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# Elements of State Capture in Serbia

Case studies

Transparency Serbia



# ELEMENTS OF STATE CAPTURE IN SERBIA

Case studies in two sectors



## Elements of State Capture in Serbia

Transparency Serbia

Belgrade

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### Executive summary

In its February 2018. Enlargement strategy for the Western Balkans,<sup>1</sup> European Commission stated that „today, the countries show clear elements of state capture, including links with organised crime and corruption at all levels of government and administration, as well as a strong entanglement of public and private interests“.

Within the Transparency International’s research project on possible state capture in several South-East European countries, Transparency Serbia looked for elements and patterns of that worrying phenomenon in two specific sectors. Those are **urban planning** in the capital city of Belgrade and **functioning of public enterprises** in the energy sector.

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<sup>1</sup> “A credible enlargement perspective for and enhanced EU engagement with the Western Balkans” [https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf)



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### Urban planning in the capital city of Belgrade based on private and political interests

Urban city planning in Belgrade, capital city of Serbia is being captured by interest of private investors and more precisely those that are closely linked with the ruling political elite. Although Serbia has rules and regulation on urban planning that envisages preparation of expert studies, organizing of public insight (consultation) and approval of plans in the city council, in reality those plans are in most significant cases adapted or even adopted in first place with major purpose to serve particular interests.

While Belgrade city has longtime history of abuses with construction permits, changing of land purpose, unifying of parcels and non-transparent urban planning in general, participants in such corruptive arrangements usually tried to stay hidden when violating the rules or abused legal loopholes.

Since 2012, promotion and support of private interest is presented by the political leaders of Serbia and City of Belgrade as a matter of top national interest. For the purpose of “Belgrade Waterfront” project (app. 900.000 square meters), Serbia violated its own rules on expropriation, public private partnerships, taxation and public procurements, through “one time” legal mechanisms, such are “lex specialis” for BW project, adopted by the Parliament in April 2015, and wide provisions of interstate agreement between Serbia and United Arab Emirates (where private partner firm for this project is registered). Urban planning for the project formally followed the rules, but the whole state and city



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apparatus only looked how to fit with the interest of at this point only perspective investor.

As a result appear: a) the shape of the biggest piece of construction land in the capital city center that is not planned through architect competition as originally envisaged; b) the purpose of this land was not decided in a participative manner; c) investor was not selected on the basis of competition; d) state entered 30 years contract as a minority (32%) partner in a joint venture, although the value of land and investments to clean-up the terrain is significantly higher than the value of private investment; e) state committed to assign procurement of public works of almost 300 million EUR, without competition.

More recently, minor partner in government coalition and businessmen, Bogoljub Karić, announced huge habitual construction project on Belgrade periphery (Makiš) with information that everything is already agreed. City authorities neither confirmed nor denied such claims, so competitive procedure is still possible, but other potential investors are already discouraged to show their interest for the same area. City of Belgrade authorities changed water source protection rules in the area in order to enable building on sight and changed urban transportation plan in a way to include currently non-existing settlement with the first subway line of the perspective Belgrade metro network.

These huge construction projects are presented by the top state and city politicians as a success in attraction of investors and economic growth and development. On the other hand, anti-corruption legal mechanisms are circumvented and key information about business and



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other risks, duties of investor that are related to the public interest are missing. At the same time, any form of criticism and call for accountability is fiercely rejected and attacked by the government and government control media (including most of those private owned).

### Damageable effects of political control of Electric Company of Serbia

Electric Company of Serbia is probably the most important company in the country, having in mind the number of employees, income and resources. It is organized as a complex public enterprise, incorporating dozens of smaller legal entities (i.e. hydro and coal plants).

While the Law on Public Enterprises both in its 2012 and in 2016 version promoted professionalization, accountability, transparency and efficiency of these entities, none of these goals is achieved. Electric Company of Serbia (none as EPS, from “Elektroprivreda Srbije”), being the single largest public owned company, shows it in a larger scale:

- a) the operative management and in particular acting director, is purely politically appointed and widely considered as incompetent for the position; similarly, many of lower level managers are considered incompetent as well;
- b) there is no information that oversight board of the company, appointed by the Government, made efforts to rectify identified problems;

- c) EPS is practicing party affiliated employments, that is facilitated by frequent reorganization of company structure, discretionary based changes of systematization act with the description of working places and by maintaining several firms formerly connected to EPS plants from Kosovo;
- d) the profit of the enterprise is artificially increased in order to make a transfer to the budget, to present a budget suffices and to obtain political gain by linking it with the success of governmental policy;
- e) there is no comprehensive reporting and accountability for the achievement of enterprises' goals, but only about financial results;
- f) the price of the services is for decades held on lower level than in the most of the neighboring countries, in order to keep "social peace" and to avoid eventual losing of popularity of political leaders.

EPS is repeating on a large scale also problems of wider public sector, such as public procurements. Namely this company is spending dozens of millions EUR annually for the procurement of various services, whereas the very need for such services is quite doubtful and illegal party financing is being suspected.

This all affects adversary EPS's ability to perform its functions and future development of this enterprise in overall. Surplus expenditures, bad management, reluctance to invest in maintenance of the system and development of new capacities, while might bring some

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individual Pecuniary or political interest could have damageable long – term effects for the company.

It might include companies' lower potential for the eventual privatization in the future. It also includes need for the state to enter new loans in order to obtain necessary development of EPS capacities, end entering of new investments through public private partnerships (some of them on the basis of non-competitive procedure and inter-state agreements), instead of using EPS own income for that purpose. Moreover, due to size of the company and scope of its work, negative effects already include lower gross domestic product and might include potentially weakened stability of overall energy sector.



### Key Recommendations

Serbia should not enter inter-state agreements providing for possibility to circumvent any anti-corruption law and should not enter individual contracts based on previously signed inter-state agreements.

EU should more clearly recognize risks coming from the mechanism of inter-state agreements for the overall rule of law in Serbia and in particular in the context of chapter 23 of negotiations, but also in other areas (such as chapter 5, 8, 32).

### Urban planning

Authorities of Serbia should not exclude metropolitan areas from the overall legal regime, by declaring “national interest” for the private investment, adoption of one-shot “law” for the specific project.

Authorities of City of Belgrade should ensure transparency, inclusiveness and predictability of urban planning, by following pre-set rules and considering of public consultation inputs.

Authorities of City of Belgrade should react to the public statements of potential investors claiming that there is pre-set agreement for certain piece of land in order to protect competitiveness of land-lease procedure in the future.

EU should, in the context of negotiation under chapter 23, recognize more clearly risks from aligning urban plans

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according to the potential investors' needs and public officials' support for private investment projects.

### Public enterprises

Government of Serbia should appoint professional management in all public enterprises.

Public prosecutor should check suspicions about abuses in public procurements and employment in public enterprises including EPS.

Public enterprises should seek to fulfill their basic function, to maintain and develop their capacities (e.g. in electricity production in case of EPS) and not to be tool for the governmental social or fiscal policy.

EU should recognize importance of public enterprise oversight and management from the perspective of fight against corruption (chapter 23) and overall rule of law.

## Introduction and methodology

The purpose of this research was to identify eventual patterns of state capture in Serbian institutions and sectors, related risks for the rule of law and EU integration and to propose measures that could help to resolve this problem.

Methodology for this research included several steps. Within the first phase TS discussed, together with other participants in this broader Balkan research, possible topics to be cover and particularly problematic sectors where state capture-like patterns were suspected in recent years. In that phase it was crucial to identify whether such phenomenon is really sector-wide or it might be just an accidental individual case. There were also dilemmas on how to define sector and in particular whether to follow various branches of economy or those of the government.

The work on the research included two basic parts – collection of information and checking of information. For the collection of information Transparency Serbia researchers made thorough check of various publically available sources, including analyses and opinions expressed on various (news, official, academic, CSO, economic, energy sector) Internet pages, broad archive of Transparency Serbia's press clipping of print and electronic media from Serbia. Previous researches of Transparency Serbia were also solid basis for further data collection in some instances, including last published National Integrity System report (2015), that identified State Owned Enterprises as the most problematic pillar.



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Another important source of information for this research were statements of app. 20 people from the affected sector (public sector employees, experts, CSO activists, journalists). Due to sensitivity of information provided to TS researchers, most of our interviewees asked to stay private. This is quite understandable having in mind dominant culture of discussion when it comes to any form of government accountability. Namely, issues covered by the research and suspicions for state capturing involve also significant role of county's top political leaders and their top priorities of work and interests.

In order to verify those first-instance information to the extent possible, we focused on official data. For that purpose, Transparency Serbia submitted several series of free access to information requests. Analyses of received documents confirmed some of previously obtained information, but this method of verification was not always possible.

Whenever possible, we used official data of relevant institutions, such as Fiscal Council, EPS, Ministry of Economy, Government of Serbia, City of Belgrade, Urban planning institution and other.

Within this research, TS also analyzed relevant EU accession documents, and in particular action plans, negotiation positions, screening reports, annual reports, non-paper, EU Parliament resolution and other.

Due to obvious reasons, some claims, suspicions and links could not be fully researched within this effort, since we explored here case studies that are not yet finalized in any way.



# Case study 1: EPS (Electric Company of Serbia - Elektroprivreda Srbije)

## Relevance of Sector and Key problems

Public companies (State Owned Enterprises - SOE) in Serbia have been abused for party purposes for decades and captured by the political elites. While the Law on Public Enterprises both in its 2012 and in 2016 versions promoted professionalization, accountability, transparency and efficiency of these entities, none of these goals is achieved.

Party officials are brought to the leading executive positions and party activists are employed in those companies. Money is drawn from SOEs through public procurements, often unscrupulous, which are granted to firms owned or closely associated with party members through specific business engagements. Also, public companies are used for political promotion - through the conduct of social policy through SOEs (maintenance of low prices of services for the entire population, thus disabling SOE's sustainable business). Another method is the collection of SOE's revenues and transferring as much as possible to the budget in order to meet some other populist needs, with the risk that SOE's can not realize its role - the provision of services and the development of business.

Electric Company of Serbia (none as EPS, from “Elektroprivreda Srbije”), being the single largest public owned company, shows it in a larger scale. EPS is probably the most important company in the country, having in mind the number of employees, income and resources. It is organized as a complex public enterprise, incorporating dozens of smaller legal entities (i.e. hydro and coal plants).

Main characteristics of political influence and capture of EPS:

- a) the operative management and in particular acting director, is purely politically appointed and widely considered as incompetent for the position; similarly, many of lower level managers are considered incompetent as well;
- b) there is no information that oversight board of the company, appointed by the Government, made efforts to rectify identified problems;
- c) EPS is practicing party affiliated employments, that is facilitated by frequent reorganization of company structure, discretionary based changes of systematization act with the description of working places and by maintaining several firms formerly connected to EPS plants from Kosovo;
- d) the profit of the enterprise is artificially increased in order to make a transfer to the budget, to present a budget suffices and to obtain political gain by linking it with the success of governmental policy;



e) there is no comprehensive reporting and accountability for the achievement of enterprises' goals, but only about financial results;

f) the price of the services is for decades held on lower level than in the most of the neighboring countries, in order to keep "social peace" and to avoid eventual losing of popularity of political leaders.

EPS is repeating on a large scale also problems of wider public sector, such as public procurements. Namely this company is spending dozens of millions EUR annually for the procurement of various services, whereas the very need for such services is quite doubtful and illegal party financing is being suspected.

This all affects adversary EPS's ability to perform its functions and future development of this enterprise in overall. Surplus expenditures, bad management, reluctance to invest in maintenance of the system and development of new capacities, while might bring some individual Pecuniary or political interest could have damageable long – term effects for the company.

It might include companies' lower potential for the eventual privatization in the future. It also includes need for the state to enter new loans in order to obtain necessary development of EPS capacities, end entering of new investments through public private partnerships (some of them on the basis of non-competitive procedure and inter-state agreements), instead of using EPS own income for that purpose. Moreover, due to size of the company and scope of its work, negative effects already include lower

gross domestic product and might include potentially weakened stability of overall energy sector.

## The Practice

### Production of coal

In July 2014 Fiscal Council (FC) warned public that state owned and public enterprises threaten to sink public finances of Serbia. Through the Program of measures for reform of the public sector (June 2013), Government committed to resolve public enterprises problems in a short period of time. However, the reality was quite different. Currently, there is a serious risk that unsuccessful financial result of the biggest SOE, EPS may become fiscal expenditure that could ruin public finances of the country.

In March 2016 Fiscal Council warned again that there was no improvement in reforming EPS and Srbijagas and argued whether the state has control over those enterprises at all. In March 2017 Fiscal council repeated that substantial reform in EPS are delayed for years, that debts of the company (over 1 billion EUR) which may fall on budget shoulder represent the highest fiscal risk. Moreover, low level of EPS investment (significantly lower than amortization) are problem as well. Namely, lack of electro energetic capacities may have long term negative consequences for the overall economic development of the country. “Long term delay of decision about SoE reflects to the work of overall economy, that hardly invests.



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Why is EPS for years topic of FC's interest and why the government does not want to reform this public enterprises?

EPS employs almost 30.000 people. The organizational structure has been changed several times during the last five years. There are parts of the EPS that used to work on Kosovo before 1999, still having several thousand of employees, although EPS has no business operations there. That makes this enterprise ideal for "hiding" of army of party activists which are rewarded with the job in public enterprises for their party fidelity. The same ambient is favorable for selling of workplaces as well, the mechanism that may help create political party's black funds.

