

“Balkanka” Association, Sofia, Bulgaria  
*“Nature has all the time in the world, we do not”.*

## POSITION

**SUBJECT: Environmental and Social Policy /ESP/**

**PROMOTER: European Bank for Reconstruction and Development /EBRD/**

**STAGE: January 2019 DRAFT**



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## INTRODUCTION

As a nongovernmental organization watching closely the energy sector in Bulgaria, we, the members of Balkanka Association Sofia, welcome the ESP draft document. On the other hand, we have huge experience with EBRD investments in our country, especially in the field of "sustainable" hydropower development. Therefore we have a lot to share as we found many gaps and shortcomings in the draft ESP in view, which we will discuss in detail hereafter.

But at the very beginning we will point out only the most unacceptable fact of all - the forced resettlement of local people which, obviously, is acceptable to the EBRD under certain conditions, in the 21st Century, even in the EU Member States, not that the exact location or membership of a country matters in this case. So here is a short story from our home experience:

In the middle of the 20th Century a new big dam was built for the Sofia city drinking water supply and for hydropower. People living in three villages were forced to abandon their homes, chased away to resettle elsewhere in the country. The name of the new dam, set into operation in **1954**, was **Stalin!**

This story has come to our minds several times while reading EBRD's ESP draft document Performance requirement 5 where resettlement of people is discussed so cold bloodedly, as if people are packed potatoes. Forced resettlement of people is absolutely unacceptable to normal minds because it contradicts the modern values of democracy in the 21st Century all over the world, including the EU, which is so proud of its democratic values.

That is why right at the start we will point out to the EBRD decision makers that we are not living in the middle ages now, neither do we live in Stalinist times. Since even the potatoes tend to get hot when someone tries to boil them, if the EBRD will ever be involved in forced resettlement of local people against their will, the bank should also know that people will resist, no matter what is written in the bank's ESP Performance requirement 5: *Land Acquisition, Involuntary Resettlement and Economic Displacement*.

Maybe the bank decision makers will be happy to resettle with their entire families, including their old parents and their kids for the sake private investors' profit, but normal human beings will fight - that is the natural human behavior and instinct. Even under the governance of the repressive regimes the world is still full of, normal people are going to resist. Therefore the ESP must include recommendations on the *reasonable casualties* that will appear to be acceptable to the bank and this is an important issue we have read nothing in the ESP about.

However, in the following document we will focus on issues we have the necessary expertise to discuss and some good or bad experience as well. These are:

- PR 1** - Assessment and Management of Environmental and Social Risks and Impacts
- PR 5** - Land Acquisition, Involuntary Resettlement and Economic Displacement
- PR 6** - Biodiversity Conservation and Sustainable Management of Living Natural Resources
- PR 9** - Financial Intermediaries
- PR 10** - Information Disclosure and Stakeholder Engagement

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## **I. IDENTITY AND CONTACT DETAILS**

### **1. Name:**

**"Balkanka"** Association, Sofia, Bulgaria

### **2. Sector / field of activity and location(s) where active:**

"Balkanka" Association is a non-profit, non-governmental organization, registered in Bulgaria for action in public benefit, on 07 August 2013, company file 203/2013 of the Sofia City Court, UIC 176566443. The main objectives of "Balkanka" are protection and conservation of river biodiversity, with a focus on conservation and restoration of indigenous Balkan brown trout */salmo trutta/* populations in Bulgarian rivers.

## **3. ADDRESS OR REGISTERED OFFICE**

### **3.1. Surname and forename of chairman:**

**Ivan Pandukov**, Chairman of the board

### **3.2. Where appropriate, represented by:**

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## **II. GENERAL NOTES**

First of all, it seems very important that each of the EBRD investments should comply with national legislation. It is so declared several times in the ESP. But last year we had the chance to inform the EBRD management that all hydropower investments in Bulgaria are illegal, due to the fact that they do not hold a building lease for the construction of the intakes in the riverbeds, which are considered to be public state property in Bulgaria.

