Jo Trutschler

SUMMARY: After 1999, the Kosovo Energy Corporation (KEK) was managed by international management appointed by UNMIK. From 2000–2002 Jo Trutschler was KEK's leading manager. During his tenure it was discovered that he had acquired about USD 4.3 million (then around EUR 3.7 million) and transferred the sum to fake companies in Gibraltar. UN investigators discovered that in addition Trutschler had falsified his diploma and claimed greater experience in management than he really had. As a result of this fraud, a German court sentenced him to three years in prison for breach of trust and mis-using an academic title. Most of the money was recovered.

CURRENT STATUS OF THE CASE: Jo Trutschler was convicted and served a sentence of three and a half years. Most of the funds were recovered and returned to the Kosovo Energy Corporation.

After 1999, the Kosovo Energy Corporation was managed by international management on behalf of UNMIK. Jo Trutschler was appointed KEK's leading international manager in 2000.

During the time he managed the company it was discovered the money had disappeared and the UN's Office of Internal Oversight Investigations and the European Anti-Fraud Office were alerted. It was found that he had acquired about USD 4.3 million and transferred the sum to fake companies in Gibraltar. He then attempted to transfer the money further to Belize in April 2002, however this transaction was blocked. In early May 2002 the Gibraltar accounts were blocked due to court action by OLAF. The investigation also confirmed that Trutschler had unlawfully obtained a further EUR 220,000 of KEK funds through the submission of two false invoices, purportedly from two foreign energy-related companies, but with the payments in fact going to his accounts in Gibraltar. UN investigators also discovered that Trutschler had a fake diploma and his cv was false. He did not study in Boston and Florida, nor did he have a PhD in Aachen. And the company he claimed to run with 160 employees was bankrupt. On 26 December 2003 UN Secretary-General Kofi

Annan, announced to the UN General Assembly that investigations had confirmed that former UNMIK senior official, Jo Trutschler, had committed a criminal offence and had damaged Kosovo Energy Company (KEC) to the value of USD 4.3 million. In July 2002, the case was referred to the authorities in Trutschler's native Germany. He was tried and convicted for breach of trust and false use of an academic title and was sentenced to a prison term of three years and six months. Most of the money was recovered and returned to the KEK account.

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Macedonia: The electricity trading cartel and tax evasion cases

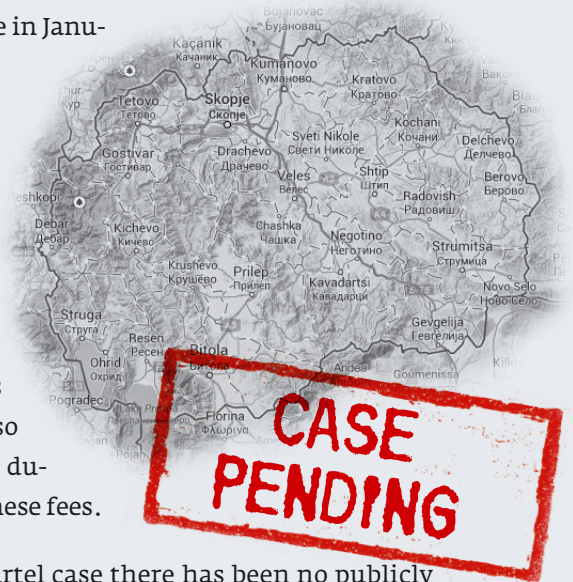
DATE OF INCIDENT: The electricity auction in question took place in January 2012

PERSONS INVOLVED:

- Macedonian Competition Commission
- GEN – I, Rudnap Group, ESPADA and EFT

SUMMARY: In 2012 the Macedonian Commission for Protection of Competition filed misdemeanour charges against four electricity trading firms on suspicion that they created a cartel so they could dictate the price for electricity imports through their bids in a January 2012 tender. Later in the year the customs office also charged three electricity trading companies additional customs duties, saying that they had used various methods to evade paying these fees.

CURRENT STATUS: Since the initial news about the alleged cartel case there has been no publicly broadcast news on whether the cases have been concluded; whether there were any fines for the companies that were accused of breaking the law, nor whether they filed appeals. However upon a request to the Commission for Protection of Competition to comment, a spokesperson confirmed that they filed misdemeanour charges against the companies that allegedly created the cartel and that this process is still ongoing. In the tax evasion case it is not clear whether the companies have paid and if not, whether further action has been taken.



In December 2011 and January 2012 tenders were published for electricity imports to cover shortages due to increased consumption (very low temperatures combined with high use of electricity for heating). In late January 2012 the Government instructed ELEM, the state electricity generator, to submit all tender documentation for review to the Commission for Protection of Competition.