Annual income of EPS is higher than 200 billion RSD (1,6 billion EUR), while investment plans are several dozens of billion RSD. Fund for salaries is almost 60 billion per year. In that financial environment, political manipulation may easily be practiced, in particular when making decision not to invest but rather to transfer funds to the state budget in order to create its surplus for purely promotional reasons.

Namely, in 2017, non-tax income of the state of Serbia increased for over 200 million EUR in comparison to the original budget plan. The sole source of that increase were payments of SoE's. Part of that money came from EPS. In 2016 that company profited 7.8 billion RSD, although the plan envisaged only 1.4 billion RSD. Enormous profit was reached even with the lower level of income than envisaged (-3%). So, how was it possible? The answer is in shortened expenditures. However, it was not saving made on expense of work rationalization or dismissal of politically employed redundant personnel.

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The cost was cut on the expense of investments! Instead of investing 57.6 billion, EPS spent only 28 billion. According to the official report of the company for year 2016, the reason for failure were “complex procedure and late approval of the government for the three year business plan of the company, that caused delay in public procurements”. Similarly, in the first half of 2017, EPS planned to invest 25.8 Billion, and did only 9.7. (38%). The “explanation” is very same as in 2016.

In that context, statement of (former) prime minister Aleksandar Vučić of May 1<sup>st</sup> 2017 visit to Kolubara mines is absurd. He stated that EPS has 440 million EUR on its account (55 billion RSD). He even publically asked: “Was there any time that EPS had so much money?” So, instead of being invested, EPS funds are kept on its account; just to be shifted later to the governments' budget, so politicians may use them for promotional reasons.

Consequence of lower investment on one side and efforts to achieve greater production at the same time were visible in early 2017. Due to inappropriate procedures implemented when removing the tailings (i.e. the layer of the ground that covers the coal) the main Serbian facilities for surface coal exploration faced with damages. While the aim was to enable faster exploitation of the coal and to increase its production.

However, violation of regular exploitation procedures, caused ground to collapse, thus coal in surface mines became less available than before.

As a result, the overall production of the coal was reduced and consequently the overall production of electricity.

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Serbia imported in the first half of 2017 1.025 GWh, for 5.86 billion RSD, while the original import plan was 472 GWh (2,66 billion RSD).

Public received only partially information about that, and low temperatures in the winter and spring of 2017 were identified as a problem cause. However, as elaborated in NIN weakly in April 2017, coldest days were actually used for the highest production of electricity. Only in July 2017, EPS succeeded to achieve production level that is higher than in the same period of previous year, according to the official statistics:

Table 1: EPS production in 2017 (Source: Republican Institution for Statistics)

January	-7,0%
February	-12,8%
March	-22,9%
April	-11,4%
May	-6,3%
June	0,0%
July	+3,1%

In May 2017 Vučić announced 250 million EUR investment in “Kolubara” mining. He stated that the topic of meetings in that coal mine was fastening of public procurement procedures. “The intention is to increase production of the coal to 28 million tons, so it will be higher than in 2016.”

According to the official data, EPS has been suffering from damages of spring 2014 floods until first half of 2017.



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Restrictions of investments, that started immediately after, brought even harder consequences until new investments were made:

Table 2: Coalproduction of EPS per year:

2010: 37.195.145 t
2011: 40.290.397 t
2012: 37.513.241 t
2013: 39.513.474 t
2014: 29.204.294 t
2015: 37.029.091 t
2016: 37.652.520 t
Total for January/June 2017: 17.488.229 t
Total for 2017: 39.064.457 t

Table 3: Production of coal in “Kolubara” mines:

2010:29,7 million tons
2011: 31,1
2012: 29,6
2013: 30,7
2014: 23,3
2015: 28,7
2016: 28,5
January / June 2017: 13.194.342
2017: 29,4

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Information about production of coal per month is even more illustrative. This is information for whole EPS (% of achieved plan in brackets):

**2016:** I - 3.473.723 (96) II - 3.511.234 (105) III - 3.462.619 (99) IV - 3.014.872 (108) V - 2.379.636 (117) VI - 1.829.643 (85) VII - 3.202.970 (98) VIII - 3.306.055 (94) IX - 3.197.593 (91) X - 3.353.595 (93) XI - 3.344.215 (95) XII - 3.576.365 (98). Total 99%

**2017:** I - 3.280.751 (94) II - 3.439.051 (108) III - 2.678.501 (80) IV - 2.836.238 (94) V - 2.858.423 (132) VI - 2.395.265 (118). Total 101%

This is information for Kolubara only (% of achieved plan in brackets):

**2016:** I - 2.741.203 (98) II - 2.677.715 (104) III - 2.626.228 (100) IV - 2.173.861 (109) V - 1.648.607 (102) VI - 1.816.666 (104) VII - 2.417.661 (101) VIII - 2.442.514 (92) IX - 2.409.866 (89) X - 2.442.235 (89) XI - 2.423.518 (92) XII - 2.722.286 (99) Total: 99%

**2017:** I - 2.454.416 (92) II 2.604.003 (108) III - 1.794.065 (72) IV - 1.995.434 (93) V - 2.186.328 (149) VI - 2.169.096 (119). Total: 101%

From this statistical overview it is clear that there was significant problems in production, particularly in March 2017. What table does not say is the way that in May and June production in Kolubara increased so much above the plan. Decrease in production usually comes from the reparation of the system. However, according to the documents obtained from the EPS, the reparation was partial (not done in all systems). This might become



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problem in the future, having in mind that in 2016 EPS did not repair several important machines, due to technological reasons.

Similarly, data on removal of tailings support insider information about problems that occurred due to unprofessional work, aimed to achieve higher productivity in a shorter period of time.

Table 4: Production in whole EPS

2010: 95.781.419 m3
2011: 111.205.085 m3
2012: 107.688.172m3
2013: 110.485.172 m3
2014: 81.029.219 m3
2015: 84.195.353 m3
2016: 98.780.877 m3
January - June 2017: 47.840.273 m3
2017: 103.429.947 m3

Table 5: Production in „Kolubara“ only:

2010: 58,9
2011: 71,7
2012: 67,6
2013: 69
2014: 48
2015: 47
2016: 59
January - June 2017: 29 million m3
2017: 66

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Disaggregated data on monthly level (% of achieved plan in brackets):

**2016:** I - 4.378.317 (77) II - 4.645.364 (87) III - 4.964.103 (85) IV - 5.454.120 (199) V - 5.366.797 (88) VI - 5.313.320 (92) VII - 4.594.430 (102) VIII - 5.492.386 (111) IX - 4.176.119 (85) X - 5.580.652 (96) XI - 4.268.377 (80) XII - 4.535.946 (80). Total 90%

**2017:** I - 3.630.388 (64) II - 4.501.257 (88) III - 3.919.875 (67) IV - 5.420.249 (94) V - 5.440.106 (87) VI - 6.462.748 (103). Total 84%

Table 6. Electricity production:

2010: 35.855 GWh
2011: 36.050 GWh
2012: 34.509 GWh
2013: 37.433 GWh
2014: 31.963 GWh
2015: 35.661 GWh
2016: 36.461 GWh
2017: 34.004 GWh

During the first half of 2017, 16.917 GWh was produced (4% lesser than planned, 17.669). At the same time, Serbia imported **1.025 GWh, in value of 5,86 billion RSD. The plan was to import only 472 GWh (2,66 billion RSD).** According to EPS data, in the first 5 months of 2017 EPS sold bilaterally quite insignificant amount of 64,72 GWh. In the same period of 2016 EPS sold 20 times more - 1.207 GWh. On the other hand, import was almost 3.5 times bigger than in the same period of 2016.

### Who manages EPS

Director of EPS, Aleksandar Obradović, appointed after open competition in 2014, was dismissed on March 3<sup>rd</sup> 2016, only one day before the new Law on public enterprises came into force. The new law envisaged much more complicated procedure to resolve director. Obradović had political background, but his professional experience in energy sector was much more important factor. He also had wide knowledge in a corporate management field.

Already on March 15<sup>th</sup> 2016 Government opened public competition for the new director and appoints Milorad Grčić as an acting director. Grčić already worked as a director for socially responsible management in EPS. He spent there four months only, while his previous post was director of Coal basin of Kolubara, an EPS affiliate business entity (since October 2012). Before that he became local leader of SNS in Obrenovac. That was reward for changing the political side – his citizens group in the local parliament, after being 4 years in coalition with DS, decided to become partner with SNS. His official biography also mentions wide experience in private entrepreneurship. It was actually, according to the widely quoted and never denied information, ownership of local rotisserie. It all means that Grčić, at the moment when he was appointed acting director, did not fulfill legal requirements for that position. Namely, according to the Istinomer web-page, he graduated on private faculty in Sremska Kamenica only in April 2012.

On the contrary to the law, that envisaged February 2017 deadline, public competition for director's post was not finalized till January 2018. Milorad Grčić is still acting director.

According to the statements of employees in the company within the last five years, party-loyal people took over even lowest managerial positions.

### Number of employees

Due to several reorganizations of EPS and complex structure, it is not easy to follow the overall number of employees in this company. According to the claims of insiders that we obtained information from, corporativisation that happened in 2015 was based on at least two reasons. The first was sharing of spoils between the government coalition members, while the second was support to the local SNS branches, by providing possibility to employ their own people and to dismiss the others. Only in city of Nis, according to this information, app 100 SNS members was employed after new public enterprises Serbia Electro distribution was extracted from EPS.

Splitting of EPS and EDB (production and distribution) is problematic due to other reasons as well. Namely, it brings the need for double employment of staff on certain positions, while in one system such needs may be served by lesser number of employees.

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It is interesting that in regular reports on number of employees in EPS, there are no information about three “Kosovo” enterprises - Termoelektrane Kosovo, Površinski kopovi Kosovo and Elektrokosmet. Since EPS does not control plants and coal mines on Kosovo, people employed in these enterprises are “temporary” (although “temporary” lasts almost 2 decades) in Belgrade, more than 4000 of them and their salaries (60%) are paid by EPS. Employees of those enterprises are hired without tender procedure on various jobs in Serbia and these jobs are fully paid.

Portal Insider, pointed on SAI report for 2014, where EDBelgrade has contracts with JP Elektrokosmet from Priština since 2005 for various services and works. Only after audit report, EPS enterprises from Kosovo are competing on tenders (usually successfully). They charge EPS full prices of the service and works, although EPS still pays 60% of employees’ salaries<sup>2</sup>.

Unlike quarterly reports, annual report of EPS has information about number of people employed in “Kosovo” enterprises. At the end of 2015, total for EPS group was **31.784**, out of which 94,05% on permanent basis, 6,01% temporary and 0,16% with suspended labor status (total is 100,22%!). Number of employees in Kosovo enterprises decreased slightly in comparison with previous years:

December 31,2013: 4.469

December 31,2014: 4.241

December 31, 2015: 4.168

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<sup>2</sup><https://insajder.net/sr/sajt/tema/5345/>



TS obtained information from EPS about number of employees per each enterprise. We obtained information from all but those three resettled from Kosovo. It is interesting that information we received from requests do not fully correspond to the data from EPS annual financial report (“report on level of compliance between planned and realized activities from the Annual business program”).

Namely, on December 31, 2015 number of employees for whole EPS group was 33.213 (EPS report stated 35.952, or 31.784 without Kosovo enterprises). Out of that number, there was 29.822 people employed permanently, 1.962 temporary and 1.429 contracted for services.

Within the EPS enterprise only, there was 19.618 employed on permanent basis, 1.702 temporary employed and 194 contracted.

During 2016, under stimulative conditions, with reimbursement, 1.359 employees of EPS, i.e. 1.517 for the whole group left the firm. On the other hand, in the same year EPS employed 8.199 new people, out of that 6.622 due to reorganization (EPS Distribution is part of EPS group, while EPS supply is branch of EPS proper now). New 1.550 employments are those who worked before on temporary basis.

Aleksandar Vučić (prime minister) announced employments already in 2014, during the visit to Kolubara coal mines. He “discovered” that as much as 1.470 of “Kolubara services” enterprise staff works on temporary contract basis, for smaller salaries than those permanently employed. So, he decided to promote such workers to fully employed staff. Ever since then, **EPS operates under**

**similar dynamics:** First, there is a group of permanently employees leaving the firm and getting financial stimulation to do this. Thereafter, EPS employs new workers on the temporary basis or on other form of contract. Next step is employment of those workers on a permanent basis.

Table 7: Number of employees in EPS group

	December 31, 2016	June 30, 2017
permanent	29.424	29.562
temporary	355	551
other contracts	1.535	2.188
Total	31.314	32.301

For EPS enterprise only, total number of employees on December 31,2016 was 27.737, out of which on permanent basis 25.906, 296 temporary and 1.535 through other contracts.

In this case, EPS annual report shows different data than those TS obtained on the basis of information request. Namely, EPS had at the end of 2016, total of 26.202 people (25.906 permanent, 296 temporary), further 510 hired through agencies, and 1.025 of those hired in some other way. On June 30<sup>th</sup> 2017, the number of permanent staff increased by 140, temporary by 187 and through agencies by 371.

According to this data, EPS group in June 2017 employed 900 workers less than year and a half before, while in the meantime as much as 1500 employees left the firm. It is interesting that **reimbursement fund was not used to stimulate rationalization in EPS Kosovo firms**, where

## Elements of State Capture in Serbia

most of 4000 employees receives salaries, although not working. According to “other expenditure” data, funds distributed to the employees from EPS Kosovo enterprises in the first half of 2017 was 2.6 billion RSD.

The trend has been continued in the third quarter of 2017, when the overall number of employees increased for additional 300 persons.