### **In a kind answer of EBRD Civil Society Division we were notified that:**

*According to our Bulgarian legal counsel, there is a lack of clarity as to the applicability of the concession regime for hydropower plants in Bulgaria and this is currently being assessed by the relevant Bulgarian authorities...*

OK, although the case is crystal clear to everyone, it was desperately, tirelessly "assessed" by the competent authorities until April 10th 2018 when they have given up on any further clarification, because hydro developers are too powerful to be disturbed. On the other hand - the case would also have been crystal clear if concession or building lease contracts were prepared in the first place - at the earliest stage of the investment proposals' development possible, leaving the EBRD legal counsel no chance to wonder now if compliance with the legal framework was reached, or it wasn't. Obviously, if a given legal counsel is wondering too much over the achievement of compliance with the law, he'd better be replaced with another, more confident and reliable counsel. Alternatively, if the legal framework is really unclear, which it isn't, every self-reliant counsel should have warned the bank's decision makers in advance to stay away from such kind of projects, instead of wondering over the issue *post factum* quite a few years later after damage has been done.

**Furthermore**, according to article 30 (1) 4 of the Bulgarian Fishery and Aquaculture Act, the Fishery and Aquaculture Executive Agency /FAEA/ "*approves the projects of the fish passes*" in Bulgaria. This requirement was constantly breached during the authorization process of nearly all new hydro projects. New projects for the fish passes were not approved by FAEA with quite a few exceptions. This led to significant cost savings for the operators in most of the cases and to a lot of super stupid fish passes built up so far. Here are only two examples:

#### **1. For the cost savings:**

<https://dams.reki.bg/0070-dam/2017-11-03>

#### **2. One of the most stupid fish passes on planet Earth, which is not cheap of course:**

<https://dams.reki.bg/0267-dam/2018-09-15>

The profit for the operator in this case was to "convince" the state authorities that such a high dam wall can be built without causing any damage by fully blocking fish migration. And still some costs were saved, because the only suitable type of fish pass in this case - the fish lift - is much more costly. We really hope that the last intake - of the Slivka HPP - was not financed with European funding, not that it matters much who actually paid for the thing.

According to the official FAEA information, there are only six fish passes in Bulgaria FAEA has officially approved, only four of which for operational HPPs. These HPPs are:

**Kalomen HPP**

**Falkovets HPP**

**Kitka sHPP**

**Chiprovtsy HPP**

All the rest hydropower enterprises have breached the legal framework on this particular issue and were allowed by the state authorities nevertheless. And some of them were obviously financed by the EBRD either directly, or through FIs...

**And here we come to our first set of recommendations for the ESP:**

### **Recommendation No1**

**EBRD should use the highest level of local advisors, trustworthy and confident enough to be sure if a given undertaking is legal or it's not, because it cannot be both.**

### **Recommendation No2**

**To avoid mishaps, in cases where national legislation is really unclear, EBRD should stay from such projects, until the national legal framework becomes clear and disputable no more. Alternatively, the relevant EU legal framework and the decisions of the European Court must be applied.**

### **Recommendation No3**

**In cases where it's proven that a given undertaking has breached national legislation, EBRD will hold developers responsible for misleading the bank and will require the necessary steps towards full compliance with the law to be undertaken.**

## **1. PR 1 - Assessment and Management of Environmental and Social Risks and Impacts.**

The objectives of PR1 are to:

- *identify and assess environmental and social risks and impacts of the project;*
- *adopt a mitigation hierarchy approach to address adverse environmental or social risks and impacts from project activities on workers, affected communities, and the environment;*
- *develop an ESMS commensurate to the environmental and social risks and impacts of the project in a manner consistent with the relevant PRs; and*
- *promote continuous improvement of clients' environmental and social performance through the effective use of management systems.*

**Sounds very good indeed.** There is only one small detail though - the environmental and social impact assessments are carried out by teams of "*independent*" experts *paid by the promoter*; mitigation measures are proposed in the same "*independent*" reports, *paid by the promoter*; ESMS development and effective use is conducted always by the same "*independent*" experts that are getting *paid by the promoter* again.