On 27 March 2012 the Commission for Protection of Competition filed misdemeanour charges against four electricity trading firms on suspicion that they broke the law by colluding on their bids for the tender for the procurement of electricity launched by ELEM in January 2012.

The Commission considered that it had reasonable grounds to suspect that four companies – GEN – I, Rudnap Group, ESPADA and EFT – created

a cartel organisation so they could dictate the price for electricity imports and have an advantage over other firms also bidding in this tender.

The companies accused have denied all allegations, stating that there is healthy competition on the electricity market.

It is interesting that Čedomir Kraljevski was dismissed as President of the Commission for Protection of Competition in April 2012, just one month after these cases were brought to light, though he remained a member of the Commission. There is no news on why the President was replaced, though the Government replaced numerous officials at the time in a re-shuffle it called the New Wave, which was carried out in 22 institutions and agencies but did not involve the replacement of any Ministers.



Charges of cartel activity do not seem to have harmed the position of those alleged by the media to be involved: Indeed, Kocho Angjushev a founder of one of the companies, EFT, left the company in February 2013, a year after these charges were filed, and was elected President of the Macedonian Energy Association (MEA) at the Chamber of Commerce.

Several months after the media reported the case of the alleged cartel activities, in November 2012 the Macedonian Customs Office announced that during routine inspections comparing the quantities of electricity in the country which passed customs checks with data on the quantities of import, export and electricity which passed the transmission system for the period 2010–2012. The Customs Office found major irregularities at three electricity trading companies, after which decisions were adopted for additional payment of customs duties for about 113 million Denars (EUR 1.8 million EUR).

In the first case, a company from Skopje evaded customs duties totalling approximately 79.4 million Denars (EUR 1.3 million). During 2011 and 2012 the company delivered a total of 154,790 mwh electricity but some of the imported electricity had been illegally removed from customs supervision without paying customs duty amounting to 71.6 million Denars (EUR 1.16 million). Also the Customs Office discovered annexes to the General Agreement for sale of electricity where the unit cost per mwh electricity which was purchased was significantly higher compared with the unit price at which it was declared, and thus the company avoided a payment of customs duties for a further 7.8 million Denars (EUR 0.12 million).

In the second case, a company from Skopje evaded paying customs duties of about 30 million

Denars (EUR 0.5 million), and the Customs Office adopted two decisions on additional payment of customs debt. In the third case, the Office charged additional customs duties of 3.5 million Denars (EUR 0.06 million) for electricity which was earmarked for one company but actually re-sold without paying appropriate taxes.

The official statement does not identify the companies that evaded taxes. However, the weekly journal Faktor reported it had unofficially learned from 'government sources' that the companies were Rudnap and GEN – 1. There is no publicly available information on whether the companies paid what they owed, or whether prosecutions have ensued.

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Montenegro: The KAP electricity theft affair



DATE OF INCIDENT: February-May 2013

PERSONS INVOLVED:

- Minister of Economy – Vladimir Kavarić
- Chairman of the CGES (Montenegrin Electric Transmission System) Board of Directors – Dragan Laketić



SUMMARY: At the beginning of 2013, the Montenegrin government allowed the theft of electricity from the European Energy Interconnection System for the Podgorica Aluminium Factory (KAP), after electricity company Elektroprivreda Crne Gore (EP CG) stopped supplying electricity to the company. This became public only months afterwards, when representatives of the European Network of Transmission System Operators for Electricity (ENTSO-E) warned Montenegro to stop such practices and ordered them to return the stolen electricity or the whole country would be excluded from the European network. The Government of Montenegro agreed to do so, but the price of the stolen electricity is being covered from the state budget and profits of CGES. At the end of the day, it is the public who will pay the price of the stolen energy as in the meantime KAP has gone bankrupt.

CURRENT STATUS: The state prosecutors are still investigating this case, but so far no-one has been charged with anything. The state budget envisioning that energy theft is paid for by CGES has been adopted in the Parliament of Montenegro and is in force.

After the privatization of Montenegrin state energy company EP CG and the sale of nearly 44 percent of shares to Italian energy company A2A, EP CG barely coped with the pressure by its new owners to cut subsidies to KAP (Podgorica Aluminium Factory), the largest consumer in the country, and to stop tolerating KAP's unpaid electricity bills. At one point these bills were at over EUR 50 million with no clear plan how to settle them.

Finally, in February 2013, EP CG stopped supplying KAP. The official reason was that KAP did not sign a new contract with EP CG for supplying electricity.