In May 2017 Aleksandar Vučić announced new cycles of employment status change.<sup>3</sup>

IMF requested EPS to dismiss in 2016, as much as 1000 people, for the sake of rationalization and sustainable work. EPS fulfilled that request, although with numerous irregularities. The first, the firm offered to the employees 500 EUR per each year of employment record, although the law entitles for 200 EUR only. The result was huge number of those with long employment record who used opportunity and left the firm. Another problem was that the plan included anyone who volunteered to leave the firm, and not those who are not necessary. As a consequence, EPS kept many of employees who are not necessary for its work, and had to employ another 950 people in order to make system to function. **Formally, IMF request was fulfilled, but it missed the point.**

For 2017, according to these information, IMF requested EPS to dismiss 750 people, but to follow the logic of systematization of works. Allegedly, it also requested to

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<sup>3</sup><http://www.rts.rs/page/stories/sr/story/13/ekonomija/2719360/vucic-sa-radnicima-kolubare-na-praznik-rada.html>



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resolve status of those employed in EPS enterprises resettled from Kosovo.

According to the information of insiders, EPS is also one of the firms where people may purchase employment if knowing the right person. This claims are not supported by any relevant court verdict and are not unique to this enterprise, but for wider public sector. Allegedly, „regular price“ that has to be paid to the ruling party is 2000 EUR, while the price charged above that amount (up to 4000 EUR) is what involved individual intermediaries are taking from themselves. According to that source, director general of EPS is not involved in that practice, but it is operated through “Kosovo lobby”, i.e. director of Electrodistribution Belgrade who was appointed to that post in 2013, after serving for years before in “Elektrokosmet”.

Formal employment is just one type of abuse made for political benefit. Another model of bad management and party based employment is the fact that EPS hires external people for services such as reading of electricity consumption in households and cleaning of machines, while the most of people formally employed in Kosovo resettled enterprises stays idle.

According to the insider sources, for the most of these external services, EPS engaged firm Prointer, owned by high officials of ruling SNS (Kokeza and Kvrđić), and the profit for the firm increased 200 times since that party came into power. According to the insider information, there was 2014 purchase of IT system from that firm, in value of 7 million EUR. However, the system was not compatible with the existing EPS facilities, it never worked



and money was never reclaimed.<sup>4</sup> During the 2016, Printer won on 50 tenders in EPS. According to the insider information, Printer collected about 300 million value jobs for EPS since SNS came into power. For some of those jobs, EPS hired Printer, although having its own people who could do the same. That was another method to extract public monies for party financing.

Since all formal employments has to be in line with the general enactment – “Rulebook on organization and systematization of works in the public enterprises EPS”, there was a need for frequent changes of this document. This changes were largely aimed to fit requested qualifications and number job positions with the qualifications of concrete people envisaged to be employed. The real purpose of systematization act is totally opposite – to identify needs of the enterprise and then to seek for individuals who respond to those needs in terms of working experience, education profile and a like.

Current Systematization act was published on June 16<sup>th</sup> 2015: Pravilnik o organizaciji i sistematizaciji poslova u Javnom preduzeću „Elektroprivreda Srbije“ (JP EPS broj 2871/1-15 od 16. juna 2015. godine).

Ever since then, there were following changes of the act:

- JP EPS broj 2871/3-15 od 23. juna 2015. godine
- JP EPS broj 12.01.2871/5-15 od 22. jula 2015. godine

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<sup>4</sup><http://www.blic.rs/vesti/ekonomija/ojadili-eps-za-sedam-miliona-evra-pa-napredovali/1zegv77>

- JP EPS broj 12.01.2871/7-15 od 18. avgusta 2015. godine
- JP EPS broj 12.01.2871/12-15 od 21. septembra 2015. godine
- JP EPS broj 12.01.2871/14-15 od 28. septembra 2015. godine
- JP EPS broj 12.01.2871/17-15 od 16. oktobra 2015. godine - ispravka
- JP EPS broj 12.01.2871/21-15 od 20. oktobra 2015. godine
- JP EPS broj 12.01.2871/19-15 od 20. oktobra 2015. godine
- JP EPS broj 12.01. 2871/23-15 od 14. decembra 2015. godine - ispravka
- JP EPS broj 12.01.2871/25-15 od 15. decembra 2015. godine
- JP EPS broj 12.01.2871/27-15 od 16. decembra 2015. godine
- JP EPS broj 12.01.17623/1-16 od 15. januara 2016. godine
- JP EPS broj 12.01.17623/3-16 od 18. februara 2016. godine - ispravka
- JP EPS broj 12.01.17623/5-16 od 23. februara 2016. godine
- JP EPS broj 12.01.17623/7-16 od 7. anpuna 2016.godine
- JP EPS broj 12.01.17623/9-16 od 17. maja 2016. godine
- JP EPS broj 12.01.17623/11-16 od 16. juna 2016. godine



- JP EPS broj 12.01.17623/13-16 od 22. juna 2016. godine
- JP EPS broj 12.01.17623/17-16 od 23.06.2016. godine
- JP EPS broj 12.01.17623/19-16 od 5. jula 2016. godine - ispravka
- JP EPS broj 12.01.17623/26-16 od 12. juna 2016. godine
- JP EPS broj 12.01.17623/24-16 od 11. jula 2016. godine
- JP EPS broj 12.01.17623/27-16 od 2. avgusta 2016. godine
- JP EPS broj 12.01.17623/32-16 od 12. avgusta 2016. godine - ispravka
- JP EPS broj 12.01.17623/40-16 od 25. avgusta 2016. godine
- JPEPS broj 12.01.17623/36-16 od 19. avgusta 2016. godine
- JP EPS broj 12.01.17623/44-16 od 2. septembra 2016. godine
- JP EPS broj 12.01.17623/47-16 od 15. septembra 2016. godine
- JP EPS broj 12.01.17623/51-16 od 19. septembra 2016. godine
- JP EPS broj 12.01.17623/60-16 od 29. septembra 2016. godine
- JP EPS broj 12.01.17623/64-16 od 18. oktobra 2016. godine
- JP EPS broj 12.01.17623/68- 16 od 25. oktobra 2016. godine



- JP EPS broj 12.01.17623/72-16 od 16. novembra 2016. godine
- JP EPS broj 12.01.17623/77-16 od 1. decembra 2016. godine
- JP EPS broj 12.01.17623/81-16 od 12. decembra 2016. godine
- JP EPS broj 12.01.17623/85-16 od 16. decembra 2016. godine
- JP EPS broj 12.01.31020/1-17 od 18. januara 2017. godine
- JP EPS broj 12.01.31020/7-17 od 7. februara 2017. godine
- JP EPS broj 12.01.31020/11-17 od 10. februara 2017. godine
- JP EPS broj 12.01.138198/1-17 od 14. marta 2017. godine
- JP EPS broj 12.01.31020/25-17 od 24. marta 2017. godine
- JP EPS broj 12.01.31020/30-17 od 29. marta 2017. godine
- JP EPS broj 12.01.31020/36-17 od 6. anpuna 2017. godine,
- JP EPS broj 12.01.31020/42-17 od 11. aprila 2017. godine
- JP EPS broj 12.01.31020/44-17 od 13. aprila 2017. godine
- JP EPS broj 12.01.31020/47-17 od 10. maja 2017. godine
- JP EPS broj 12.01.31020/50-17 od 31. maja 2017. godine
- JP EPS broj 12.01. 31020/53-17 od 14. juna 2017. godine,



- JP EPS broj 12.01.31020/57 od 19. juna 2017. godine
- JP EPS 12.01.31020/60-17 od 22. juna 2017. godine
- JP EPS 12.01.31020/65-17 od 28. juna 2017. godine
- JP EPS 12.01.31020/70-17 od 12. jula 2017.
- JP EPS 12.01.31020/74-17 op 13. jula 2017. godine
- JP EPS 12.01.31020/78-17 od 24. jula 2017. godine
- JP EPS 12.01.31020/82-17 op 3. avgusta 2017. godine
- JP EPS 12.01.31020/84-17 op 4. avgusta 2017. godine
- JP EPS 12.01.31020/88-17 op 23. avgusta 2017. godine
- JP EPS 12.01.31020/93-17 od 1. septembra 2017. godine
- JP EPS 12.01.31020/99-17 od 8. septembra 2017. godine
- JP EPS 12.01.31020/102-17 od 12. septembra 2017. godine
- JP EPS 12.01.31020/104-17 od 13. septembra 2017. godine
- JP EPS 12.01.31020/109-17 od 15. septembra 2017. godine
- JP EPS 12.01.31020/112-17 od 18. septembra 2017. godine
- JP EPS 12.01.31020/115-17 op 26. septembra 2017. godine



- JP EPS 12.01.31020/117-17 op 4. oktobra 2017. godine
- JP EPS 12.01.31020/120-17 od 16. oktobra 2017. godine
- JP EPS 12.01.31020/122-17 op 24. oktobra 2017. godine
- JP EPS 12.01.31020/124-17 od 1. novembra 2017. godine
- JP EPS 12.01.31020/126-17 od 8. novembra 2017. godine
- JP EPS 12.01.31020/129-17 od 17. novembra 2017. godine
- JP EPS 12.01.31020/134-17 od 5. decembra 2017.godine

In total, there was as much as 69 changes of this Act, during the less than 30 months, and some of them were made on almost daily basis. An illustration of typical amendment might be change made in July 2017, where conditions for the posts of the director and deputy director of economic, financial and commercial affairs in one organizational unit of EPS were changed from “university graduate in economics” to “university graduated in general”, in order to fit with capacities of pre-determined candidate.

## Case study 2: Belgrade Waterfront urban planning – public institutions serving private interests

### Summary

For the purpose of “Belgrade Waterfront” project (app. 900.000 square meters), Serbia violated its own rules on expropriation, public private partnerships, taxation and public procurements, through “one time” legal mechanisms, such are “lex specialis” for BW project, adopted by the Parliament in April 2015, and wide provisions of interstate agreement between Serbia and United Arab Emirates (where private partner firm for this project is registered).

Urban planning for the project formally followed the rules, but the whole state and city apparatus only looked how to fit with the interest of at that time only perspective investor.

As a result:

- a) the shape of the biggest piece of construction land in the capital city center is not planned through architect competition as originally envisaged;
- b) the purpose of this land was not decided in a participative manner;
- c) investor was not selected on the basis of competition;

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d) state entered 30 years contract as a minority (32%) partner in a joint venture, although the value of land and investments to clean-up the terrain is significantly higher than the value of private investment;

e) state committed to assign procurement of public works of almost 300 million EUR, without competition.

### Belgrade Waterfront – from announcement till alignment of planning rules

For ambitious expansion plan "Belgrade Waterfront"<sup>5</sup>, the project (as originally announced) worth about 3 billion EUR (although the investments of \$3.1 billion was also mentioned, as well as the market value of the built space of about 8 billion EUR) the contracts was signed on April 26, 2015.

Although the reconstruction of Sava amphitheatre is the project that has been mentioned since '80s, the context of

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<sup>5</sup> There was only the General Plan of Belgrade 2021 for the area intended for the construction of Belgrade Waterfront, but there is no Detailed urban plan, Regulatory Plan, The Plan of detailed regulation.

[http://www.urbel.com/default.aspx?ID=uzb\\_DetaljniPlan&LN=SRL](http://www.urbel.com/default.aspx?ID=uzb_DetaljniPlan&LN=SRL)

The General Plan for this area predicted a mandatory development of tender competition: "In the initial phase, the territory of Sava amphitheater and the part of New Belgrade city from across the river will be uniquely solved as the future city center of the highest rank, through an international competition, in order to establish a logical visual and contextual link between the public spaces areas on Belgrade and New Belgrade side, regardless of different possibilities and future independent stages of implementation and specific tenders in two parts of the future city center". Professional circles warned that Belgrade Waterfront could be built even without the adoption of plans, given that the Draft Law on planning, designing and construction, Article 176, provides that "the minister in charge of urban planning, and construction can issue a location and construction permit for buildings of importance for the Republic of Serbia, if a planning document on which the location permit is based is not issued within the period prescribed by the decision on plan preparation, and based on the plan of a higher order, the rules of the profession and in accordance with the technical regulations and standards and norms for this type of object. "

public-private partnerships emphasizes a period since the spring of 2012, when the then deputy president of the Serbian Progressive Party and a candidate of that party for Belgrade mayor Aleksandar Vučić presented the project Belgrade Waterfront<sup>6</sup>.

In the election campaign in April 2012, Vučić stated that the project <sup>7</sup> would be implemented without further indebtedand only with the cost of 125 million EUR for municipal development, but that **"the city should keep 451 million EUR from the taxes for building land."**<sup>8</sup>

However, Vučić then claimed that there is **a large number of investors** who are interested in participation in the project, but that he cannot speak of that in more detail because everyone will have to go through tender procedure.

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<sup>6</sup><https://www.youtube.com/watch?v=bEulljh4WQE>

<sup>7</sup> The project planned the elements contained in the latest version of Belgrade Waterfront - after the relocation of the railway and bus stations, while preserving important cultural facilities, the construction of new facilities, the combination of business complex, luxury hotel category, residential blocks, objects with cultural and artistic content and facilities for sport and recreation, with large green areas, as well as the buildings which "would be a symbol of Belgrade." Even at that time it was announced that the construction phase and operation stage of the project would involve at least 200,000 people, that everything would be completed in eight years (the current deadline is six years), and that the total area of constructed facilities would be 1.8 million square meters, and their market value would be more than four billion euros.

<sup>8</sup>Lex specialis adopted for the purpose of expropriation for the construction of Belgrade Waterfront estimates the value of contributions for land development to 33.7 billion RSD, but allows it to be paid by means of "compensation" through the construction of public facilities.