That is why problems are always underrated, "mitigation" measures, like the fish pass displayed on the front page of this document, are only aiming to reduce expenses for the promoter and the monitoring, as part of the ESMS, always shows that everything is perfect otherwise it may turn out that the experts didn't know what they are doing at the beginning of the project and then disgruntled operators will not pay.

**Moreover**, judging from our own experience in Macedonia, the EBRD is obviously satisfied with the mere existence of some kind of a document called Assessment, regardless of its quality, no matter how poor it may be.

In Macedonia all the hydropower investment plans hold a strange looking document proudly called "Environmental elaborate" and some have a strange sounding



document more proudly called "Strategic Environmental Assessment /SEA/". None of these has anything to do with the requirements for the Environmental Impact Assessment /EIA/ and/or for the Appropriate Assessment /AA/ set out in the relevant EU Directives - Directive 2011/92/EU /amended in 2014 by DIRECTIVE 2014/52/EU/, as well as DIRECTIVE 92/43/EEC. Then we have a strong message to the EBRD - take any of the named documents for your investments in Macedonia, financed directly or through FIs, and ask a real good EIA/AA expert from an EU member state to see if these documents are any good, because we know you won't believe us that the quality is Zero. But at least there is the simple fact that SEAs are not prepared for individual projects - dear friends, you haven't checked them at all, have you?

And even if a full independent monitoring is professionally carried out by independent experts with the highest level of biological expertise like for example the CEE Bankwatch Network 2017 **Broken Rivers Report** on hydropower in the Western Balkans, the results are undermined or rejected by the EBRD, pretending they believe the promoter everything is fine, only to keep their conscience clear. The CEE Bankwatch Network report can be found here:

<https://bankwatch.org/publication/broken-rivers-impacts-european-financed-small-hydropower-plants-pristine-balkan-landscapes>

The EBRD reaction to this report was the following answer in an e-mail, dated 18 Oct 2018, signed by Ms Luisa Balbi :

*For **Brajčinska reka 1 & 2 HPPs** (FYR Macedonia) we have received independent monitoring report and electrofishing surveys, which confirm that the projects are operating in line with our requirements and this has been confirmed by the EBRD. Please note that these documents cannot be disclosed at this stage.*

Reading this polite answer we immediately received a massive heart attack. It is because the Broken Rivers Report was conducted by CEE Bankwatch Network with the participation of the following organizations:

Ecosvest - Macedonia

Balkanka - Bulgaria

WNA Balkani - Bulgaria

Team of experts in hydrobiology from the Skopje University, led by Prof. Valentina Stamenkovich

**There were six of us watching with our own eyes the dried to the bottom riverbed below the Brajcino 1 intake.** Watch the video to see:

<https://www.youtube.com/watch?v=4hNezXM167M>

And acc. to the EBRD answer "independent" electrofishing showed some life between the stones? It must have been a very powerful electrical device, right? By the way, who was it independent from - the bank or the investor?

And this is supposed to be in line with the EBRD requirements? No, it's not - at least it is not written in the ESP like that!

**Furthermore - what signal are you sending** to your present clients and the future ones with such reaction of the EBRD, please? Because right after this reaction, do you have any idea what your honorable Client did? Wiped his... eyes with your ESP, that's exactly what he did!

Here we have some questions then:

Will the EBRD ever be able to convince the same Client that he has to comply with any kind of ESP, ESMS, ESAP etc.? No, the Bank will not be able to do that, because the honorable Client will come up over and over again with another "independent" electrofishing report he has paid for, rather than to implement a thing.

What will happen with your ESP, if your honorable Client shares with all your other honorable Clients his experience? Forgive my French - they will all immediately wipe their... eyes with your ESP as well!

**And worst of all - what signal are you sending** to the other stakeholders, such as environmental NGOs and/or affected local communities? Are you trying to make fun of us? Of course you can't, but you're doing your best, we give you that!

