



ANNEXES: 6

EBRD Independent Project Accountability Mechanism
European Bank for Reconstruction and Development
One Exchange Square
London EC2A 2JN
United Kingdom

Complaint regarding the EBRD project *Belgrade Solid Waste PPP (46758)*

Žalba u vezi sa projektom EBRD-a *Belgrade Solid Waste PPP (46758)*

1. Name of the Person(s) or Organisation(s) filing the Complaint ("the Complainant")*

A 11 – Initiative for Economic and Social Rights (The A 11 Initiative), as the official representative with power of attorney of persons affected by displacement resulting from the *Belgrade Solid Waste PPP* project financed by the EBRD. Power of attorney declarations are enclosed in the confidential annex.

CEE Bankwatch Network has advised the complaint preparation and will support the processing of the complaint as necessary in the best interest of the persons affected by displacement.

2. Are you requesting that this Complaint be kept confidential?*

We ask that the identities of the affected people are kept confidential as a precautionary measure. We are concerned about various forms of intimidation, pressure or reprisals, for example preventing access to waste stream, which is a source of livelihood for the

1. Ime osobe/a ili organizacija/e koja/e popunjava/ju žalbu („Žalba“)*

A 11 – Inicijativa za ekonomska i socijalna prava (Inicijativa A 11), kao zvanični zastupnik sa punomoćjem za podnošenje žalbe lica pogođenih raseljavanjem proisteklim iz *Belgrade Solid Waste PPP* projekta koji finansira EBRD. Izjave o punomoćju su priložene u poverljivom aneksu.

CEE Bankwatch Network pružao je savetodavnu podršku prilikom pripreme žalbe i podržaće po potrebi njenu obradu u najboljem interesu osoba pogođenih raseljavanjem.

2. Da li zahtevate poverljivost ove Žalbe?*

Zahtevamo da se identiteti pogođenih lica čuvaju kao poverljivi u cilju mere predostrožnosti. Zabrinuti smo zbog različitih oblika zastrašivanja, pritisaka ili odmazda, na primer zbog sprečavanja pristupa toku otpada, koji predstavlja izvor prihoda za podnosiocce žalbe.

complainants.

3. Please provide the name or a description of the EBRD Project at issue.*

Belgrade Solid Waste PPP (46758). The provision of debt financing in an amount of up to EUR 70 million to Beo Cista Energija d.o.o Beograd, a limited liability company established with the sole purpose of operating and financing the *Belgrade Solid Waste PPP project under a Design, Build, Finance, Operate, Transfer (DBFOT) scheme*, and owned by consortium of Suez, Itochu and Marguerite Fund. The operation will enable the company to finance, construct and operate landfill and facilities for treatment and disposal of collected residual municipal waste generated in thirteen municipalities of the City of Belgrade for a volume of approximately 510,000 tons/year and treatment of Construction and Demolition Waste (CDW) in a volume of approximately 200,000 tons/year generated in its territory.

<https://www.ebrd.com/work-with-us/projects/psd/belgrade-solid-waste-ppp.html>

4. Please describe the harm that has been caused or might be caused by the Project.*

The Belgrade Solid Waste PPP project has caused physical and economic displacement to the complainants. The compensation has not been adequate, for example, the new housing is not suitable for the households of the waste pickers, they cannot afford to pay for the utility bills, especially if their access to the Vinca landfill was stopped. The allocated housing cannot be considered adequate alternative accommodation according to the domestic and international regulations that guarantee the right to adequate housing,

3. Molim Vas navedite naziv ili opis spornog projekta Evropske banke za obnovu i razvoj.*

Belgrade Solid Waste PPP (46758). Obezbeđivanje dužničkog finansiranja u iznosu do 70 miliona evra za kompaniju Beo Čista Energija d. o. o. Beograd, društvo sa ograničenom odgovornošću osnovanom isključivo u svrhu sprovođenja i finansiranja projekta *Belgrade Solid Waste PPP* prema konceptu *Design, Build, Finance, Operate, Transfer (DBFOT)*, u vlasništvu konzorcijuma Suez, Itochu i Marguerite fonda. Ovaj poduhvat će kompaniji omogućiti da finansira, izgradi i upravlja deponijom i pogonom za obradu i odlaganje zaostalog komunalnog otpada sakupljenog u trinaest beogradskih opština u količini od oko 510.000 tona godišnje i za obradu otpadnog građevinskog materijala (CDW) kojeg se godišnje proizvede oko 200.000 tona na teritoriji grada Beograda.