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The next important step which, as it turned out, was significant for this case, was the signing of the Cooperation Agreement between the Government of the Republic of Serbia and the Government of the United Arab Emirates on February 17, 2013 and the ratification of that agreement in the National Assembly on March 15, 2013.<sup>9</sup>

The agreement<sup>10</sup>, in fact, planned the "cooperation in the field of real estate/immovable property/capacity", which includes "a) Acquisition of immovable property owned by the state, and/or b) Joint projects involving immovable property owned by the state." The agreement further states that, in order to invest in "certain capacities and immovable property in the Republic of Serbia, which is state-owned, the Republic of Serbia agrees to sell certain real estate units to the entities in the United Arab Emirates in cases when a common interest is recognized or to make a joint investment, according to the rules and under the terms agreed between the Parties in this agreement, or each Party or the private sector, or the private sector of both Parties, which will be regulated by separate sales or other contracts."

This met the precondition for the Belgrade Waterfront to be implemented as a public-private partnership, without the application of anti-corruption mechanisms from the Law on public private partnerships and concessions, which provides transparency and competition - the preparation of a study which should explain the choice of PPP instead of

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<sup>9</sup><http://www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2013/817-13.pdf>

<sup>10</sup>Article 2, Paragraph 8

some other form of project realization, then the competitive process for the selection of partners (public competition) even in the case that there is a investor with the project and offer to implement it<sup>11</sup>, the development of a business plan that includes the requirements of PPP, **cost assessment and analysis of obtained value compared to the invested funds**, specifications of financial admissibility of PPP for a public body, **specifications in terms of project funding** and the availability of funds, **the planned allocation of risk**, followed by the **analysis of economic efficiency of the proposed project**, the types and amounts of collateral provided by the partners in the project, and the mechanisms for monitoring the realization of the contract and the commitments, which includes the regular, six-month reporting. The law also precisely prescribes what needs to be included by a contract signed by a public authority (in this case the state of Serbia) and by a private investor. All of these obligations can be avoided due to the fact that the PPP is implemented on the basis of interstate agreement.<sup>12</sup>

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<sup>11</sup>Article 19 of the Law on PPP and concessions. Within 90 days of receipt of the specific voluntarily proposal, the public body determines whether it considers the project to be of public interest and in that sense informs proposer. If it is considered that the voluntarily proposal is of public interest and if the public body decides to initiate the project, the body further initiates a regular procedure for the selection of private partner and the award of contracts, in which the bidder is entitled to participate provided that "his participation in the preparation of project proposals does not affect competition".

<sup>12</sup>TS repeatedly (including the work on anti-corruption strategy) indicated that the area of investment in major infrastructure projects on the basis of bilateral agreements is one of the most problematic issues from the standpoint of the

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In October 2013, the media announced the intensive work on the project implementation, or that the "experts entrusted with the project" completed the preliminary design in the past year and a half (after the 2012 elections), obtained proprietary lists for more than 400 cadastral parcels, obtained "all necessary requirements of public companies and other competent institutions for the relocation of traffic and communal infrastructure" and that "the development of a plan of special purpose areas is in progress and that it will be submitted for approval in January 2014".

Srđan Rupar, who was presented as a "team leader, who is in charge of the project and a future director of "Company Belgrade Waterfront" said to "Novosti" daily newspapers that "Belgrade Waterfront" gained the status of project of special importance for the Republic and that the "foreign investors, companies and investment funds, recognized it as a realistic and cost-effective."

"At the request of the Government of Serbia, the Ministry of Economy will form the company 'Belgrade Waterfront' and that part of the work is in its final stage. After obtaining locations, all investors will become part of the company by means of recapitalization and, of course, will built at their own expense. For this project, Serbia will not borrow a single euro of loan". Rupar also stated: "Investors are not being deceived, but they are being sold clean locations equipped with infrastructure. By the beginning of the construction phase of the complex there is the need for the

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fight against corruption, but it was never included in the final text of the anti-corruption strategy.

investments of around one and a half to two billion EUR. "It is interesting that it was established that during the preparation of the project "special attention was paid to respecting urban demands" and that **"everything will be in accordance with the city planning documents that are in force"**, although the planning documents for that part of city do not exist.

Two weeks later (E-Gate October 16, 2013) Rugar declares the aim of Serbia is to avoid a single euro debt in the realization of this project, "We want something that can and must be achieved. By means of our own funds we should create conditions **for foreign investors to 'confront' who will get the location and build at their own expense.**"

Three months later it turns out that **there is no "confrontation of investors"** about who will get the location, but **one investor** emerges from a country with which there is a signed intergovernmental agreement on cooperation, and Aleksandar Vučić, who in 2012 announced that all interested in participation in the project **will have to go through the tender procedure**, now says that the public authorities will respect the law, but that **other people's money must be respected as well**, and that the person who advocates the announcement of the tender competition should first "find 3.1 billion dollars"<sup>13</sup> and then announce **a competition.**"

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<sup>13</sup>Eventually, it turned out that the investor would invest 150 million euros of his own money.

On January 18, 2014, a businessman from the UAE Mohammed Al Abar spoke with Vučić in Belgrade about investments in the project "Belgrade Waterfront." Then the public in Serbia was informed that Al Abar presented the project "Belgrade Waterfront" to Vučić which should mean that it is a new project with the same name as a pre-election project from 2012.

Interim President of Belgrade Siniša Mali said at that time that Company Belgrade Waterfront would be established as soon as possible and the expropriation of the land not owned by the Republic of Serbia was initiated, and he added that at the same time planning documents would be prepared so that the first development phase of the project could begin in late 2014.

Given that the legal nature of the business was not mentioned and the explanation of what happened to the announced public competition was not given, in a statement from the following day Transparency Serbia asked the question "What is "Belgrade Waterfront?" In relation to that, TS asked the following questions:

- 1. Did the Republic of Serbia/ City of Belgrade give the opportunity (e.g. called the tender) to other potential investors to form a joint company and provide the project for the construction of "Belgrade Waterfront"? If not, on the basis of which regulations was the competition excluded?*
- 2. Does this mean that in any future case when a potential investor presents a project that plans the formation of a joint company in which the state/city will invest their land and the investor money, the state/city would accept such*

*an offer or the country/city will act selectively towards investors ?*

*3. How will the investments, profit and business risk be divided in the future "joint company"?*

*4. What is the legal basis for the formation of the joint company, is it a project of public-private partnerships, was it defined by the Commission for PPP, as provided by the Act of 2011?*

On the same day, the President of the Association of Architects of Serbia, Igor Marić said that a solution for regulating the part of Belgrade along Sava River should be selected during an international competition, instead of a big project Belgrade Waterfront being build on ad hoc basis.

Aleksandar Vučić replied "that the public authorities will **respect the law**, but that **people's money must be respected** as well, and when asked why there was no tender competition for the project, he said he wouldn't mind that, but he would like for the representative of the association of architects who sought to announce a competition, "to find 3.1 billion dollars, and then to call a **competition**."

The following day, Transparency received a public reply from the president and secretary of the Interim organ of Belgrade Siniša Mali and Goran Vesić. Vesić said to journalists that the project would be implemented in full accordance with the law, but **there was no obligation to announce a public competition**.

However, Vesić and Mali presented a series of trivial or even meaningless scores and statements, like the one that the mentioned project is "in constant tender competition around the world for several decades and that no one has ever applied except one company from the United Arab Emirates" and that "during the last 20 years there have been intense talks about the project Belgrade Waterfront and that so far no one applied." Mali even called "all people from Transparency Serbia to speak out if they know any interested investors" and "they" will provide the project.

After this, TS repeated the question about the nature of the legal work that the authorities of the Republic of Serbia and/or the City of Belgrade intend to undertake with a company from the UAE<sup>14</sup>. To this Siniša Mali replied that

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<sup>14</sup>Without this basic information, as we have pointed out, any substantiated discussion on whether the project is good or not, and whether the actions of our government are legal or not, is impossible. Only when the Interim Authority or any other person planning to implement this project announces the planned actions, such a discussion will be possible.

As we have pointed out, these construction projects can basically be implemented in several ways: 1) City/Republic can finance the construction of buildings and regulation of land from the budget, or credits, and to organize public procurements for the purpose of implementation of the work; 2) City/Republic can sell the land to one or more interested investors; 3) to conclude some form of agreement on public-private partnership (concession, the formation of a joint company with joint investments and the like). To each of these forms of business special laws of the Republic of Serbia are applied (Public Procurement Law, the Law on Public Property or the Law on Public - Private Partnership), and the rules relating to the urban and spatial planning are applied in any case.

the Republic of Serbia will implement the process in connection with the project "Belgrade Waterfront" in accordance with the laws and added that "when this happens, everyone, including the organization Transparency Serbia, will be able to assess this procedure and determine whether it was conducted in accordance with the law".

It is obvious that at this stage and in the election campaign, the authorities did not want to openly announce that **nothing specific has been signed**, nor to communicate the planned PPP, which was exempted from the application of the Law on PPP, thanks to the interstate agreement with the UAE.

As Siniša Mali said, instead of a public competition prescribed by the law, in recent decades we had several

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If public-private partnership was already agreed (the formation of a joint company), as it could be inferred from the previous statements of Mr. Mali, we pointed out that it is necessary to present the public with information relating to the current and future implementation of the current Law on public-private partnerships, especially in relation to competition, non-selective conduct of authorities, the protection of public interest (the division of investment and business risk in the joint company) and the implementation of the procedure prior to the conclusion of such an arrangement.

Because of all of the above-mentioned, it is completely obvious that the fact that "the project Belgrade Waterfront has been the subject of discussion for 20 years" in no case provides answers to the questions raised about the implementation of regulations of the Republic of Serbia on this legal work. Also, given that the association Transparency - Serbia is devoted to the fight against corruption and transparent work of public bodies, and that it has never dealt with search for investors or with establishing the quality of potential investors (including the company Eagle Hills), we consider the comment of Mr. Mali as inappropriate.

projects that dealt with the descent of Belgrade to Sava River. According to the interpretation of Siniša Mali, those decades were "an open public invitation" to which one investor finally applied and decided to invest several billion Euros.

In the following weeks, Belgrade Waterfront was the election issue. Little could be heard about the legal nature of the work, about the obligations that would be accepted by the state, and even less about the costs of "preparing the ground" for the construction.

Through the media, citizens were informed by Siniša Mali on February 5, 2014, about the **"proposal that we would invest the land, that the Arab investors would invest the money and that the profit from achieved investments would be shared according to a certain percentage.** This percentage is currently being negotiated and it will soon be known and agreed. The question remains who will invest the supporting structure on the land, but that is the subject of ongoing negotiations with investors from the UAE."

General plan for the construction of the project "Belgrade Waterfront" was presented on March 2, 2014 in Dubai, when the preliminary designs for the Tower of Belgrade and the shopping center were also presented. All of this was presented by Mohammed Al Abar, a potential investor or director of the newly established company "Eagle Hills", which is the announced project investor.

We found out from the announcement of the Government of Serbia that the company "Eagle Hills" has already announced a tender competition for architectural solutions for facilities - the Tower of Belgrade and shopping center, and that the competition "involved the most famous companies in the world, including the American studio 'SOM', which is the maker of the tallest buildings in the world - Burj Khalifa in Dubai. <sup>15</sup> "Four international companies have already submitted eight proposals for the Tower of Belgrade, four of which entered the second round, while two proposals for the shopping mall entered the second round.

Only a few days later we found out that the contract with the investor was not signed, but without the explanation of how it is possible for an investor to announce a competition for the construction of buildings in Belgrade Waterfront before signing the contract (or before the public announcement that the contract was signed).

Upon his return from Dubai, Siniša Mali said that the entire project would be financed by a partner from the United Arab Emirates, and our costs will be bringing infrastructure

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<sup>15</sup>In addition, there was the repeated information that we had also heard before - the total area of "Belgrade Waterfront", including residential and commercial property, will amount to 1,850,000 square meters. The length of the boulevard will amount to 1.8 km with the width of 40 meters. The project will be built in three major phases, and the first phase will have five stages. The first ones are the Tower of Belgrade and the shopping center. This time there was no mention about the 200,000 people who will be employed during construction and exploitation, but rather about "the inclusion of Belgrade firms and architects during the construction" and the employment of around 20,000 people.

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to the location. "It actually already exists and we do not expect excessive costs, except the cost of expropriation and resettlement."

This was followed by the announcement about the beginning of reconstruction of the building "Geozavod" in Karadjordjeva 48, which will be "the center of all events in connection with the project "Belgrade Waterfront". By the decision of the Government the building was assigned to the Ombudsman, but this state body did not move in because the building needed renovation, for which there was no money in the budget. Through the media, the Ombudsman found out that the intended purpose of the building was changed in practice although the Government has not adopted a new decision that would change the user of this property.

As it was said, two million EUR for the reconstruction of the building was provided by a company from the UAE. It was announced that this money was received in the form of donation. This also happened before any contract for the project Belgrade Waterfront was signed (or at least before the public announcement that the contract was signed).

In 2016. exclusive restaurant was opened in this building<sup>16</sup>.

Among the legal details that are scarcely revealed, there is also the information that "property-legal relations for this area<sup>17</sup> are legitimate, the land is owned by the Republic of Serbia, and the user is 'Railways', and when the company

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<sup>16</sup><http://javno.rs/analiza/drzava-bez-kontrole-imovine-usavamali><http://www.salon1905.rs/>

<sup>17</sup>Applies to the area planned for the first phase of construction.

"Belgrade Waterfront" is formed as a property of the Republic, then the entire land in question will be attributed to this company and conditions for expropriation will be created."