**Finally - on what grounds did the EBRD chose to believe the "honorable" Client?** Does it mean that the whole international team of experts listed above is lying acc. to the bank?

But then again, if the bank is calling all of us liars, why are you trying to consult your draft ESP with us? We haven't got a clue, unless we are not being used to play the "Fig leaf" part of the Comedy again...

**We will give the bank one more symptomatic example** - imagine that we have carried out inspection on a Lead-Zinc-Copper Mine and its flotation factory in Serbia. Let's say that we took samples from the "water" below the tailings pond, which is running during low water like this:

<https://www.youtube.com/watch?v=6BH3BaH84Ak>

... and here is the industrial area itself:

[https://www.youtube.com/watch?v=5pWrF\\_yTe5k](https://www.youtube.com/watch?v=5pWrF_yTe5k)

Let's also imagine that the water samples we tested in a licensed laboratory show Lead contents 46 times over the limit and Copper Contents - 40 times over the limit. Will the bank believe us or the honorable Client, when he comes up with the "independent" electrofishing report stating that the river is still full of fish? If the bank blindly believes him without checking again, then we are in a deep... trouble altogether!

Now, monitoring is discussed in the ESP on page 9 as follows:

*4.17. EBRD will monitor and evaluate the projects it finances against the objectives of this Policy through the life of the project.*

.....  
*EBRD **may** also periodically verify the monitoring information prepared by clients through site visits to projects by the Bank's environmental and social specialists and/or independent experts.*

Well, dear friends, you've had a bunch of independent experts visiting the Brajcino 1 HPP site for you and decided to throw the Broken Rivers Report in the trash, which is really disappointing!

**So here we come to the next set of recommendations for the ESP:**

#### **Recommendation No4**

**Environmental and social impact assessments should cover the highest standards possible. To avoid double standards, these assessments should, as a minimum, meet the requirements laid down in the relevant EU Directives, regardless of the fact that for some countries outside the EU the national legal framework may be less stringent.**

#### **Recommendation No5**

**Voluntary independent environmental and social impact assessments and monitoring reports, conducted by environmental, social and local community NGOs, are considered to be an important part of the projects' ESAP. These will be dealt**



with caution and care, aiming to help clients implement adjustments of the projects' ESMS and performance. In cases of controversial reports of clients and stakeholders, EBRD will carry out immediate full investigation to make sure that the project's performance is in line with the bank's ESP.

Only in this way will the clients have in mind that their performance may be watched and will behave accordingly. There is no other way!

**Note:**

All of our recommendations should be considered applicable to directly financed projects and to projects financed through FIs as well.

**As for the mitigation hierarchy and measures** we must point out to the EBRD again the fish pass on the front page of this document. It is supposed to mitigate the impact of the following enterprise:



Obviously the "fish pass" doesn't mitigate a thing and at the same time lots of money were spent for nothing.

Another shortcoming of the ESP is that the extent to which the mitigation of a given project's impact is acceptable to the bank is not specified. Here is what we read in the ESP as far as mitigation is concerned:

*The mitigation hierarchy comprises measures taken to avoid creating environmental or social impacts from the outset of development activities, and where this is not possible, to implement additional measures that would minimise, mitigate, and as last resort offset and/or compensate any potential residual adverse impacts.*

To our view these are nothing else but big words and only good intentions! They are meant to justify such stupid waste of money like the above fish pass as an excuse that total damage has been caused. Such projects must not be authorized in the first place, unless they are of overriding public interest!

Finally - who decides if the mitigation measures proposed will manage to achieve their objectives? The fish passes for the Brajcino projects in Macedonia are worth nothing,

but the investor has come up with that electrofishing report to the satisfaction of the EBRD and everybody is happy...

**Furthermore**, in the ESP we do not see recommendations for considering **No Go zones** for the different types of undertakings at all. Even we have such zones in Bulgaria. The message is that all the problems can always, everywhere be solved by means of the mitigation measures. This is a very wrong message.