<https://www.ebrd.com/work-with-us/projects/psd/belgrade-solid-waste-ppp.html>

4. Molim Vas opišite štetu koja je prouzrokovana ili može biti prouzrokovana projektom.*

Projekat *Belgrade Solid Waste PPP* prouzrokovao je fizičko i ekonomsko raseljavanje podnosilaca žalbe. Naknada nije bila adekvatna, jer, primera radi, novi smeštaj nije pogodan za domaćinstva sakupljača otpada, budući da oni ne mogu da priušte sebi da plate zakup i račune za komunalne usluge, posebno ukoliko im bude onemogućen pristup i rad na deponiji u Vinči. Dodeljen stambeni

because it is not affordable for its users. In accordance with the mentioned regulations and international human rights standards, the affordability of housing¹ implies that costs of an individual or household for housing needs should be at a level that does not jeopardize the fulfilment and satisfaction of other basic needs. This is supported by the fact that the majority of relocated households that have been allocated social housing for use are already burdened with large debts for the costs of rent and utility services.

Approximately 30-40 individual collectors of secondary raw materials used to work and live on the Vinca landfill. The right to resettle and livelihood restoration based on the Resettlement Plan adopted by the City of Belgrade was allocated only to the residents of the informal settlement listed on 8 June 2016, when the final census was completed, i.e. more than two years before the beginning of the displacement in June 2018. The resettlement procedure was not carried out in line with the laws of the Republic of Serbia², international treaties ratified by the Republic of Serbia³ that guarantee the right to adequate

prostor se prema domaćim i međunarodnim propisima koji garantuju pravo na odgovarajuće stanovanje ne može smatrati adekvatnim alternativnim smeštajem jer nije cenovno prihvatljivo za njegove korisnike. U skladu sa pomenutim propisima i međunarodnim standardima ljudskih prava, prihvatljivost stanovanja⁶ podrazumeva da troškovi pojedinca ili domaćinstava za potrebe stanovanja treba da budu na nivou koji ne ugrožava ispunjenje i zadovoljenje ostalih osnovnih životnih potreba. U prilog tome govori činjenica da je većina preseljenih domaćinstva kojima su na korišćenje dodeljeni socijalni stanovi već opterećena velikim dugovima za troškove zakupa i komunalnih usluga.

Približno, oko 30-40 pojedinačnih sakupljača sekundarnih sirovina nekada je radilo i živelo na deponiji u Vinči. Pravo na preseljenje i ponovno obnavljanje izvora prihoda prema Planu preseljenja koji je usvojio Grad Beograd mogli su da ostvare samo stanovnici neformalnog naselja koji su popisani do 8. juna 2016. godine, kada je izvršen konačni popis, odnosno više od dve godine pre

¹ Law on Housing and Building Maintenance (*"The Official Gazette of the RS"*, No. 104/2016 and 9/2020 – other law) Art. 79; General Comment No. 4 of the United Nations Committee on Economic, Social and Cultural Rights in conjunction with Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights (*"The Official Gazette of the SFRY – International Treaties"*, No. 7/71)

² Law on Housing and Building Maintenance (*"The Official Gazette of the RS"*, No. 104/2016 and 9/2020 – other law) Art. 78-88.

³ International Covenant on Economic, Social and Cultural Rights (*"The Official Gazette of the SFRY – International Treaties"*, No. 7/71) Art. 11(1); General Comments 4 and 7 of the United Nations Committee on Economic, Social and Cultural Rights in relation to Art. 11(1) of the Covenant.