Finally, on March 5, 2014. Siniša Mali revealed that the contract has not been signed but that Serbia was "very close" to signing the contract with investors from the United Arab Emirates for the project "Belgrade Waterfront" and two days later that the contract will be signed after the formation of the new government, which reveals the message that the government stands behind this project.

Then we found out that most of the elements of the contract were already agreed upon, and that the division of profits is not yet defined and is still in progress.

Siniša Mali also announced the estimates that cleaning of Sava amphitheater will cost "tens of millions of Euros", which will be multiply reimbursed to Serbia. Clearing the railway tracks and rails, which is the first phase in the cleaning of Sava amphitheater, will cost 2.5 million Euros and will be financed by the Government of Serbia. And only after the expropriation process, that will happen after the establishment of "Belgrade Waterfront" company and after the Tax Administration conducts the assessment, we will know the total cost of the cleaning of Sava amphitheater.

Mali further revealed certain amounts related to other investments linked with Belgrade Waterfront - the completion of the ring road will cost 250 million euros, the completion of the railway station Prokop 20 million EUR, while the price of relocation and construction of the railway

station will be known two months later upon the completion of preliminary design. It was not stated what sources will be used for this funding.

Finally, a day after the elections, on March 17, 2014, the coordinator of the project "Belgrade Waterfront", Aleksandar Karlovčan, declared that the master plan of the project (which was launched in Dubai) will be presented to the public the following month.

In the following period, the city authorities adapt spatial plans to the needs of investors and politicians announce the start of construction for spring 2015<sup>18</sup> and for the period "until the end of the summer 2015".<sup>19</sup>

At the meeting on May 1, 2014, the Government of Serbia adopted a "conclusion according to which the Project for regulating the coastal area of Belgrade - "Belgrade Waterfront" was determined as a project of importance for the Republic of Serbia". TS then pointed out to curiosity - in contrast to other acts which were adopted at the same Government meeting, that conclusion has not been published on the relevant web page<sup>20</sup>

Government conclusions are usually not published, unless the government itself decides otherwise, but it was illustrative that we learned from the Government meeting statement that this project, worth several billion EUR,

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<sup>18</sup><http://www.blic.rs/Vesti/Ekonomija/502061/Beograd-na-vodi-pocinje-da-se-gradi-na-prolece-2015>

<sup>19</sup><http://www.blic.rs/Vesti/Beograd/548639/Do-kraja-leta-mogli-bi-da-pocnu-radovi-u-okviru-Beograda-na-vodi>

<sup>20</sup>[http://www.srbija.gov.rs/vesti/dokumenti\\_pregled.php?id=208905](http://www.srbija.gov.rs/vesti/dokumenti_pregled.php?id=208905)

exists as a shaped document, and this was revealed only in a form of a statement and without any further details.

This was followed by a change in the General urban plan: General urban plan should present a strategic urban vision of the city development, which is the product of a serious work of experts and to which investors will adjust. Given that we had the opportunity to hear from the Prime Minister that Serbia must obey the law, but it must also respect "someone else's money", it is not surprising that the General urban plan is being changed to better suit an investor.

In June 2014, the website of the city of Belgrade <sup>21</sup> announced the beginning of "public inspection" into the amendments of General urban plan, which were planned to last until July 9. The purpose of this ad was only to meet the form of the Law on planning and construction.

The essence was recorded in one sentence of the proposed amendments: "If the Government of the Republic of Serbia identifies any of the aforementioned locations as a location of importance for the Republic of Serbia, such a location does not require a tender competition". On May 1, 2014 the Government determined that the project Belgrade Waterfront is of importance for the Republic of Serbia and that conclusion presents an annex to GUP draft amendments.

What did the changes bring? When Belgrade Waterfront was presented, urban planners pointed out that this project

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<sup>21</sup><http://www.beograd.rs/cms/view.php?id=1606936>

envisions the regulation of only one bank, although GUP envisions that "the territory of Sava amphitheater and part of New Belgrade city from across the river are uniquely addressed in the initial phase as a future city center of the highest rank, through an international competition and in order to establish a logical visual and contextual link between public areas on Belgrade and New Belgrade side, regardless of the different opportunities and future independent implementation phase and specific vacancies in two parts of the future center. The area of public open space on both sides (streets, squares, parks, quays) is about 50% of the entire territory. The area on both banks is aimed at business and exclusive apartment, with a surface area ratio of 1:1". The problem is solved - this paragraph is deleted from the proposed GUP changes.

One of the reasons for changes is "Tower of Belgrade", or (investors') plan to construct a building in Sava amphitheater with a height not previously allowed by the plan. This is now possible because in April the Interim body adopted a Decision on the termination of Study on high buildings of Belgrade.

There is an interesting aspect of consultancy of changes in the process. Urban plans are acts for which the law requires public hearing or public display. What was that like in the case of Belgrade GUP? From the means for the realization of public insight, the city administration predicted personal appearance in the basement premises of city administration at the address 27 Mart, on weekdays from 9 am to 6 pm. The proposal to amend the plan was not posted on the website of the City of Belgrade with the

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news. When a site visitor clicks on the box "General urban plan of Belgrade 2021", he could conclude that there are no changes in progress.

Modern means of the 19th century were provided to receive objections to the planned solutions for the 21st century - the submission through the registration office.

Transparency Serbia prepared and submitted specific objections<sup>22</sup> to the "Draft amendments to the General Plan of Belgrade 2021". Most of the objections were of general nature - non-disclosure of acts to which the draft refers (e.g. The conclusion of the Government in connection with the project "Belgrade Waterfront"), lack of explanation of how the proposed changes will better meet the needs of the state and the city, anachronistic way of discussion (inability to submit remarks by e-mail) as well as undermining the debate before it even started - the publication of information that the project "Belgrade Waterfront" would be implemented (which is not in accordance with the actual urban plan), due to which it can happen that the current "public access" is merely satisfying form of the Law on planning and building, and not a chance to resolve all important urban issues.

Specific complaints referred to those changes that may pose a risk from the standpoint of the appearance of corruption or which have not been properly explained. The first such change is the abolition of the international

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<sup>22</sup><http://www.transparentnost.org.rs/images/stories/materijali/25062014/pri-medbe%20TS%20javni%20uvid%20izmena%20i%20dopuna%20Generalnog%20plana%20Beograda%202021%20jun%202014.pdf>



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competition for the design planning of "Sava Amphitheatre" and the second is the introduction of opportunities to use lower planning documents and projects to deviate from the established maximum height and number of building storey.

Public meeting of the Commission for the plans of Belgrade City Assembly was held on July 22, 2014. Members of the Commission declared<sup>23</sup> that they have no jurisdiction to provide an answer to the question why GUP is being changed, but they named the initiators of changes as responsible for the overall legal framework - currently nonexistent Interim legal Belgrade body that made the decision to change the plan. The Commission declared itself incompetent to the appeal of the Directorate of waterways in regards to the decision to build a low bridge across Sava, which would make this international navigable river no longer navigable, and the state of Serbia would thus violate international agreement on the navigation along Sava. The same thing happened with the appeal to preserve the appearance of the building of the main railway station, while the appeal for the abolition of joint regulation of both banks of Sava was addressed by the explanation that the amendments to the plan do not apply to New Belgrade.

Upon our indication to the lack of supporting documents, such as the Resolution of the Government on the regulation of coastal areas to which the Urban Institute referred in the proposed amendments (this Government's conclusion is not possible to find in the documentation, or

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<sup>23</sup><http://www.istinomer.rs/stav/analize/zakljucka-nema-a-gup-se-menja/>

on the sites of the Government of Serbia, Belgrade and the Urban Institute), the Commission established that this conclusion does not exist and continued its work.

**In September 2014, the amendments to urban plan were adopted**, which TS called "the victory of the investor urbanism": "General Plan of Belgrade 2021. was amended on September 19, 2014 by the decision of the Belgrade City Assembly. A number of plans for detailed regulation was also amended ([goo.gl/felw54](http://goo.gl/felw54)). As stated in the news on the City website, "the reason for the amendment was a need to revise the rules of plan implementation, i.e. the obligation of calling tender competition and public professional inspections for individual locations, then the possibility for the construction of high rise buildings on the entire territory of the city and the planned purposes of the territory of Sava amphitheater, particularly in terms of relocation of rail transportation". The bottom line is expressed at the end - all amendments to the plans are related to the" infrastructure that should support the project "Belgrade Waterfront". The meeting report on the City website does not mention any actions of dissatisfied citizens who briefly interrupted the session. Public debate, that is, public review of these project changes was eventually reduced to meeting the form, because the essential decision was already reached elsewhere and it was impossible to change any part of the proposal which would affect the realization of the project "BG Waterfront" in a predetermined manner.

The response of the Belgrade City Administration - Secretariat for Urban Planning, states that our "general remarks are not grounded". Our first general objection



referred to disclosure of related documents - the decision on amending the General plan and the Conclusion of the Government on establishing the Project "BG Waterfront." The Secretariat responded that the decision on making amendments to the plan was published in the Official Journal of Belgrade (at the time of documenting the objections we did not manage to find it there) and that "the integral part of that decision is the explanation" (the explanation has not yet been published). The Secretariat does not address the non-publication of the Government conclusion.

The second general objection concerns the manner of publication, that it was supposed to be allowed to electronically submit comments. The third general objection addresses the purpose of undermining public inspection - the fact that the highest officials of the state and the city have repeatedly announced the implementation of the project and the dynamics of the job, that they have started business relations with prospective investor and that redesigning the plan is the precondition for the project to be implemented, and that **the debate on amending the plan and allowing the submissions of objections has no sense if the decision is made in advance**. Secretariat provided no response to this remark.

The fourth general objection refers to the lack of explanation about the reasons (e.g. how the proposed changes better satisfy the needs of the Republic, City and City municipalities"). This response was not provided as well, unless it is contained in the unpublished explanation.

When it comes to specific comments, the Secretariat "partially accepted" objection to the abolition of the

required international competition for the regulation of Sava amphitheater. However, instead of explicit revocation of the competition implementation, this was performed indirectly, by saying that "the need for holding competitions will be re-examined", which will obviously lead to the same outcome: the officials of city secretariat and expert committee would "re-examine" the need for organizing an architectural competition, a few months after their superiors began to be photographed next to the completed models of the future appearance of that location and after the city TV station made special show dedicated to this project!

The Secretariat refused the remark that applies to legally impossible amendment of the General plan - amendment of non-existing Articles. What actually happened? The City website contains a large banner that leads to the text of the General plan, but it turned out that this is not a valid version of this document!



### Urban plan fitting to investor's needs

Soon afterwards it was disclosed **how the foreign investor affected the changes of urban plans**. In early October, in an interview with "Politika", director of the Planning Institute of Belgrade Nebojsa Stefanović, in regards to the detailed regulation plan for a part of Sava district, that is currently under so-called "public inspection", said many interesting things. In what appears to be an attempt to convince us that all the regulations have been met and that we will get "a more beautiful and older" district, he, in fact, disclosed a series of information that reveal everything that has been adapted to the investor who made a deal with politicians. Information that we were able to read cause serious worry:

1. "It is better to allow high buildings on the right bank of Sava, instead of having devastated area as Sava amphitheatre is now ". This assessment certainly sounds reasonable. But it is not true that "the devastated area" and "high buildings" were only options. Before the recent amendment, the General plan of Belgrade anticipated mandatory international tender for the regulation of this location which could envision whatever profession believed as best. "High buildings" are just a wish of one interested investor (a public invitation to other interested parties to apply was never opened), and the urban plan was (partly) adapted to these wishes.
2. "Allowing Arab investor "Eagle Hills" to build a shopping center in the extension of Visegradska

street and a residential complex near the old Sava bridge was one in a series of compromises accepted by the team of 111 engineers from the Institute". In other words, the Institute considers this a poor solution, but they proposed it because it is the desire of the investor, and of the specific company that has not yet concluded a contract for the sale or lease of the land, but with which "negotiates" what will be built.

3. "Urban planners resisted the pressure from investors to approve the highest possible density of the complex, which would result in more square meters and profit but the life in such a complex would be less pleasant. Instead, the Institute instructed the company of Mohammed Alabaré that the first business object has to be at a distance of 110 meters from the Tower, and the first housing object cannot be "build closer" than 146 meters. "In addition to what has been mentioned, here we learned that the investor made pressures for the urban plan to be composed in a specific way. It is certainly interesting to think about the economic calculation - that the investor has an interest to make as many "square meters" as possible, but in this case they would lead to a "poor quality of life" (and therefore a lower cost per "square meter").
4. "Investor was surprised about everything that must remain a public property. We banned construction over three collectors that collect rainwater from Sava slopes and discharge it into the river." Under the normal circumstances, investors should not be surprised by anything related to urban plans. Under

normal circumstances, investors would come only after General plans are already made, and they would use those plans to assess whether they have interest to build in this area only what is allowed. After that and for the purpose of selling or leasing the land the investor with the best offer is selected.