There was an obvious problem for the Government as shutting down KAP altogether would cause significant additional costs. CGES,

Montenegro's transmission company, and the main link for distribution of electricity for large consumers, started taking electricity from the European electricity grid without permission in order to keep KAP running and did so from March to May 2013. This was kept as a secret from Montenegrin citizens until representatives from the European Network of Transmission System Operators for Electricity (ENTSO-E) publicly warned Montenegro to stop illegally taking energy from the European system in late May 2013, and threatened it with being excluded from the European network.

In the same month, for the first time, local media reported that KAP was stealing electricity from the European grid and that ENTSO-E threatened Montenegro with exclusion.



However, it was MANS who first discovered in July 2013 that the electricity was actually stolen by CGES, with the full knowledge of the Montenegrin government, as well as the Regulatory Energy Agency of Montenegro. MANS obtained a document from CGES to the Ministry of Economy informing the Ministry that CGES has started to illegally take energy from the ENTSO-E system. Later MANS confirmed that the same information was sent to the Deputy Prime Minister and the Speaker of the National Parliament of Montenegro. None of them did anything to stop this practice at that time, nor even to inform the public and state prosecutor about the situation.

Upon this discovery, the State Prosecutor's Office launched an investigation on this case, but even a year later, the investigation has not been completed. The Financial Director of KAP (representative of CEAC – co-owner of KAP) was arrested and released with no concrete charges. No Montenegrin public officer has been held responsible for an obvious violation of the law and procedures and the fact that the cost of the stolen energy will be paid by the Montenegrin public.

The 2014 budget estimates that the whole EUR 3 million to return the stolen electricity to ENTSO-E will be covered by CGES' profits. The State Prosecutor's Office initiated an investigation, but so far no-one has been charged with anything. Documents obtained by MANS show that both officials of the Government and the Parliament were aware of this illegal practice and did nothing to stop CGES and KAP from stealing the electricity from the European network.

This is money that could otherwise benefit citizens through improved quality of energy

transmission in Montenegro. KAP, co-owned by a private company, is not being pressed to pay this electricity bill.

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Bosnia and Herzegovina/ Montenegro: Electricity trading

DATE OF INCIDENT: The transactions took place in 1999–2000 but investigations lasted until 2008.

PERSONS INVOLVED:

- Vuk Hamović, then Director of GML International Limited, London
- Elektroprivreda Crne Gore – Montenegrin electricity company
- Elektroprivreda Republike Srpske – Republika Srpska electricity company

SUMMARY: In 1999 USAID gave the Montenegrin government a donation of 11.9 million USD (then equivalent of EUR 13.4 million), part of which was to cover EPCC's debts for electricity imports from Elektroprivreda Republike Srpske in Bosnia and Herzegovina. However Serbian businessman Vuk Hamović, then Director of London-based GML, bought up EPCC's debts shortly before the USAID donations, giving rise to suspicions that the USAID money was being purposely diverted to GML. Investigations by the UK Serious Fraud Office, BiH Prosecutor and USAID Inspector General ended without prosecutions.

CURRENT STATUS: The Bosnia and Herzegovina prosecutor dropped its investigation in 2006 and the UK Serious Fraud Office dropped its investigation against Hamovic in 2008 due to the low likelihood of being able to secure a prosecution. The results of the USAID investigation are unknown.

In 1999, state-owned electricity company Elektroprivreda Montenegro (EPCC) had significant debts towards the Elektroprivreda Republike Srpske (EPRS) company in Bosnia and Herzegovina as a result of electricity imports.

In the summer of 1999, Serbian businessman Vuk Hamović, through UK-based company GML where he was Director until 2003, started to buy the debt that Elektroprivreda Montenegro owed EPRS. The idea of debt trading is that a company buys the right to collect an organization's debt. The cost of the debt depends on the likelihood that it will be repaid. In all of these transactions, GML earned money by buying the debt at a 30 percent discount, according to an email to the Centre for Investigative Journalism (CIN) from EFT spokesman Nenad Savić. Savić said the discount only applied to private firms, was a fair price for the market, and that EPRS was paid in

full and suffered no financial losses. Ultimately, their loans helped by providing liquidity to the system, he said.

Hamović, in a 2008 interview for Montenegro Television, described the transactions as an interest-free loan in which he paid off EPCC's debts to coal companies supplying EPRS. Asked what was his interest in such a move, he described it as a win-win situation in which he gained a discount from the companies by paying them immediately and in cash, which ensured he would gain more than he lost by offering an interest-free loan to EPCC.