⁶ Zakon o stanovanju i održavanju zgrada (*"Sl. glasnik RS"*, br. 104/2016 i 9/2020 - dr. zakon) čl. 79; Opšti komentar br. 4 Komiteta Ujedinjenih nacija za ekonomska, socijalna i kulturna prava u vezi sa članom 11(1) Međunarodnog pakta o ekonomskim, socijalnim i kulturnim pravima (*"Službeni list SFRJ- Međunarodni ugovori"*, br. 7/71)

housing and protection from forced eviction, nor in accordance with the banks' standards. Because of this, several families who had already been living at this settlement before the date of the final census, as well as several families for whom this settlement had become home⁴ after the census, ended up left without any alternative accommodation.

On 28 December 2018, the households of waste pickers living on Vinca landfill were evicted and moved to unsuitable shelter under unclear conditions because they had not signed contracts with the City of Belgrade that clearly defines the rights and obligations of both parties which makes their tenancy status uncertain in terms of legal protection from potential forced eviction, particularly in situation when they have debts for the rent and utility services incurred in the meantime, which are the reason for the eviction. Instead, an alternative accommodation was allocated to them on the basis of the Decision that does not specify the obligation to pay the rent, even though the tenants had been receiving invoices for the costs of renting the accommodation allocated to them for use.

In May 2020, waste pickers were informed on the unilateral contract termination with Public Utility Company "Gradska čistoća". This contract termination resulted in limited access to the landfill due to lack of permission assigned to the contract.

5. If you have not contacted the EBRD and/or Project Sponsor (Client) to try to resolve the harm or expected harm, please explain why.

početka procesa raseljavanja sa kojim se započelo u junu 2018. godine. Postupak preseljenja nije sproveden u skladu sa zakonima Republike Srbije⁷, međunarodnim ugovorima koji garantuju pravo na adekvatno stanovanje i zaštitu od prinudnog iseljenja koje je Republika Srbija ratifikovala⁸, kao ni standardima banaka. Zbog toga je nekoliko porodica koje su već živele u ovom naselju pre datuma konačnog popisa, kao i nekoliko porodica za koje je ovo naselje postalo dom⁹ posle navedenog popisa na kraju ostalo bez bilo kakvog alternativnog smeštaja.

Dana 28. decembra 2018. godine, domaćinstva sakupljača otpada koji žive na deponiji u Vinči su iseljena i smeštena u neadekvatan smeštaj pod nejasnim uslovima jer sa Gradom Beogradom nisu zaključili ugovore kojima se jasno regulišu prava i obaveze dve strane, što njihov stanarski status čini nesigurnim u pogledu pravne zaštite od mogućeg prinudnog iseljenja, naročito imajući dugove za troškove zakupa i komunalnih usluga koji su u međuvremenu nastali, a koji predstavljaju razlog za iseljenje. Umesto toga, alternativni smeštaj im je dodeljen na osnovu Odluke koja ne precizira obavezu plaćanja zakupa iako stanari od dana preseljenja dobijaju račune na ime troškova zakupa stambenog prostora koji im je dodeljen na korišćenje.

U maju 2020. godine, sakupljači su obavesteni o jednostranom raskidu ugovora sa JKP Gradska čistoća. Raskid ugovora prouzrokovao je ograničen pristup deponiji usled nedostatka dozvole koja je proizlazila iz pomenutog ugovora.

⁴ Taking into account the case law of the European Court of Human Rights, according to which "a home consists of premises with which an individual has a sufficiently strong, real and lasting (continuous) connection, regardless of whether they live legally or without authorization", we emphasize that these families also had the right to adequate alternative accommodation. (See *Bjedov v. Croatia*)

⁷ Zakon o stanovanju i održavanju zgrada (*"Sl. glasnik RS"*, br. 104/2016 i 9/2020 - dr. zakon) čl. 78 – 88.

⁸ Međunarodni pakt o ekonomskim, socijalnim i kulturnim pravima (*"Službeni list SFRJ- Međunarodni ugovori"*, br. 7/71) čl. 11(1); Opšti komentari 4. i 7. Komiteta Ujedinjenih nacija za ekonomska, socijalna i kulturna prava u vezi sa čl. 11(1) Pakta.