5. "For the purpose of traffic connection between old city and New Belgrade we left the possibility of building tunnels in the area from Kamenička to Francuska street, but we have to think about how to allow the transport of vehicles from the Boulevard of Zoran Đinđić, which is the most congested, to the old part of the city." Exactly, that's what needs be considered in advance. That is probably why the former General plan of Belgrade scheduled the joint solution of urban issues both on the left and on the right bank of river Sava.
6. "The competition was not held because that was the agreement between politicians and investor. This is a project of national importance, the investment of three billion dollars, which is very difficult to fund anywhere in the world. We modified the conceptual design of investors in accordance with our professional attitudes, the law and conditions of 75 city and state institutions." Indeed, it is not easy "to find three billion dollars" for investment. If this was a public investment, then the state and city authorities would have to come up with an idea what to build, how much it would cost, how it would be funded, and whether would it be worth at all. If this was a private investment, then the state and city authorities would open the



possibility for investors to apply, offer, calculate if they have a business interest to invest money and how much they want to invest in their property. In this case neither has been done, we have an announced investment that is both "public" and "private", and without any conducted analyses or processes of the Law on public-private partnerships (which will probably be legally "covered" on the basis of interstate agreement and Government decisions) a contract between the public and private partner has not been signed, and the essential elements of the future agreement have not been made public, or at least the minimum requirements of the state in this regard (e.g. share of investment and profit, share in the business risks).

7. "Both the mayor and the investor had understanding for such corrections." It is clear why the Director of the Urban Institute said that the investor had understanding for the correction of the plan that was "presented". But it is not clear why the mayor was asked about this question in the first place. Urban planning decisions are made by the city council (an independent body in relation to the mayor). The conditions of the contract with the investor will, since it refers to a state property and to "a project of national importance," be negotiated by the Government of Serbia. If the corrections, as suggested by the director of the Urban Institute, are based on the regulated obligations, then the correction should not depend on the



"understanding" of any official, even the mayor, but should pose a requirement.

TS requested the Urban Institute to submit the information of public interest related to the development of the draft and Director's drafts. We requested the information on the legal basis of the use of the document titled "Belgrade Waterfront Concept Masterplan, Eagle Hills, Abu Dhabi 2014, Belgrade Waterfront Detailed Masterplan, Eagle Hills, July 2014 (<http://www.belgradewaterfront.com/> )" in preparing the document: REPORT on strategic assessment of the environmental effect of the spatial plan, the information on whether the document - "a master plan", or any other document that the Urban Institute received from any other legal or natural person, other than the competent state organs, was used in draft spatial plan.

We requested the information about the legal basis, kind of authority and the manner in which Urban Institute conducted negotiations with the investor, i.e. the information on how the investor made pressure on the Institute, as can be inferred from the text published in the daily newspaper "Politika" on October 5th, or, a copy of the request for correction of statements from the text, if the information that was published in the daily newspaper "Politika" was not true. The answer to the request was not received, so we complained to the Commissioner and received the reply only after the complaint.

The response explicitly claims that the Institute has not received documents from other natural and legal persons in connection with the draft and that it does not have the

"Master Plan" prepared by the company "Eagle Hills" from Abu Dhabi. However, we received no answer to the following question: - the information about legal basis, kind of authority and the manner in which Urban Institute conducted negotiations with the investor, or, the information on how the investor made pressure on the Institute, as can be inferred from the text published in the daily newspaper "Politika", or, a copy of the request for correction of statements from the text, if the information that was published in the daily newspaper "Politika" was not true.

In its response, the Urban Institute claims that we requested comments and not "public information". However, that is not true. Namely: 1) The public authority must have the information about whether or not it sent a copy of the request for correction to the daily newspaper "Politika"; 2) The public authority must be informed about legal basis, kind of authority and the manner in which it conducted negotiations with the investor, or the information that such negotiations were not conducted, that they were conducted without any legal basis or without authorization; 3) it would be reasonable to expect that the authority has the information on pressures, in case there were any, e.g. official notes about it, correspondence, minutes from the meetings and the like.

Afterwards, in October 2014, TS proposed the Republic agency for spatial planning and the Secretariat for urban planning and construction of Belgrade to withdraw **the draft spatial plan** for Sava coastal area (project "Belgrade Waterfront") from the public debate and to start preparing a new one, because the spatial plan has been developed

contrary to the regulations, with compromises with the potential investor and under the investor's pressures.

In the explanation of the proposal (integral text of remarks on our website: in a file named "TS objections to the plan of special purpose public review, October 2014.doc") Transparency Serbia pointed out that the draft spatial plan was made contrary to the decision on the development of spatial plan and to the acts of higher legal force and at the same time does not contain the complete and essential information about the Plan drafting process and the documents that were used on this occasion.

By comparing the content of the Decision, the conditions that it stipulates for the development of the Spatial Plan, the content of the Spatial Draft, but also the allegations presented to the public by Director of the Urban Institute of Belgrade Nebojsa Stefanović in the daily newspaper "Politika" on October 5, 2014, we noticed a number of omissions, irregularities and illegalities due to which it was necessary to compose a new draft.

However, it is illustrative that the Plan of special purpose area, which at that time was still in public debate, in early November won the award at the Salon of Urbanism in Belgrade. That was the reason for the presidency of Urbanist Association of Belgrade to resign.

**In January 2015, the Government of Serbia finally adopted Spatial Plan**, and the Republic Agency for Spatial Planning has not responded to any of the objections applicants to their remarks on the draft plan.

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What actually happened to the remarks? They were supposed to be discussed in December 2014 by the Commission of the Agency for spatial planning and to submit the report with explanations about which remarks were accepted and which were supposed to be published on the institution's website. The now former director of the Agency, Dragan Dunčić, confirmed to TV Network that the Commission prepared the report on 269 pages, but that it was never published. In fact, the Agency was closed on December 17th due to the entry into force of the amendment of the Law on planning and construction. Employees, assets, property, documents and archives were taken over by the Ministry of Construction. However, TV Network failed to find an interlocutor in the Ministry who would say which objections were adopted, and which were rejected.

### Special laws for special interests

The adoption of the spatial plan created the conditions for the beginning of construction works, or when the plan comes into force, it will be used as a basis for issuing location and building permits. Meanwhile, in January 2015 a stand for the promotion of the project "Belgrade Waterfront" was opened. As it turned out, the stand was actually a hospitality facility. For the construction of this facility, municipality Savski Venac last year issued a decision to the Company "Belgrade Waterfront" for temporary occupation of public space and their license is valid until July. According to media reports, this promotion



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consists of issuing brochures with the information about the project to “stand” visitors.

The next step was the completion of **expropriation** for the purpose of construction. It turned out that the Law on expropriation does not allow the expropriation of private property for the purpose of construction of commercial or residential commercial buildings, or the buildings intended for tourism and catering. For this reason Serbian government established and the Assembly adopted the **lex specialis**.

In fact, Serbian government established the Draft Law on determining public interest and specific expropriation procedures and the issuance of building permits for the realization of the project for the construction of “Belgrade Waterfront”.

This refers to the law that allows the expropriation of buildings and land in private ownership in the area of development of future residential and business center in the coastal area of Sava, on the basis of the previously adopted "Plan of special purpose" (<http://goo.gl/bO83os> ) and Government decision on designating the project "Belgrade Waterfront" as a project "of importance for the Republic of Serbia and Belgrade."

By means of this draft law, the government practically informed citizens that the Law on expropriation and the accompanying established rules would be a "dead letter" whenever the Government establishes that something is a project of national importance. As TS pointed out at the time, it would be more appropriate to amend the Law on expropriation by introducing new reasons that could be



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applied in future equally in all similar situations, and not on a case-by-case basis. For example, if the government considers that the projects in which the state provides the building land and a private investor provides the money to build a facility, and all for the purpose of further sale on the market (which is actually the case of "Belgrade Waterfront") represent the "public interest", then it should put that in writing, explain and try to justify to MPs.

The constitutionality of this law will depend on the decision of the Constitutional Court of Serbia. In the past and in some cases, this institution has taken a stance that the legal system is violated when the provisions of a special law are in conflict with the systemic law, as well as a completely opposite view (e.g. when the Court left in force the Law on assistance to the construction industry, even though it was contrary to the systemic Law on public procurement). In addition, there may be possible constitutional challenges on other grounds, for example due to the interference with the right to peaceful enjoyment of property. Generally, from the legal point of view, the main problem in the entire story is that the expropriation may be performed "in the public interest", and the term "public interest" is not clearly defined in the Constitution.

TS tried to point out to MPs a number of controversial decisions in the "lex specialis", irrespective of the question of the law constitutionality.<sup>24</sup>

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<sup>24</sup> [http://transparentnost.org.rs/images/dokumenti\\_uz\\_vesti/komentari\\_predlog\\_lex\\_specialis\\_bg\\_na\\_vodi\\_mart\\_2015.doc](http://transparentnost.org.rs/images/dokumenti_uz_vesti/komentari_predlog_lex_specialis_bg_na_vodi_mart_2015.doc)

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Among other things, it was pointed out that the Law opens up the possibility to sign a contract with an investor without a public procurement procedure and to build facilities for public use and thus "settle up" the costs for the regulation of the construction land.

These are the works worth 33 billion RSD (around 10% of the value of all public procurements in Serbia in 2014), and an interesting coincidence is that the estimated value of the regulation of the construction land is almost identical - 33.7 billion RSD.

After the contract was signed, it was never published which facilities for public use and when will be built for the value of 33 billion RSD.

Opening of the opportunity that the public procurement of works gets entrusted to predetermined firms, without competition, can result in harm to public funds. In the absence of competition the investor who performs such work would have an interest to show higher cost of operations, to thereby repay more contribution for the construction land.

**However, the law was adopted in April 2015<sup>25</sup>**, which opened the door to signing the contract. Meanwhile, in March 2015, three years after the first party promotion of the project "Belgrade Waterfront" and 14 months after the official investors' presentation for "the project of national importance," the mayor of Belgrade, in an interview for Tanjug, presented citizens with the first specific information

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<sup>25</sup><http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/7536-skupstinska-diskusija-o-beogradu-na-vodi>



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on the form and content of the contract with the future investor for the construction of "Belgrade Waterfront", which in itself speaks about the extent of transparency of this deal: "This land is entered as a share of a legal entity called 'Belgrade Waterfront", where Serbia will continue to be an owner with a minimum of 30 percent, and majority shareholder will, of course, be those who invest the money. The land is not given in ownership to that legal entity, but it is leased for 99 years".

### Contract signing - provisions that worsened concerns

As we have initially predicted, the announcement referred to something that is probably a form of public-private partnerships (joint company of the state and the investor). This joint company would become the lessee of land at 99%, and the facilities would be built according to a plan which would probably also be contracted (then referred period was four years).

**The contract was signed on April 26, 2015.** Instead of clarifying and publishing the contract, Press conference on the signing of the contract for the "Belgrade Waterfront" brought some totally unexPected information. The Mayor said that "the contract will be available to the public", but only after its approved by the Commission for Protection of Competition. It remained unclear why would the decision of the State Commission in any way have an impact on the public or the confidentiality agreement signed on April 26, 2015, since that Commission cannot change it.



The data published on the signing of the contract for Belgrade Waterfront (the statement with selected data that was distributed to journalists) revealed practically nothing about the job. Information we could hear or read significantly differ from what we have heard in the last 18 months - instead of 4 years, as announced by the Prime Minister in March, or 10 years, as announced by the Mayor, the construction deadline is 30 years. Construction dynamics is one of the essential elements for the assessment of the overall benefits package for domestic partner. Namely, if the benefit of investments for the state reflects in the possibility of earnings from rental and sale of residential and office space, it is not irrelevant whether the profits of some buildings will begin to be realized in 2020 or in 2040.

In addition, previously talks mentioned investments of about 3.5 billion EUR, and on the signing of the contract it was announced that the investor will invest 300 million, of which half through a "loan in the form of a borrowing of the founder," while the rest will be reinvested from profits. In addition, there is reference to an additional agreement on the debt of Serbia for the removal of existing facilities.

What is controversial in the entire business? **Intergovernmental agreements allow the possibility not to implement anti-corruption mechanisms of domestic laws.** But they do not forbid it. And it is not clear why a government that is declaratively committed to the fight against corruption did not want to implement the anti-corruption mechanisms, primarily following the principle of competition and open tender. In the past, the "justification"



for the lack of a public tender was that "other people's money must be respected." From what has been presented, it seems that "someone else's money" amounts to 150 million EUR, and not to 3.5 billion EUR. And we will never know if "someone else's money" could have amounted to more, because there was no competition.

Whose interests is to conclude this job in this way? Concern is that this project is of great political interest for the government and the question is whether we can match the economic interest of the state and political interests of the ruling party. Therefore, there is a reason to worry what will be the control mechanisms in the implementation of the agreement. For example, the previously adopted *lex specialis* allows the investor's exemption from payment of fees for building land but, in return, he will build public facilities. What will be the dynamics of the construction of these facilities in relation to commercial ones and who and how will control the actual cost for building public facilities?

Regarding the imposed dilemma whether to leave the existing devastated area in Sava amphitheater, or to build Belgrade Waterfront, it is a false dilemma. It is pointless to ask if anyone supports the existing situation. This is a question of compliance with regulations and the question - if there is an economic benefit from the construction of Belgrade Waterfront, could it have been greater if we could have competition and transparent process. And, of course, the question is what kind of costs would appear in the following decades. The project can undoubtedly bring useful results, if it completes what should have been done in previous years or decades - the completion of Prokop, the ring road and the bridge near Vinca, but the risk is if

these projects are financed in a nontransparent way by means of loans that will be part of a "package" with the UAE and the investor. And we could already see that on the signing of the contract - it was announced that the investor will provide a loan of 130 million Euros for the state of Serbia for the relocation of facilities from Sava amphitheatre and completion of land expropriation.

Finally, in mid-May 2015 **new "obstacles" for publishing the contract** appeared. In the latest statement of the Mayor, (in addition to opinion of the Commission for Protection of Competition) disclosure was conditioned by some other actions - making a decision on additional capitalization and the contract with the Directorate of land, as well as the approval of the Commission for state aid control.