No Go Zones must be adopted in line with the possible impacts on both Environmental and Social Policy elements. We will discuss the Environmental issues in detail in our comments on the PR6 section. No Go zones based on socio economic considerations must be adopted in various cases, depending on the impact and the vulnerability of the affected social elements. Here are just a few examples:

- In areas with air quality problems - electricity generation from Biomass Renewables should not be allowed.
- In areas with drinking water quality problems - new mining activities should not be allowed.
- In areas with water quantity problems - such as big river runoff irregularity /like in the Balkans/ or regular draughts - new hydropower should not be allowed.
- In areas with increased flood risks - all kind of undertakings leading to further deforestation or setting risks for water pollution should not be allowed. For example - large scale open pit mining and tailings.

**So here we come to the next set of recommendations for the ESP:**

#### **Recommendation No6**

The final ESP document needs to be much more specific and generally revised as far as mitigation measures are concerned.

#### **Recommendation No7**

In the final ESP document special No Go Zones must be adopted for the various types of undertakings, depending on the damage they are causing to the vulnerable socio-economic elements respectively.

## **2. PR 5 - Land Acquisition, Involuntary Resettlement and Economic Displacement**

We have discussed this particular requirement in the introduction.

There is only one thing we would like to add - to our view this section is just like the previous - full of big words and good intentions only. Here is a short citation:

*13. The client shall not resort to forced eviction. The exercise of eminent domain, expropriation, compulsory acquisition or similar powers by a client is not considered to be forced eviction providing it complies with the requirements of national law and the provisions of this PR and is conducted in a manner consistent with basic principles of due process (including provision of adequate advance notice, meaningful opportunities to lodge grievances and appeals, and **avoidance of the use of unnecessary, disproportionate or excessive force**).*

This is the best example of all euphemisms the whole ESP is full of. They shall *not* resort, they shall *comply*, shall be *consistent*, *adequate*, *meaningful*, shall avoid the use of *disproportionate or excessive force*... and the thing is still allowed and welcome!

**Congratulations to the guy who wrote that! And please, be so kind at least to clarify the meaning of disproportionate or excessive force!** The ESP is full of definitions, but surprisingly we weren't able to find anything on this one?

To us involuntary resettlement is absolutely unacceptable and not feasible in modern world. If anyone does not believe, then see what's happening right now in Serbia with all that hydropower craziness, having in mind that people are fighting only to save their rivers, not against involuntary resettlement. Have a nice time watching:

<https://www.facebook.com/nedavimobeograd/videos/409209096489392/UzpfSTeYNDI4NTE4NDMxODY4NDoyMTczMjc5NDIwMDUz/>

Now, just imagine what will happen if someone tries to chase those angry Serbs away from their homes? Alternatively you may come here in Bulgaria and try us...

Furthermore, there have been cases all over the world, where local activists against a given destructive undertaking in their regions were killed or harmed by developers for their resistance. We have such case right here in Europe now - the Rakita village resistance in Serbia against a new small hydro - the Zvence HPP. There have been several physical encounters already between investor's security and local people and the situation will only escalate and get worse. This particular enterprise is not financed by the EBRD, but it isn't any different than the other EBRD investments in hydropower all over the Balkans.

So, to our view the European financial institutions must not encourage such practices but, rather, the European financial institutions must be ashamed and stay away in the future.

**So here we come to our next set of recommendation for the ESP:**

#### **Recommendation No8**

**In the cases of land acquisition, involuntary resettlement and economic displacement, the ESP should clarify the meaning of *unnecessary, disproportionate or excessive force*. To avoid misunderstanding, the definition must be clear, adequate and undisputable. In the same context special attention must be paid to the acceptable to the EBRD "proportion".**

#### **Recommendation No9**

**In cases of forced land acquisition, involuntary resettlement and economic displacement against the local people's will, the ESP must include strong recommendations on the *reasonable casualties* deemed to be acceptable to the EBRD.**

### **3. PR 6 - Biodiversity Conservation and Sustainable Management of Living Natural Resources.**

Here we have to remind three of the symptomatic cases the EBRD was involved in during the last five years - the Boshkov Most HPP and Brajcino projects in Macedonia, and the Yliyna HPP in Bulgaria. They were all developed in sensitive areas with high biodiversity conservation value.

