

LOOTING 2.0

SUPPORTING STATE CAPTURE AT THE KRK GAS TERMINAL

WRITTEN BY RE:COMMON

INTRODUCTION

It is a crisp morning in Zagreb. Streets, coffee places and restaurants are busy and people's buzz accompanies morning activities. Behind a window, at a corner table of a restaurant, sit two men. Ivo Sanader, the at the time Croatian Prime Minister, is laying back on his chair, looking around and talking to his interlocutor with an annoyed and circumspect look. An envelope slips over the table into his hands, he looks inside, then puts it into the inside pocket of his jacket. The conversation goes on, even if the two interlocutors are hardly looking at each other. Sanader is tapping on the table while saying something along the lines of "yes, good, this will be enough for the coffee, you can't expect it to be enough at all".

This scene was filmed by a hidden camera. It became viral after Sabor, the Croatian parliament, agreed to remove Sanader's parliamentary immunity in December 2010 and authorities arrested him¹. A corruption trial that shook Croatian politics started shortly after, and at the time of writing this is still ongoing. Several other ministers of Sanader's government have been arrested and sentenced for money laundering, abuse of power, illicit financing of the HDZ political party².

1 <http://www.editfiume.info/archivio/la-voce/2010/101210/politica.htm>

2 <http://www.ilpost.it/2010/12/10/ex-pre->



Omišalj view on bay and Dioki industrial site. Photo ©Re:Common

At the core of Sanader's story is an alleged EUR 10 million bribe that Ivo Sanader took from the Hungarian energy company MOL to facilitate a favourable deal for the purchase of the majority stake in the Croatian energy company INA, as a part of its privatisation process.

Why is this relevant today? Because the Croatian government is taking steps to fast-track a major energy investment – a two-phase LNG plant – on the island of Krk. The project – criticised for its environmental impact – is located at the Dioki petrochemical complex in Omišalj, a property at the core of the Sanader **corruption scandal**. Indeed, according to the accusation, half of the Sanader bribe allegedly transited through the bank account of a Swiss-Croat entrepreneur named Robert Ježić, who - during INA's privatization process - became the main shareholder of the Dioki petrochemical complex, one of the

[mier-ivo-sanader/](#)

company's most strategic assets. This deal has been under the scrutiny of the Croatian anti-corruption authority (USKOK), and almost ten years later the corruption trial has been re-opened and is ongoing.

The re-opened trial against Sanader refreshes the memory of a system where the abuse of power determined the outcome of the country's strategic choices, ending up fostering the benefit of a few, rather than the actual needs of the Croatian people. A story that is repeating today with the proposed construction of a Liquefied Natural Gas (LNG) and regasification plant on the property of the Dioki petrochemical complex in Omišalj: a project that has been on the table for over ten years, and that may be responding to the private interest of a few, rather than to the "energy security" of the country. And its construction can still be stopped, for the benefit of the Croatian people and the people of Europe.

What is the Krk LNG project

The Krk LNG terminal is an industrial energy project aimed to regasify and re-export liquefied gas arriving on the island of Krk via ships towards Hungary and other countries in Europe.

The project, advertised by the Croatian government as a flagship initiative, also enjoys a strong support of the European Union and is featured among the so-called EU “projects of common interest” (PCI). The latter are large infrastructure projects that should serve the interests of the European Union, and that can benefit from the political and financial support of the European Commission through the Connecting Europe Facility (CEF), the European Fund for Strategic Investments (EFSI) and European financial institutions like the European Investment Bank (EIB). For example, the EIB is considering the project for financing, as the project status appears to be “under appraisal” at the Bank³. The proposed financing is significant: EUR 339 million.

³ <http://www.eib.org/en/projects/pipelines/pipeline/20140627>



LNG Carrier Fuji Lng, Photo Ken Hodge, CC BY 2.0, Wikimedia Commons

The proponent of the project is the Croatian government through a publicly controlled company set up for the purpose, LNG Hrvatska / LNG Croatia d.o.o.⁴. The proposal is presented as a two-phase project, consisting of an offshore (floating) terminal and an on-shore terminal which would be completed in the second phase of the construction. The terminal is expected to deliver 2,6 billion cubic meters of natural gas in the first stage of the project. Critical voices among media, civil society and experts claim that the two phases are rather two incompatible, separated projects. Both projects are being challenged from an environmental, economic and administrative point of view.

⁴ <https://www.lng.hr/en/about-us>

The recently approved “LNG law” - aimed at fast-tracking the construction – is being challenged as unconstitutional⁵.

⁵ <https://dnevnik.hr/vijesti/hrvatska/zlatko-komadina-i-mirela-ahmetovic-projekt-plutajucega-lng-terminala-neodrziv-i-nezakonit---543798.html>

1. THE TORTUOUS HISTORY OF A CONTROVERSIAL PROJECT

The LNG project on Krk island has been discussed for almost 20 years now. Since the deep crisis of the petrochemical industry in the 1980s in the former Yugoslavia, there have been several plans to relaunch the petrochemical facility of Omišalj – facing unemployment – in order to contribute to the recovery of the local and national economy.