It is interesting that the Commission for Protection of Competition previously stated that the contract was submitted three days after signing, but that supporting documentation was not delivered and that it was "announced" that the rest will be delivered "as soon as possible." Although the omissions are always possible, it really seems incredible that for such a big project, whose urgent implementation required proposition of a special law under urgent procedure, all necessary documentation was not immediately collected and submitted in order to enable the Commission to decide as soon as possible.

It is also interesting that in a new interview the Mayor makes references how it is necessary for the "Commission for approving state aid" to make a declaration on this agreement (or, in fact, the "Commission for state aid control"). The need for such an approval, or the nature of

state aid for which approval is requested (e.g, subsidies, tax exemptions, etc.) have not been mentioned yet.

The contract was finally published on September 20 2015. It did not, however, include any data about obligations or deadlines regarding building public facilities worth 33 billion RSD.

When analyzing what is said on the subject of Belgrade Waterfront, it is evident that the statements **emphasize the transparency and legality of the project**, while it was occasionally **pointed out that large investments are something that is more important than the law**. Noticeably significant was the use of the theme of the project **during the election campaign** - as opposed to the news on the subject throughout the campaign, during the three weeks after the election, **Belgrade Waterfront was almost never mentioned in public**.

Finally, when contract details were revealed, significantly less favorable than what was announced in previous years, some media pointed out the "conspicuous absence" (justified by illness) of the Prime Minister during the signing of the contract that he personally announced for three years. This was followed by the delay of publication of the contract along with new obstacles and preconditions.

It is hard to avoid the impression that in the first phase of the promotion (2012-2014) **the main purpose** of project presentation the was a **political promotion**, and that, for that entire time, **the public received no relevant information**, both on the **legal modalities** of work, and on **its usefulness towards alternative solutions**. This is a step backward compared to the earlier announcement of

the project (implementation of regulations that require **transparency and competitive process**, on which the representatives of the ruling party insisted during the campaign of 2012).

In the period August 2014 - April 2015 controversial legal steps were taken - from the changes of urban plans, through the adoption of *lex specialis*, to the failure to publish the contract which was justified by suspicious explanations.

### Missed opportunities

How might the case Belgrade Waterfront look like if there was an intention and readiness to fully ensure **competition and transparency**:

- after reaching a (political) decision to implement the idea of "Belgrade Waterfront", an (economic) study on the method of project financing would be made - whether it will be implemented as a public-private partnership with publishing a public competition for the selection of partners, whether it will be self-financed by the state, through a loan and direct debit or potential investors in the public tender will be offered land for construction, etc.
- the manner of realization would be chosen on the basis of the study. Even in the case that at that point there is an investor ready to finance the project, there is no reason not to conduct a public,

competitive process and provide opportunity for other potential investors to participate in the race (even if all of them were from the same country with which the interstate agreement was concluded).

- upon selecting the investor, even if the investor is from a country with which there is an interstate agreement on cooperation, there are no legal obstacles to the implementation of anti-corruption mechanisms of the PPP Law, especially with respect to issues such as: timely and public disclosure of (state) cost estimate and the analysis of the obtained value in relation to the invested assets, the assessment of planned risk allocation (whether the state bears the risk if the investor cannot sell 1.8 million square meters of office and residential space), the issue of control

**Instead**, we had:

- the idea, represented in the election campaign, to implement the project in full compliance with the principles of competition
- post-election (political) decision on the project implementation
- signing the interstate agreement which enabled the project to be implemented without the application of the competition principles

## Elements of State Capture in Serbia

- investor's offer to finance the project which is modified, compared to the one initially presented, but of the approximate size and value
- beginning of preliminary work, the news of competitions for the construction of individual buildings within the project, donation for the decoration of the building with the headquarters of the center for the promotion of the project, up until signing the contract
- the statement that the laws will be obeyed (with no clear reference to any specific laws), but that " the money of investors must respect as well"
- changes in the plan according to the investor's needs
- the adoption of the lex specialis for the investor's needs
- signing the contracts and delay of its publication.



### Building

The contract was finally published in late September 2015<sup>26</sup>. Published documents confirmed its legal nature – it is a type of public private partnership (joint venture). Published provisions are considerably less favorable for Serbian partner than previously announced or expected. For example, even if “value of investment” of 3.5 billion EUR is standard part of every news about the project, it is not mentioned in the contract at all.

On the contrary, there is a value of investment of the foreign partner – 150 million EUR in cash and another 150 million EUR as a loan for the joint venture company. Deadlines to finalize works are also substantially longer than announced – 30 years for the whole project. Publishing of the contract opened also new controversies related to the possibility to buy (not just to rent) city land and in regards to the guarantees for project implementation.

Construction of two buildings begun in September 2015. It was not completed until summer 2018.

In April 2016., in the nighttime on the elections day, when public was focused on votes counting, several objects in Savamala district were demolished by masqued people with machinery and bats. Objects were on the land intended for the Belgrade Waterfront project, and they couldn't be demolished legally because there was a court dispute regarding ownership and compensation. These

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<sup>26</sup><http://www.media.srbija.gov.rs/medsrp/dokumenti/beograd-na-vodi-eb.zip>

men also maltreated rare passengers. Police didn't want to intervene. Ombudsman established wrongdoing. Prime Minister identifies "top of city government responsible", but also claimed that he would demolish it in the middle of the day. Prosecution office did not identify perpetrators. One witness died and Minister of Health claimed that he received good medical treatment, before any investigation. Almost two years later there was no data publicly available about investigation on several topics - who demolished buildings, who ordered police not to intervene and who ordered the demolishing. There was only one suspect named in the document obtained by investigative journalist from the prosecution - Head of the night shift in the Belgrade Police.

The Belgrade Waterfront project has been the taboo subject in the pro-governmental media. There were fierce campaigns in tabloids against some of public figures that criticized certain aspect of the project. Works in BW started with building of two skyscrapers settled next to the river bank. Plan of dynamic of building is not available. Investor has 30 years to finalize the project and 20 to build half of the overall plan. Initial investment of private partner is only 150 million EUR plus 150 million EUR loan to the joint venture. Its share in ownership is 68 %. Apartments were on sale, even before building begun. Conditions are known only to those that pay 1000 EUR.

## Case study 3: Urban planning and constructions in Makiš Field – same story or just consequences of previous captured processed?

### Summary

In 2014 minor partner in government coalition and businessmen, Bogoljub Karić, announced he is willing to build the huge habitual construction project. In July 2016 he announced it will be built on Belgrade periphery (Makiš). He informed the public that **everything is already agreed with authorities**. City authorities **did not confirm (nor denied) such claims**, so competitive procedure is still possible, but other potential investors are already discouraged to show their interest for the same area.

Unlike Belgrade Waterfront, for Makiš field area, the construction was banned until recently due to water source protection. However, water source protection rules were changed and the architecture competition was organized in 2017. City authorities also changed urban transportation plan in a way to include currently non-existing settlement with the first subway line of the perspective Belgrade metro network.

Bogoljub Karić, one of privileged businessmen in Milosevic era, but also owner of first private and moderately independent TV station and co-owner of the first mobile phone network lost his business empire in Serbia once he decided to enter politics. He worked and lived in Russia,

supported SNS victory in 2012, became part of new ruling coalition thereafter. Finally, the criminal process against him was dismissed and he came back to Serbia ... to invest?

Bogoljub Karić promoted idea of “Tesla City” in Makiš field, openly asking for state and city to provide free land or favorable conditions. No one of city officials denied his claims.

Although idea to widespread construction area on expense of water source protection field in Makiš is not new, it is finalized with changes of the plans recently. Also, it is not news that Belgrade needs improved transportation system. “City Train” has two underground stations, and several stops above the ground, but its share in number of passengers is insignificant. Previous city governments opted for “light metro” concept. According to the new strategy of transport development, the new metro line will start from “Makiš field” (currently uninhabited), through Belgrade Waterfront (uninhabited), and some areas where density of traffic is currently high will not be covered.

### Bogoljub Karić - relation with government, SNS and Makiš field project - the chronology

In '80s Bogoljub Karić and his family from the city of Peć in Metohija, were known all over former Yugoslavia, as an example of successful small business that was allowed also within the boundaries of socialist economic system. In '90s his business substantially increased, both in Serbia and abroad. It included, among other things, a bank, the first privately owned TV station, and, most important, first operator of mobile telephone network.

His relationships with rulers were very close at the time and this might be part of explanation for how such business development was possible at first place. Karić business empire survived also fall of Milošević, in 2000. However, after he decided to step into politics, his close relations with various ruling parties were suddenly replaced with fierce reaction. He was quickly stripped of his major assets – his share in a mobile telephone company and TV station. Since 2005 Karić lived out of country, after indictment was raised for alleged abuses and bribe giving. After initial successes in 2004, his political party had less and less influence and never managed to pass the threshold on national level on a separate election list.

**In 2012** Bogoljub Karić's political party supported Tomislav Nikolic, presidential candidate of SNS. Representatives of Karić's party (including his wife and brother) were incorporated on SNS parliamentary election list as well. Bogoljub Karić at that time resides and works in Russia and Belarus.

## Elements of State Capture in Serbia

In 2013, Karić posted on Twitter:

”It took time to create all the legal requirements for suspending the proceedings against me. Serbia has much bigger problems than it is Bogoljub’s” (August 10, 2013)

“Vučić is the fiercest fighter against crime and corruption and has honest intention to return to Serbia everything that has been lost in recent decades (August 11, 2013)”

Previously, in March 2013. Bogoljub Karić's brother, Dragomir, who was the head of Karić's political party (member of the ruling coalition with SNS) revealed that their company laid the cornerstone of the future mega-complex "Lighthouse Minsk" in Belorussia, built by BK Company. It was done in the presence of the President of Serbia, Tomislav Nikolić.

### Announcement of “Tesla city”

In April **2014**: Karić's party announced:

“TESLA CITY grandiose project of BK Company caused great attention at the world's largest real estate fair MAPIC in Cannes.<sup>27</sup>

TESLA CITY is a multifunctional complex of 3 million square meters that will be built in Belgrade. The complex is designed according to the “city in the city” model and it will have residential blocks, commercial, business centers and

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<sup>27</sup><http://snagasrbije.com/tesla-grad-na-sajmu-u-kanu/>

hotels. With this project, the mayor and the management on the Serbian government recently met in Belgrade. Project TESLA CITY **has received the support of the City of Belgrade's management** and it is precisely that the location for this unique project is being sought. The project also envisages the University of Tesla that will enable thousands of students and creative young creators to realize their ideas. In that way, they will, with the support of the Serbian Government, stay in their country instead of “exporting” the young minds to the world.

BK Company once promoted the project “Minsk World” of 300 hectares where construction of 3 million square meters of residential and office space is in progress. The heart of this project will be the International Financial Center, similar to those seen in Dubai and Singapore. BK Group won this job at the international contest in the competition of 17 most famous companies in the world”.

On September 10<sup>th</sup>, 2014 the news reads:

The “Tesla City” project was **presented to the Mayor of Belgrade Siniša Mali and members of the cabinet of Prime Minister Aleksandar Vučić**, according to a statement from the company “Tesla City BK”. The project was presented by representatives of the company “Tesla City BK doo” a new member of BK Group, together with the representatives of the French company “Valode&Pistre” which is the main designer.

As it is said in the statement of the company, the mayor of Belgrade Siniša Mali **“gave full support”** to the project “Tesla City”. As they pointed out, the two sides agreed that the next step is **finding suitable location** for the construction of such an object.

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Representatives of the City, as it was announced, excepted that the location had to be specified where the surface area of 500,000 to 2 million square meters could be built.

Representatives of these companies have stated that they are ready to implement similar projects of 50,000 square meters in 24 Serbian cities, the centers of the districts, so that Serbia will be developed equally. The project is, as it claims, presented to the members of the cabinet of Prime Minister Aleksandar Vučić, the Head of the cabinet Ivica Kojić and the State Secretary in the Ministry of Construction, Transport and Infrastructure, Dejan Trifunović.

It still cannot be seen that the city and republic authorities are pulling some direct moves that would go to Karić family on hand. No one from the authorities is at the project's presentations. The functionaries Mali, Sertić, Vučić and Nikolić appeared with Karić only in Belarus.

TESLA CITY was also presented in Minsk.<sup>28</sup> The Belarus-Serbian Business Forum was the central part of the economic and cultural event "Days of Belgrade in Minsk" from June 28 to 30, where it was announced that the doors of Serbian capital are always open to investors from Belarus (attended by Siniša Mali, mayor of Belgrade).

In July 2016 one of Karić family first mentioned Makiš as

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<sup>28</sup> <https://www.abk.rs/tesla-grad-predstavljen-i-u-minsku-biznis-forum-dani-beograda/>

potential location (but also New Belgrade as alternative).<sup>29</sup>

TESLA CITY was presented as “Crown of Belgrade for pride in the generations”.<sup>30</sup> The unique program of the company “BK Group” for the development of space of 2.000.000 m<sup>2</sup> is itself a capital architectural and urban event that reflects the importance and significance of the geographical position of the city of Belgrade in the center of Europe....Finally, it is time for us to implement such projects in Serbia, as it is “Tesla City”, which was designed by our President Bogoljub Karić, not only for the city of Belgrade, but for whole Serbia, all big Serbian cities. In all Serbian cities, we will build at least per 50,000 square meters of living space available to people. Bogoljub J. Karić has designed the whole system of how people can get the housing loan and buy the apartment in the easiest way and solve their housing problem for themselves and their children.