After a heavy due diligence process, these projects were finally approved for financing by the EBRD. It was the Standing Committee of the Bern Convention in the Boshkov Most case, and Balkanka Association in the Iliyna case in Bulgaria, putting their best efforts to convince the EBRD that these projects are not "sustainable" and should not be financed. So, there is obviously a huge problem with EBRD's "due diligence" procedure. We have discussed already the reasons for such mishaps - poor quality of the environmental assessments, which are always paid by developers. And, for example, Boshkov Most was about to be developed in the Mavrovo National Park, hosting one of

the most endangered species in the world - the Balkan Lynx, of which only 50 specimens are estimated to be left in the whole world!

The same goes for the Bajcino projects the EBRD has unfortunately financed in Pelister National Park - Macedonia, hosting the endemic Pelister Trout /*Salmo peristericus*/. Thanks to the investor's electrofishing report we now know that this kind of fish is able to survive between dry stones in dry riverbeds, which is a new and valuable contribution to modern ichthyology...

However, measures to avoid such mishaps in the future are mandatory to be adopted in the ESP. The strongest protective measure which cannot be disputable and questioned is the definition of **No Go Zones** based on high biodiversity values of the affected areas and, pitifully, we have read nothing in the ESP concerning designation of such No Go Zones at all. For the designation of these zones the best scientific knowledge and approach should be applied and up to date scientific information should be collected and used.

Considering any future investments in hydropower in the Balkans, a very good example for the determination of No Go Zones based on high conservation values is the **Eco Master Plan for Balkan Rivers**, prepared by Riverwatch, Austria:

<https://riverwatch.eu/en/balkanrivers/news/eco-masterplan-shows-value-balkan-rivers>

Furthermore, we also find that the entire PR6 section of the ESP suffers the same shortcomings and drawbacks like PR1, relying only on assessments, which are paid by the developers! This is how the cases in Mavrovo, Pelister and Iliyna became eligible and feasible. We therefore strongly believe that the EBRD must hold its clients responsible in cases when the EBRD was deceived!

Declaring our congratulations and huge gratitude to Riverwatch for the efforts to save the Balkan Rivers, here we come to the next set of recommendations for the ESP:

### **Recommendation No10**

**In sensitive areas of high conservation value, hosting priority habitat types and/or priority or endemic species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or to imperative reasons of overriding public interest.**

#### **NOTE**

Definition of "overriding public interest" can be found in the relevant EU regulations.

### **Recommendation No11**

**In the final ESP document special No Go Zones must be adopted for the various types of undertakings, depending on the damage they are causing to the various vulnerable elements of the environment.**

### **Recommendation No12**

**In cases where it's proven that a given undertaking subject to direct financing has caused irreversible environmental destruction in areas of high conservation value and biodiversity hot spots, EBRD will hold developers responsible for misleading the bank and compensatory measures will be undertaken immediately.**

#### **NOTE**

Recommendation No10 holds direct citation of the EU Habitats Directive, art.6. If it is applicable in the EU countries, the European financial institutions must comply with the same rule all over the world in order to avoid double standards, instead of washing hands with the soap that clients must comply with national legislation only, no matter how poor it is, as well as to "assess", "demonstrate", "avoid", "mitigate" and all the rest big words and good intentions PR6 is again full of, just like PR1!

These big words are Not Working, dear friends! At least they didn't work in the above mentioned cases in Mavrovo, Pelister and Iliyna, did they?

**Therefore, we expect that our good Recommendation No10 will replace PR6 requirements numbered from 12 to 21 in the ESP.**

At the end of this section we will only ask the EBRD just to imagine what would have happened if we managed to discover how illegal and harmful to a protected area the Iliyna HPP project in Bulgaria was at a later stage, after the project was financed, developed and set into operation? Would the ESP big words and good intentions have saved the project when we filed a lawsuit and the project was officially announced illegal by a court of law? A big *"Sorry, we were full of good intentions in line with our ESP"* by the Bank would not have worked, and the project would have been decommissioned right away, and someone must have had to bear responsibility for that!