⁹ Uzimajući u obzir praksu Evropskog suda za ljudska prava prema kojoj „dom čine prostorije sa kojima je pojedinac ostvario dovoljno jaku, stvarnu i trajnu (kontinuiranu) povezanost, bez obzira da li ih nastanjuje zakonito ili bez ovlašćenja“, naglašavamo da su ove porodice takođe imale pravo na adekvatan alternativni smeštaj. (Videti *Bjedov protiv Hrvatske*)

In the procedure of an early public insight, on 30 August and 8 September the A 11 Initiative sent objections to the Secretariat for Urban Planning and Construction against the Draft Decision on the necessity of eviction with the resettlement plan, indicating their incompliance with national and international regulations, illegal actions of the representatives of local self-governments in charge of conducting resettlement process, as well as negative consequences for the persons affected by resettlement. The Secretariat for Urban Planning and Construction informed the A 11 Initiative by a letter as of 13 September 2018 that it had not accepted six of the eight objections to the Draft Decision on the necessity of eviction with the resettlement plan. The objections that were not accepted were essential for the protection of the rights and interest of those affected by resettlement.

In December 2018, the A 11 Initiative, together with CEE Bankwatch Network, submitted the comments to the ESIA for the project and underlined the risks for the informal waste-pickers and informal settlements. In March 2019 the issue was raised as part of the Good Governance policies consultation in Belgrade.

On 3 December 2019, the issues had been raised at the meeting with PCM/IPAM in Belgrade – with [REDACTED] and [REDACTED]. However, we did not reach the Beo Cista Energija d.o.o Beograd to resolve this issue, as according to the national laws and developed action plan “the City of Belgrade has an obligation to develop and implement a Resettlement Plan for the households that live in the informal settlement at the Vinca waste dump...as well as a plan for the restoration of livelihood sources of waste pickers”.⁵

6. If you believe the EBRD may have failed to comply with its own policies, please describe

5. U slučaju da niste kontaktirali Evropsku banku za obnovu i razvoj i/ili sponzora projekta (klijenta) da biste pokušali da rešite problem oko nastale ili očekivane štete, molim Vas objasnite zašto.

U postupku ranog javnog uvida, Inicijativa A 11 je 30. avgusta i 08. septembra 2018. godine Sekretarijatu za urbanizam i građevinske poslove Grada Beograda uputila primedbe na Nacrt odluke o neophodnosti iseljenja sa planom preseljenja, ukazujući njihovu neusaglašenost za domaćim i međunarodnim propisima, nezakonito postupanje predstavnika jedinice lokalne samouprave zaduženih za sprovođenje procesa raseljavanja, kao i na negativne posledice koje bi zbog navedenih okolnosti mogle da nastupe po lica koja su pogođena raseljavanjem. Dopisom od 13. septembra 2018. godine, Sekretarijat za urbanizam i građevinske poslove obavestio je Inicijativu A 11 da nije prihvatio šest od ukupno osam upućenih primedbi na Nacrt odluke o neophodnosti iseljenja sa planom preseljenja. Primedbe koje nisu prihvaćene su bile od suštinskog značaja za zaštitu prava i interesa osoba koje su pogođene preseljenjem.

U decembru 2018. godine, Inicijativa A 11 je zajedno sa organizacijom CEE Bankwatch Network dostavila Proceni uticaja na životnu sredinu i socijalna pitanja (ESIA) komentare na projekat i istakla rizike po neformalne sakupljače otpada i neformalna naselja. U martu 2019. godine, ovo pitanje je pokrenuto u okviru konsultacija o politikama dobrog upravljanja u Beogradu.

Dana 3. decembra 2019. godine, pitanja su pokrenuta na sastanku sa PCM/IPAM u Beogradu – sa gospođom [REDACTED] i gospodinom [REDACTED]. Međutim, nismo kontaktirali kompaniju Beo Čista Energija d.o.o. Beograd da bismo rešili ovaj problem, jer prema nacionalnim zakonima i usvojenom

⁵<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395277269653&d=&pagename=EBRD%2FContent%2FDownloadDocument>

which EBRD policies.

