

Emil Georgiev, Chairman
Momtchil Iakimov, Board Member
Nikolay Petkov, Board Member
Citizen initiative 'For Clean Sofia without Incineration'
12-16 Dragan Tsankov blvd.
1164 Sofia, Bulgaria
eegeorgiev@gmail.com
m.iakimov@web.de
npetkov6@gmail.com

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Mr. Ognian Zlatev
Head of the Representation
Representation of the European Commission in Bulgaria
1248 G.S. Rakovski Str.
1000 Sofia, Bulgaria
COMM-REP-SOF@ec.europa.eu

RE: Project for Construction of a combined heat-and-power plant for the recovery of RDF waste in Sofia, Bulgaria

Dear Mr. Zlatev,

Herewith we ask the European Commission to make a more profound investigation if Toplofikacia Sofia EAD, a potential beneficiary of a 91 million € funding for the construction of a waste-to-heat plant, passes the check for company in difficulty articulated in the context of Article 2 Par. (18) of Commission Regulation No 651/2014.

Our investigation shows that this is not the case, therefore the company is not eligible for EU funding. The enterprise is notorious for its bad financial condition, long series of annual losses, outstanding payments to suppliers and recurring situations when it has to be rescued in the recent few years either by the municipal or by the central government. Even **the Annual Reports of the company for the last 3 years are accompanied by a classified opinion of the auditor, who doubts the capacity of the company to survive.**

Let us provide some examples:

Annual Reports/Financial Statements

Annual reports for 2015, 2016 and 2017
contain a qualified opinion by the auditor

that he doubts the capacity of the company to survive. It is based on the accumulated losses, which are going on in each of the current years ^{[1], [2], [3]}

Annual Reports/Financial Statements

Annual reports for 2015, 2016 and 2017 contain a qualified opinion by the auditor that he has not received convincing proofs about the fair value of fixed assets worth 217,6 million € and for receivables varying between 186,6 mio € and 216,8 mio. €. Remark: the equity of the company is only 55 million €. If updated valuation of lands, buildings (long term assets) and receivables (short term assets) leads to depreciations, which is likely to happen, assets could become less than liabilities and company has to declare immediate bankruptcy ^{[1], [2], [3]}

“Undertaking in difficulty” according to Article 2 Par. (18) of Commission Regulation No 651/2014

Due to the above mentioned circumstances, the company covers the criteria for not being Undertaking in Difficulty only when the auditor remarks are ignored ^[4]

Financial aid on 18.11.2018

On 18.11.2018 the state-owned gas supplier Bulgargaz EAD refused on 50 million € of outstanding gas bills of Toplofikacia Sofia EAD. This happened in a creative accounting manner, using its mother company Bulgarian Energy Holding AD as a formal purchaser of the receivables. As a rule this sum will be written off after the necessary accounting limitations (5 years) step into force ^[5]

Financial aid request on 05.12.2018

Municipal commission for Infrastructure and Energy Planning has hold a meeting with the Ministry of Energy, declaring that the heating company is not capable to provide CO₂ emission rights necessary for its activity in 2019. The price increase from 7 to 25 € per ton of CO₂, is pointed out as a reason. ^[6]

Decision No 33 from 03.12.2015 of the Municipal Council of Sofia

Decision No 33 from 03.12.2015 of the Municipal Council prepares the ground for a

concession of the activity of Toplofikacia Sofia. In Point 5 of this Decision the Municipal Council “instructs the Mayor of Sofia Municipality to inform Bulgarian Energy Holding on the stage of the preparation of a procedure for service concession for heating and electricity generation services, currently provided by Toplofikacia Sofia. Public statements by members of the Municipal Council justified this decision with the fact that a capital investment is vital for the financial survival of the company, which is already overindebted and deprived of capital. There has been no change since then, meantime new losses and deferred debts were accumulated ^[7]

It is visible from the above that the company is under permanent crisis management and it escapes the insolvency on a daily basis. The Contract for Public Services between the Municipality of Sofia and Toplofikacia Sofia EAD transfers substantial risks to the entity (e.g. construction cost overruns), for which the company does not have any financial buffers available ^[8].

Benefits from heat-to-energy facility are questionable. According to an answer published on the website of Sofia City Hall, the capacity of the new facility cannot fall below 120.000 tons RDF fuel per year ^[9], otherwise no smooth burning process is possible. Current RDF production in Sofia is less than 55 000 tones. Based on the actual framework, **for many years after the construction the facility will be out of use.**

The new waste-to-heat plant will bring additional troubles to the distressed and deprived of capital municipal company. We ask you again to withstand from approving this project.

Sincerely,

Emil Georgiev (Chairman)
Momtchil Iakimov (Board Member)
Nikolay Petkov (Board Member)

Attachment 1 – Sources of information

^[1] Annual Report 2017 Toplofikacia Sofia EAD:
https://www.me.government.bg/files/useruploads/files/razhodi_td/ts_gfo_2017.pdf
p. 64 Auditor Report

[2] Annual Report 2016 Toplofikacia Sofia EAD:
https://www.me.government.bg/files/useruploads/files/razhodi_td/fso_2016.pdf
p. 65 Auditor Report

[3] Annual Report 2015 Toplofikacia Sofia EAD:
Public Trade Register, www.brra.bg, enter ID 831609046
File 1 – Auditor Report

[4] Commission Regulation No 651/2014, Article 2 Par. (18)

[5] Economic News Portal:
<https://www.economic.bg/bg/news/10/beh-e-izkupil-100-mln-lv-dalg-na-toplofikatsiya-sofiya-kam-bulgargaz.html>

[6] Dnevnik Daily
https://www.dnevnik.bg/bulgaria/2018/12/05/3356682_stolichnata_obshtina_shte_iska_pomo_sht_ot_durjavata_za/

[7] Resolution No 33 from 03.12.2015 of the Municipal Council of Sofia
http://sofiacouncil.bg/content/docs/c_f36285.pdf

[8] Financial Agreement between Sofia Municipality and Toplofikacia Sofia EAD, Article 25

[9] <https://www.sofia.bg/documents/20182/383011/2018-05-14-Таблица+с+въпроси+след+общественото+обсъждане.pdf> , Answers to questions of the public discussion, Page 34