#### **4. PR 9 - Financial Intermediaries (FIs).**

Here we would like to share in brief that this particular PR suffers the same shortcomings as the previous, always full of good intentions. Again the major gap that we can see is the lack of clarity as of what will happen when irreversible damage has been done and proven, and how will FIs be held responsible?

However, the most interesting to us requirement concerning FIs and stakeholder engagement is the following:

*16. The FI will put in place a system for dealing with external communication on environmental and social matters. The FI will respond to such enquiries and concerns in a timely manner.*

Well, in 2018 Balkanka Association Sofia has tried to contact the management of **Unicredit Bulbank Bulgaria** with the idea to meet the officers responsible and share our huge experience and big concerns about several hydropower investments financed by Unicredit as an intermediary bank using some sort of EIB and EBRD credit lines - for example the Sreden Iskar Cascade and its impact on the environment and local people wellbeing. Unlike the good recommendation above, in timely manner we were only informed that our request for any kind of communication with Unicredit Bulbank was overruled.

The same Unicredit has financed the famous Zvonce HPP in the village of Rakita, Serbia, where local people got to know that their river will be destroyed just after the excavators came and started digging in the riverbed. This tells us much about the quality and the "sustainable" approach and practice of Unicredit Group as far as public consultations are concerned. Despite the fact that the Zvonce HPP is not an EBRD project, there is no reason to believe that Unicredit uses different practices depending on the different cases, because this is a matter of "sustainable" Unicredit Group policy.

The question is - now that the EBRD is informed, what will you do in line with your good ESP, dear friends? To our view you cannot do a thing, because such situation is not addressed in your ESP at all.

Furthermore, any project of the EBRD financed through FIs must fully 100% comply with the requirements set out for projects subject to direct financing. Otherwise the EBRD is refusing to take responsibility, just hiding behind those FIs, unleashed to do whatever they like, which is exactly what is happening in Bulgaria.

**And here we come to our next set of recommendations:**



### **Recommendation No13**

For projects financed through FIs, the FI's ESMS should, as minimum, fully comply with the required quality, set out in the relevant PR1 of this ESP document.

### **Recommendation No14**

For FI projects where it's proven that a given undertaking has caused irreversible environmental destruction in areas of high conservation value, FIs will be held responsible for misleading the EBRD management and all active credit lines with the same FIs will be blocked.

## **5. PR 10 - Information Disclosure and Stakeholder Engagement**

**Again the full contents of this PR sound perfect.** Here is just a short citation:

*1. This Performance Requirement (PR) recognises the importance of an open and transparent engagement between the client, its workers, worker representatives, local communities affected by the project and, where appropriate, other project stakeholders as an essential element of good international practice (GIP) and corporate citizenship.*

And the same question arises - what if this PR is not followed? For example - four years have passed already since we have set our hydropower monitoring platform on fire and not a single individual HPP developer has made a contact...

We had only a meeting with the so called Hydropower Association /Асоциация Хидроенергия in Bulgarian/, but nothing has come out of this meeting and nothing has changed. For example - we insisted that the Guide on Fish Passes Design as well as the Methodology for the Residual Flow /E-flow/ Determination must be prepared and released and set into force as soon as possible and the same Hydropower Association is doing its best to hinder the process ever since! Note that the Sreden Iskar Cascade is partner in this Association.

And still another question - last year we were denied information concerning projects financed through FIs in Bulgaria by the EBRD itself! So much for the transparency issues... We find that if the clients are expected to comply with some requirements, the same is applicable to the EBRD itself!

Since we strongly believe that the entire PR10 must be thoroughly revised and rewritten, we will not propose any specific recommendations.

**But, finally, we must point out another small detail and the biggest issue concerning EBRD investments in the Balkan region in the following two recommendations for the ESP:**

### **Recommendation No15**

The page numbering in the contents does not match the relevant page numbering in the document. It should be revised.