At the same time, USAID was providing financial assistance to help Montenegro, including USD 11.9 million (then equivalent of EUR 13.4 million) that had been set aside to cover EPCC's debts towards EPRS. On August 30 USAID sent USD 3.7



million to EPRS to pay EPCG's bills. A week later EPCG sent a letter to EPRS mentioning that it owed EPRS nothing and stating that the money should be redirected to pay off GML and other creditors. This pattern was repeated in 1999 and 2000 with GML obtaining debt prior to payments from USAID. In the process, USD 4.3 million was repaid to GML through February of 2000 using USAID funds.

The timing of Hamović's covering EPCG's debts, just before it received donations from USAID, raised suspicions. Investigations were opened by the UK Serious Fraud Office (SFO), the Inspector General of the United States Agency for International Development (USAID) and the prosecutor's office of the Court of BiH. According to CIN, Jonathan Ratel, international prosecutor for the BiH office, issued an Order for Conducting an Investigation in 2003 which targeted Hamović along with Slobodan Mrdić and Svetozar Aćimović, former director generals of Elektroprivreda RS (EPRS), and Boško Lemez, former Minister of Industry, Energy and Mining in the Republika Srpska government. In the order, the prosecutor wrote that there was evidence the three officials may have committed crimes including abuse of office, signing damaging contracts, revealing business secrets and giving and receiving bribes. The investigators said EP Montenegro and EPRS did not need to sell and trade debt when money

from USAID was already available, according to the order.

Hamović in his Montenegro tv interview stated that USAID donations in general in Montenegro were no secret and that he was confident he would get his money back from EPCG eventually. He has denied any wrongdoing.

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Serbia: The Kolubara mining scandal



DATE OF INCIDENT: 2004–2009 – the issues came out in the media in 2011

PERSONS INVOLVED:

- Mr Dragan Tomić, former Director of Kolubara mines,
- Mr Vladan Jovičić, former Director of Kolubara mines,
- Mr Radisav Ranković, former Director for Commercial Activities,
- Mr Radislav Milić, former Director of the opencast mines,
- Mr Vladan Radovanović, former Technical Director of Kolubara opencast mines,
- Mr Milan Petrović, former Director of D Field of Kolubara,
- Mr Milutin Bobić, former Director of Tamnava West field,
- Mr Živojin Jovanović, former Director of Tamnava East field,
- Mr Svetolik Šimić, former Director of B Field,
- Mr Slavoljub Pavlović, former Director of Kolubara Construction Limited,
- Mr Duško Obradović, formerly of Kolubara Services
- Mr Radosav Savatijević, also known as Kene, former member of the managing board of Serbia's state-owned electricity company EPS – Elektroprivreda Srbije (owner of Kolubara Mines)

SUMMARY: On 3 October 2011, Dragan Tomić was arrested along with 16 other people from the Kolubara mining company and private companies which re-sold lignite or leased machinery to Kolubara. Tomić had from 2004–2008 been General Director of the Kolubara lignite mine and was until August 2009 also Deputy General Director of EPS. From 2008 he was also a member of the Kolubara Assembly. In total 28 people are accused of irregularities around the hire of equipment for the Kolubara mine, causing serious damage to the company's finances.

CURRENT STATUS OF THE CASE: On 31 August 2012 Radosav Savatijević was released from detention and is awaiting the first court hearing for the case. On 21 September 2012 Dragan Tomić and Vladan Jovičić, the main suspects, were released from detention after 1 month in prison, after an appeal court decision. They await the first court hearing for the case.

Between 2004 and 2009 12 high-level managers of Kolubara mining company limited together with 16 owners of private companies misused their official position and caused damage to Kolubara mining company worth more than 937 million RSD (EUR 8.1 million). They are accused of knowingly committing a number of criminal acts.

In court case Ki.Po.46/11 they are accused of gaining illegal profit from misusing resources and

their official positions in the Kolubara Mining company. They have been charged with illegally leasing mechanical equipment from private companies and instructing their operators to falsely report hours of work.

Most prominent among the owners of the private companies is Mr Radosav Savatijević – Kene – who was previously a member of the managing board of EPS.



Another worrying aspect of the case is that during the period in question, Kolubara, through EPS, was the beneficiary of a loan from the European Bank for Reconstruction and Development for the EPS Power II project which prides itself on promoting good corporate governance standards in its countries of operation. Repeated attempts by СЕКОР to raise the issues with the ЕБРД did not prevent the bank approving another loan for Kolubara mines in 2011.

In a separate case known as Little Kolubara, Tomić and five others were accused of fraud in selling scrap metal from the Kolubara mining company to Inos Sirovine Lazarevac for about half of the market price. However they were found not guilty in this case as it could not be established that they had been aware of the market price of scrap metal.

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