EBRD Environmental and Social Policy (2014). Performance Requirement 5: Land Acquisition, Involuntary Resettlement and Economic Displacement

17. The client will offer all displaced persons and communities compensation for loss of assets at full replacement cost and other assistance. This is intended to restore, and potentially improve, their standards of living and/or livelihoods of displaced persons to pre-displacement levels.

30. If people living in the project area must move to another location, the client will: (i) offer displaced persons choices among feasible resettlement options, including adequate replacement housing or cash compensation where appropriate; and (ii) provide relocation assistance suited to the needs of each group of displaced persons, with particular attention paid to the needs of the poor and the vulnerable. Alternative housing and/or cash compensation will be made available prior to relocation. New resettlement sites built for displaced persons will offer, at a minimum, pre-displacement living conditions and where achievable, sustainable and cost-effective opportunities to improve the standard of living.

31. In the case of physically displaced persons under paragraph 18 (i) or (ii), the client will offer the choice of replacement property of equal or higher value, or cash compensation at full replacement value where appropriate.

37. If a transaction of the types described in paragraph 6 causes temporary or permanent loss of income or livelihood through, for example, interruption or elimination of a person's access to his/her employment or productive assets, regardless of whether the affected people are physically displaced, the client will: promptly compensate economically displaced persons for loss of assets or access

akcionom planu „Grad Beograd ima obavezu da izradi Plan preseljenja domaćinstava koja žive u neformalnim naselju na deponiji u Vinči...kao i plan za obnavljanje sredstava za život sakupljača otpada“.¹⁰

6. Ako smatrate da Evropska banka za obnovu i razvoj ne bi postupila u skladu sa sopstvenim politikama, molim Vas objasnite kojim politikama.

Politika zaštite životne sredine i socijalna politika Evropske banke za obnovu i razvoj (2014). Uslov za realizaciju 5: Otkup zemljišta, prinudno raseljavanje i izmeštanje poslovnih aktivnosti

17. Klijent će raseljenim licima i lokalnim zajednicama ponuditi nadoknadu za gubitak imovine, u visini troškova njihove potpune zamene, kao i druge vrste pomoći. Ova mera je predviđena kako bi se raseljenim licima omogućilo da ponovo uspostave, i potencijalno poboljšaju postojeći životni standard na nivo pre raseljavanja.

30. Ukoliko se ljudi koji žive u području koje je obuhvaćeno projektom moraju preseliti na drugu lokaciju, klijent će: (i) raseljenim licima ponuditi da se opredele za neko od izvodljivih rešenja u pogledu raseljavanja, uključujući odgovarajući stambeni prostor u zamenu, ili novčanu nadoknadu, u zavisnosti od datih okolnosti; i (ii) obezediti pomoć prilikom preseljenja, u skladu sa potrebama pojedinih grupa raseljenih lica, posebno vodeći računa o potrebama siromašnih i ugroženih grupa. Alternativni stambeni prostor i/ili novčana nadoknada će se raseljenim licima staviti na raspolaganje pre samog preseljenja. Nova naselja izgrađena za potrebe preseljenja izmeštenih lica će im pružiti bolje uslove za život i, gde je to moguće, održive i isplative mogućnosti za unapređenje životnog

¹⁰<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395277269653&d=&pagename=EBRD%2FContent%2FDownloadDocument>

to assets;...provide additional targeted assistance (for example, credit facilities, training or job opportunities) and opportunities to restore, and where possible improve, their income earning capacity, production levels and standards of living; provide transitional support to economically displaced persons, as necessary, based on a reasonable estimate of the time required to restore their income-earning capacity, production levels and standards of living.

41. There may be cases where land acquisition and resettlement are the responsibility of the host government. In such cases, the client will collaborate with the responsible government agency, to the extent permitted by the agency, to achieve outcomes that are consistent with the objectives of this PR. In addition, where government capacity is limited, the client will play an active role during resettlement planning, implementation and monitoring.

7. Please describe any other complaints you may have made to try to address the issue(s) at question (for example, court cases or complaints to other bodies).