### **Recommendation No16**

The EBRD should quit financing the corruption in the whole Balkan region.

### **III. SUMMARY OF RECOMMENDATIONS**

#### **Recommendation No1**

EBRD should use the highest level of local advisors, trustworthy and confident enough to be sure if a given undertaking is legal or it's not, because it cannot be both.

#### **Recommendation No2**

To avoid mishaps, in cases where national legislation is really unclear, EBRD should stay from such projects, until the national legal framework becomes clear and disputable no more. Alternatively, the relevant EU legal framework and the decisions of the European Court must be applied.

#### **Recommendation No3**

In cases where it's proven that a given undertaking has breached national legislation, EBRD will hold developers responsible for misleading the bank and will require the necessary steps towards full compliance with the law to be undertaken.

#### **Recommendation No4**

Environmental and social impact assessments should cover the highest standards possible. To avoid double standards, these assessments should, as a minimum, meet the requirements laid down in the relevant EU Directives, regardless of the fact that for some countries outside the EU the national legal framework may be less stringent.

#### **Recommendation No5**

Voluntary independent environmental and social impact assessments and monitoring reports, conducted by environmental, social and local community NGOs, are considered to be an important part of the projects' ESAP. These will be dealt with caution and care, aiming to help clients implement adjustments of the projects' ESMS and performance. In cases of controversial reports of clients and stakeholders, EBRD will carry out immediate full investigation to make sure that the project's performance is in line with the bank's ESP.

#### **Recommendation No6**

The final ESP document needs to be much more specific and generally revised as far as mitigation measures are concerned.

#### **Recommendation No7**

In the final ESP document special No Go Zones must be adopted for the various types of undertakings, depending on the damage they are causing to the vulnerable socio-economic elements respectively.

#### **Recommendation No8**

In the cases of land acquisition, involuntary resettlement and economic displacement, the ESP should clarify the meaning of *unnecessary, disproportionate or excessive force*. To avoid misunderstanding, the definition must be clear, adequate and undisputable. In the same context special attention must be paid to the acceptable to the EBRD "proportion".

#### **Recommendation No9**

In cases of forced land acquisition, involuntary resettlement and economic displacement against the local people's will, the ESP must include strong

recommendations on the *reasonable casualties* deemed to be acceptable to the EBRD.

**Recommendation No10**

In sensitive areas of high conservation value, hosting priority habitat types and/or priority or endemic species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or to imperative reasons of overriding public interest.

**Recommendation No11**

In the final ESP document special No Go Zones must be adopted for the various types of undertakings, depending on the damage they are causing to the various vulnerable elements of the environment.

**Recommendation No12**

In cases where it's proven that a given undertaking subject to direct financing has caused irreversible environmental destruction in areas of high conservation value and biodiversity hot spots, EBRD will hold developers responsible for misleading the bank and compensatory measures will be undertaken immediately.

**Recommendation No13**

For projects financed through FIs, the FI's ESMS should, as minimum, fully comply with the required quality, set out in the relevant PR1 of this ESP document.

**Recommendation No14**

For FI projects where it's proven that a given undertaking has caused irreversible environmental destruction in areas of high conservation value, FIs will be held responsible for misleading the EBRD management and all active credit lines with the same FIs will be blocked.

**Recommendation No15**

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**Recommendation No16**

The EBRD should quit financing the corruption in the whole Balkan region!

**Note:**

All our recommendations should be considered applicable to directly financed projects and to projects financed through FIs.

We really hope that our good recommendations will be taken into account for the final ESP document of the EBRD, before it's published and enforced. Otherwise, judging from our own experience in the cases described herein, the ESP new version will not work, just like previous versions didn't.

Thank you for your kind understanding and cooperation.

*"Nature has all the time in the world, we do not".*

Place, date and signature of representative:

Sofia, Bulgaria  
30.01.2019

/dipl. eng. Dimitar Koumanov/  