The construction of the “Minsk World” and “Lighthouse of Minsk” is in progress, while the construction of the “Tesla City” is planned for the end of 2017. For now, **two locations are being considered, Makiš and New Belgrade, and negotiations are underway.**

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<sup>29</sup><https://twitter.com/BogoljubKacic/status/758703523152404480>

<sup>30</sup> <http://www.abk.rs/beograd-dobija-tesla-grad-a-gradani-srbije-stanove-povise-nego-povoljinim-cenama-fotovideo/>



## Elements of State Capture in Serbia

### Further developments - urban planning

In the meantime, Assembly of the City of Belgrade at the session held on July 16<sup>th</sup> 2015 changed the boundaries of the narrow zone of protection of the water sources.

In March 2016 General Urban plan is adopted. The plan has determined this area as a space, among other things, for “commercial content (zone K2)” and “mixed city centre (M4 and M5 zone)”. Further elaboration is also provided through the Detailed Regulation Plan.

### Belgrade Metro Plans shifting

Belgrade plans for the Metro network were made back in early '70s, but they were never implemented in practice. In '90s the city established 3 lines of “Beovoz”, with some elements of subway and one underground station opened in 1995. However, due to limited coverage of these lines, small frequency of trains and poor connection with the rest of city transportation, this system was not able to serve as a metro.

Promises to build the metro system were one of most exploited topics in Belgrade elections' campaigns in XXI century. However, the plans were not any closer to implementation. Since the original plans were considered too expensive, the city ordered new feasibility study<sup>31</sup> that

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<sup>31</sup><http://www.beograd.rs/index.php?lang=cir&kat=beoinfo&sub=37687%3f>

resulted in developing of “Belgrade light metro” plans.<sup>32</sup>

In November 2016, the story of the metro, nothing concrete, but Makiš is covered<sup>33</sup>:

*“We are working on an integrated solution for new public transport in Belgrade, and part of that solution is the subway. I expect that in the next few months we will work together on the visibility of the study, and that we will very soon go ahead with the citizens of Belgrade and Serbia with a concrete proposal for the construction of the metro”, said Siniša Mali.*

In November 2016 prime minister Vučić talked about Belgrade metro.<sup>34</sup>The new plan, compared to the previous, has a lot of similarities and differences. The shaft was held, but the inevitable point instead of the Republic Square became “Belgrade Waterfront” with whom, according to this proposal, the metro line probably crossed. One would continue through the renovated Old Sava Bridge to New Belgrade and Zemun, and the other through the Fair to Čukarica. In relation to the plans that the public could see three or four years ago, according to the new version, the metro would not go through Boulevard of King Alexander, but also across Bridge on Ada.

The first line will not start from Mirijevo, but from Visnjica, probably near Ada Huja, where in the future should be the new bridge on the Danube, the city center and the sport-

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<sup>32</sup><https://www.youtube.com/watch?v=dYnfNsq60p4>

<sup>33</sup>[http://www.b92.net/biz/vesti/srbija.php?yyyy=2016&mm=11&dd=17&nav\\_id=1200436](http://www.b92.net/biz/vesti/srbija.php?yyyy=2016&mm=11&dd=17&nav_id=1200436)

<sup>34</sup><http://www.blic.rs/vesti/beograd/svi-putevi-vode-ka-beogradu-na-vodi-u-planu-dve-linije-metroa-prva-od-visnjice-do/b1wbn2y>



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recreational complex. The same line is slightly shifted, **and instead of Orlovaca, it goes to the Makiš's Field.** It was right there that the construction of a new commercial-business center is planned.

### The return of Karić to Serbia

September 23, 2016 / Beta – The criminal procedure against the owner of BK Group Bogoljub Karić for abuse of position and malversation in Mobtel was suspended on January 28<sup>th</sup> this year due to obsolescence, the High Court in Belgrade announced.

The warrant issued in 2006 for Bogoljub Karić is still in force and being investigated by the Prosecutor's Office for Organized Crime on suspicion of abusing the position of the responsible person.

The obsolescence of the criminal prosecution against Karić in the proceedings in the High Court has occurred because of the expiration of 10 years from the initiation of criminal prosecution, which is twice a time of a penalty of five years in prison for a crime that Karić is charged with the specified indictment in 2013.

On September 17<sup>th</sup>, 2010 High Prosecutor in Belgrade filed an indictment against Bogoljub Karić and others, which has not yet entered into force, which was specified three years later.

He was compelled to transfer more than 60 million Euros with his employees from the account of "Mobtel" to "BK Group" companies and private accounts by controlling the



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Mobtel Board of Directors.

Apart from Karić, the indictment from 2010 includes Sreten Karić as well as 13 other defendants.

On December 30th, 2016 Karić returned to Serbia, no information about what happened to arrest warrant<sup>35</sup>:

”My idea, my wish is that Serbia works. I know how to employ million Serbs. Today, about 30.000 people work in BK Group. It is one of the biggest company in Europe, I will be the best servant to the Serbian government, I do not need a function but I will give advices on how to employ Serbia”...

After his arrival at the airport, Bogoljub Karić went to visit the patriarch of Serbian Irinej, from whom he requested a blessing. Karić told to the media that Patriarch Irinej supported him in the idea of hiring Serbia and creating a “Tesla City” in Makiš.

“Patriarch Irinej prayed for me and my whole family, and now I came to say hello to him. He blessed what I am planning in the future, and now I want to employ Serbia and not allow young people to leave our country”, Karić said.

### After Karić’s return

In January 2017, the [Decision on the Detailed Regulation](#)

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<sup>35</sup> <http://www.bktvnews.com/info/srbija/bogoljub-karic-posle-11-godina-vratio-se-u-srbiju-kao-slobodan-covek/81605>

Plan was made. The decision states: “For the needs of the detailed regulation plan based on the decision of the Mayor of the City of Belgrade No. 350-8834/15-G dated December 28, 2015, was announced as open, questionnaire, one-stage competition for the urbanism and architectural solution of the work of Makiš’s Fields, City Municipality of Čukarica, which will be the basis for forming a solution in the draft plan”.

In January 27, 2017 delegation of Serbia and Vučić opened shopping mall owned by BK in Belarus.<sup>36</sup>

In March 2017 a competition was announced, but based on program input from PGR. That means that the way in which this “liberated” zone can be sorted is not checked, but only how to allocate the prescribed area. There are two decisions on Call for Applications, one from 2015 and one from 2017. The winners were announced in June 2017.

In April 2017 company “BK Tesla” signed the Memorandum about understanding with Chinese state-owned company “MCC” (China Metallurgic Construction Engineering Group).

Dragomir J. Karić, President of the Board of Directors of BK Group stressed that signing of the Memorandum is not only significant for BK Tesla, but also for citizens of entire Serbia, as it **represents the beginning of the construction of three million square meters in Serbia, at first two million in Belgrade** and then a million square meters in 25 districts of Serbia. Karić emphasized that with the construction of Tesla city, Serbia gets many jobs for

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<sup>36</sup> <https://twitter.com/BogoljubKacic/status/825013529321361408>

young people and that this will increase the gross product of Serbia and will rapidly improve and increase the production of building materials. Karić said that Chinese **investors** are very important for Serbia because they come without any conditioning and *territorial pretensions*.

July 21, 2017<sup>37</sup>: “Tesla City” the biggest construction enterprise of domestic builders in the last decades, is a step from the realization in Makiš’s Field.

This was **agreed during the meeting at City Hall with Mayor Siniša Mali**, urban developer Milutin Folic and representatives of the BK Group, reported the TV station owned by Karić. The mayor expressed his satisfaction with the decision, especially as it would be in the area of Makiš, where are also forests, which will be enriched with park work. Siniša Mali has suggested to develop a project of the national sports stadium, which would also be built by BK Groups, in that part of the city.

**At the meeting in the City Assembly**, the dynamics of the works were analyzed. The common view is that a minimum of 100,000 business and residential space is being built annually, and that at this location “Tesla City” has total of about 800,000 square meters of construction facilities. “Tesla City” is, in fact, one of those projects that contributes to the strengthening of the Serbian economy and accelerates the reforms that President Aleksandar Vučić, as Prime Minister began and now as Head of State continues on the international plan. The world will appreciate us as much as we can to bring back to Serbia

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<sup>37</sup> <http://www.bktvnews.com/info/ekonomija/tesla-grad-uskoro-u-makiskom-polju/123588>



as soon as possible and the economic strength it had and which laid the foundations for fiscal consolidation and attraction large foreign investors, not only from Europe, but from China and the USA, which is undoubtedly the merit of President Vučić, said in a statement of BK Group.

Transparency Serbia requested from the Belgrade City authorities minutes from the meetings mentioned in the press issue by BK Group. However, there was no response and TS complained to Commissioner for Information of Public Importance. In September 2018 Commissioner published decision<sup>38</sup>, accepting complaint and ordering city authorities to provide us the information.

On July 22, 2017 Karić stated on FB<sup>39</sup>: “My Dear, **The Mayor has given approval to build 800,000 square meters**, while the BK Group have proposed that all municipalities in Serbia built on sites that commune leaders ordered. 100,000 young people in Serbia has a chance to work, and the construction industry to evolve from bulb to bricks. That Serbia would start to work and build. Tesla will be the new city of Singapore, a location for the construction will be Makiš! In this way we will help the development of our country and the youth, because the youth need to create, build and born! City of Belgrade has given the green light, and beside business-residential space in Makiš we will build a national stadium, schools,

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<sup>38</sup>

[http://www.transparentnost.org.rs/images/dokumenti\\_uz\\_vesti/Re%C5%A1enje\\_Poverenik\\_-\\_%C5%BEalba\\_protiv\\_Grada\\_Beograda.pdf](http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Re%C5%A1enje_Poverenik_-_%C5%BEalba_protiv_Grada_Beograda.pdf)

<sup>39</sup>

<https://www.facebook.com/bogoljubkarić/photos/a.188922144636157.1073741829.157135737814798/646062005588833/?type=3&theater>

kindergartens, medical institutions and everything that is necessary for a modern settlement similar to those in Paris, New York, Moscow or London. Yours Bogoljub”

On July 26, 2017 Architectural-urban solution for Makiš's Field selected.<sup>40</sup> The City of Belgrade has chosen an architectural and urban solution for the future appearance of Makiš's Field, while city architect Milutin Folic said that the concept of development of this area in the future was obtained. Folic said that Belgrade has four large areas that will be planned in the future, and next to Makiš's Field there are Belgrade Waterfront, Block 18 and Ada Huja. These are areas within the city's metropolitan area, which means that Belgrade is no longer spreading beyond its natural borders, explained Folic, and as a special priority of planned development emphasizes the ecological acceptability of transport.

"This practically means that someone who comes from the Makiš's Fields to the city center will be able to reach the planned subway, which aims to connect existing settlements and to provide development potential of new settlements, the existing tram route from Banovo brdo or bike trail", said Folic.

Company BK announced that the meeting at City Hall with Mayor of the City of Belgrade, Siniša Mali, City Architect Milutin Folić and BK Group representatives agreed that their project “Tesla City” will be realized in the Makiš field.

In the BK announcement it is added that common attitude from City of Belgrade representatives and BK Group is to

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<sup>40</sup> <http://rs.n1info.com/a286454/Biznis/Plan-za-Makisko-polje.html>

annually work minimum 100.000 square meters of business and residential space, and that on this location “Tesla City” has totally 800,000 square meters of construction facilities.

On July 27, 2017,<sup>41</sup> speaking about development project Makiš’s field, Milutin Folić reminds that the plan will be made as the first, then the infrastructure and, finally, the housing facilities.

“On that way we got a lot of additional ideas and now the Urban Planning Institute will, based on first-prized work and positive elements of other works, develop a **detailed regulation plan that will be adopted by the middle of next year. After that, the expropriation of green spaces,** building of primary infrastructure and construction of planned blocks will begin” said Folic.

“Part of the land belonging to the city, which is planned for construction, **after the completion of the planning documentation will be offered to investors,** and part on the land on which the roads, parks and protected greenery are envisaged will be retained and we will take care of it in a way that the fellow citizens have facilities that will enrich life in that part of the city”, he explains.

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<sup>41</sup><http://www.beograd.rs/cir/beoinfo/1737889-makisko-polje-dobija-plansku-dokumentaciju/>

## Key Recommendations

Serbia should not enter inter-state agreements providing for possibility to circumvent any anti-corruption law and should not enter individual contracts based on previously signed inter-state agreements.

EU should more clearly recognize risks coming from the mechanism of inter-state agreements for the overall rule of law in Serbia and in particular in the context of chapter 23 of negotiations, but also in other areas (such as chapter 5, 8, 32).

### Urban planning

Authorities of Serbia should not exclude metropolitan areas from the overall legal regime, by declaring “national interest” for the private investment, adoption of one-shot “law” for the specific project.

Authorities of City of Belgrade should ensure transparency, inclusiveness and predictability of urban planning, by following pre-set rules and considering of public consultation inputs.

Authorities of City of Belgrade should react to the public statements of potential investors claiming that there is pre-set agreement for certain piece of land in order to protect competitiveness of land-lease procedure in the future.

EU should, in the context of negotiation under chapter 23, recognize more clearly risks from aligning urban plans

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according to the potential investors' needs and public officials' support for private investment projects.

### Public enterprises

Government of Serbia should appoint professional management in all public enterprises.

Public prosecutor should check suspicions about abuses in public procurements and employment in public enterprises including EPS.

Public enterprises should seek to fulfill their basic function, to maintain and develop their capacities (e.g. in electricity production in case of EPS) and not to be tool for the governmental social or fiscal policy.

EU should recognize importance of public enterprise oversight and management from the perspective of fight against corruption (chapter 23) and overall rule of law.