On 25 March 2019, the A 11 Initiative filed a complaint with the Protector of Citizens, alleging human rights violations that were recorded after the displacement of an informal Roma settlement at the landfill in Vinča. In a letter dated 18 April 2019, the Protector of Citizens informed the A 11 Initiative that he had requested a statement from the Secretariat for Social Welfare of the City of Belgrade regarding the allegations in the complaint and requested information on the specific case and planned measures for the accommodation of displaced residents. To date, the Protector of Citizens has not completed the procedure on the above stated complaint.

8. What results do you hope to achieve by submitting this Complaint to the PCM?

We expect to ensure adequate alternative

standarda.

31. Ukoliko se radi o fizičkom preseljenju lica koja su u pasusu 18 svrstana u kategoriju (i) ili (ii), klijent će im ponuditi mogućnost izbora između zamene imovine za novu koja će biti jednake ili veće vrednosti, i novčane nadoknade u visini troškova potpune zamene imovine u zavisnosti od datih okolnosti.

37. U slučaju da se nekom vrstom pravnog posla koja je navedena u pasusu 6 prouzrokuje gubitak prihoda ili sredstava za život time što se, na primer, osobi u potpunosti ili delimično onemogućava pristup radnom mestu ili sredstvima proizvodnje, i to bez obzira na to da li je zahvaćena fizičkim raseljavanjem ili nije, klijent će: u najkraćem mogućem roku nadoknaditi gubitak imovine ili pristupa imovini;...obezbediti dodatnu ciljanu pomoć (npr. kreditne linije, obuke ili mogućnosti zapošljavanja) i priliku da poboljšaju, ili makar povrate isti nivo prihoda, obim proizvodnje i životni standard; u prelaznom periodu obezbediti pomoć osobama čije se poslovne aktivnosti izmeštaju, koja će biti zasnovana na razumnoj proceni vremena koje će im biti potrebno da ponovo počnu da zarađuju, da povrate nivo proizvodnje i životni standard.

41. U nekim slučajevima za otkup zemljišta i proces raseljavanja je odgovorna država domaćin. U takvim slučajevima, klijent će uspostaviti saradnju sa nadležnim državnim organom, u meri u kojoj mu on to dozvoli, kako bi se postigli rezultati koji su u skladu sa ciljevima ovog UR-a. Osim toga, kada su mogućnosti države ograničene, klijent će preuzeti aktivnu ulogu u procesu planiranja, sprovođenja i praćenja raseljavanja.

7. Molim Vas opišite sve druge žalbe koje ste možda podneli da biste rešili ovaj problem (na primer, sudski slučajevi ili žalbe drugim organima).

Dana 25. marta 2019. godine Inicijativa A 11 podnela je pritužbu Zaštitniku građana u kojoj

accommodation for everyone who was evicted from Vinca landfill, in accordance with domestic laws, the EBRD standards and international standards of human rights which guarantee adequate housing and protection from forced eviction. Moreover, a realistic possibility for renewal income for everyone who has worked on landfill should be provided.

je ukazano na povrede ljudskih prava koje su zabeležene nakon raseljavanja neformalnog romskog naselja na deponiji u Vinči. U dopisu od 18. aprila 2020. godine Zaštitnik građana obavestio je Inicijativu A 11 da je u vezi sa navodima iz pritužbe zatražio izjašnjenje Sekretarijata za socijalnu zaštitu Grada Beograda i uputio zahtev da mu se dostave podaci o konkretnom slučaju i planiranim merama za zbrinjavanje raseljenih stanovnika. Do danas, Zaštitnik građana nije okončao postupak po navedenoj pritužbi.

8. Kakve rezultate se nadate da ćete postići podnošenjem ove žalbe PCM-u?

Očekujemo da će se obezbediti adekvatan alternativni smeštaj za sve koji su iseljeni sa deponije u Vinči, u skladu sa domaćim zakonima, standardima Evropske banke za obnovu i razvoj i međunarodnim standardima ljudskih prava koji garantuju pravo na adekvatno stanovanje i zaštitu od prinudnog iseljenja. Pored toga, neophodno je obezbediti i realnu mogućnost za obnavljanje prihoda svakome koje je radio na deponiji.

In Belgrade, date: 24.11.2020.

U Beogradu, dana 24.11.2020.

A 11 - Initiative for economic
and social rights,
Programme director,
Danilo Ćurčić