AN OFFSHORE VEHICLE TO BUILD LOCAL GAS INFRASTRUCTURE

In April 1995, while the dramatic Yugoslavian war was still ongoing in many places and the Dayton Treaty hadn't been signed yet, a number of oil and gas majors including the Yugoslavian State company INA, the Austrian energy company OMV and the Ljubljana-based group Geoplin Doo⁶ came together to set up an offshore company in Malta: the “Adria LNG Study Company Limited”. The company, whose existence was revealed only recently through the offshore leaks database

6 Adria LNG Study Company Limited record on Malta company registry

of the International Consortium of Investigative Journalism⁷, had plans to develop a gas regasification plant in Omišalj, precisely in the industrial site owned by INA, named DINA. Later, when the project started to shape up in 2008-2009, the French oil major Total and the German energy company RWE⁸ also joined the offshore company⁹.

In 1993 INA became a joint stock company¹⁰ and in July 1995, it started an internal re-organisation. Subsequently, the DINA petrochemical plant of Omišalj was merged with two other plants from Zagreb¹¹ into a new company: Dioki d.d. . The company's basic activity stated in the public registry is the production of polymers and petrochemicals¹².

FROM MALTA TO SWITZERLAND

Why did INA, still a public company, need to set up an offshore vehicle to build a regasification plant *in a facility of its property*?

This question remains unanswered. The public registry in Malta does not say much about Adria LNG, neither about the identity of its board members, nor about the beneficial owners of the company.

7 <https://offshoreleaks.icij.org/nodes/55009251>

8 Adria LNG Study Company Limited record on Malta company registry

9 At a session of the Croatian government held on September 30th 2008, Prime Minister Ivo Sanader explained why Dina Petrokemija industrial site was the best location for the construction of this “strategically important facility”.

10 Orbis database, INA

11 INA-OKI d.d. and INA-Naftaplin's Ethylene Production Unit

12 Dioki d.d. record on Croatian company registry.

But the restructuring of INA continued, and in October 2004 Dioki was privatised. **DIOKI Holding AG**, headquartered in Switzerland, became the majority owner of Dioki d.d. In parallel, the project of a regasification plant in Omišalj – designed to be an onshore plant and within the property of Dioki - started to get traction among decision-makers in Zagreb.

But who was the beneficiary owner of Dioki Holding AG? A still at the time unknown Swiss-Croat entrepreneur named **Robert Ježić**. Media reported about him that he had been the president of the Rijeka football club since 2000 and that he had made his fortune in oil trading in Milan, moved to Switzerland and then come back to Croatia to assist the economic recovery of the country. The project that he was presenting to investors aimed to relaunch the petrochemical plant in Omišalj, including import and export of gas to foreign clients.

CORRUPT ROOTS COME TO SURFACE

Along the perfect storyline of the so called “crony capitalism” eventually something went *badly wrong*. Before construction started, the LNG project was hit by the collapse of its financial and political pillars.

Robert Ježić and the Croatian Prime Minister Ivo Sanader were hit by a massive corruption scandal in 2010, after the publication of internal intelligence reports on Wikileaks¹³. The scandal is connected to a bribe that Prime Minister Sanader allegedly took to favour the acquisition of the majority share of INA by the Hungarian energy

13 <https://www.ilpost.it/2010/12/10/ex-premier-ivo-sanader/>

company **MOL**, that allegedly transited through a bank account on the name of Ježić.

This story ended up also involving the Austrian bank **Hypo Alpe Adria**, the main creditor of Robert Ježić for Dioki and other investments. The scandal contributed to the financial collapse of the bank, that eventually caused the bankruptcy of the Carinthia region in Austria and a loss (still to be partially recovered) for the Austrian public coffers of estimated EUR 13,7 billion¹⁴.

In short, the acquisition of the industrial site where the LNG project should be located is drenched in alleged corruption linked to the privatisation of INA, the acquisition of Dioki and the investment of the Hypo Alpe Adria bank.

STRATEGIC OR CORRUPT?

Ten years after the scandal, the Croatian government is still sitting in court in Zagreb, due to private arbitration against MOL¹⁵, as part of the government's effort to bring justice and get back the stolen wealth involved in allegedly corrupt deals and systemic corruption. In parallel, with a *realpolitik* approach, other ministries of the same government took steps to ensure that the LNG plant proposed by Ježić would see the light *in any case*. So until 2016, the government

14 <http://diblas-udine.blogautore.repubblica.it/2018/02/07/hypo-bank-costera-agli-austriaci-77-miliardi-poteva-andare-assai-peggio/>

15 PCA Case No. 2014-15 in the matter of an arbitration under the UNCITRAL Arbitration Rules 1976 ("UNCITRAL rules") and shareholders agreement relating to INA-Industrija Nafta D.D dated 17 July 2003 as amended on 30 January 2009 ("Shareholders agreement" or "SHA") between The republic of Croatia (The "Claimant" or "Croatia" or "GoC") and MOL Hungarian Oil and Gas PLC. (the "Respondent", "MOL", and together with the Claimant, the "Parties"). Final Award, 23 December 2016.



Zelena Akcija action in Zagreb calling on the Croatian parliament to reject the LNG Law. Photo © Zelena Akcija

explored multiple options to realise the project. In 2013, the plan presented to the European Commission was for a Liquid natural gas regasification vessel (LNGRV) - a temporary unit with separate gas deposits that could be used until the *onshore* regasification plant would be completed. Both options for an onshore and offshore plant were on the table. In 2016, Zagreb officials seemed to favour a Floating Storage Regasification Unit (FSRU) - an offshore project similar to the one realised in neighbouring Italy in Livorno¹⁶ - which had to be somehow combined to another larger onshore LNG unit.

The foreseen location of the industrial site remained the Dioki industrial plant. The plant was part of the assets incorporated by **Heta Asset**, the "bad bank" of

16 <http://www.themeditelgraph.it/it/shipping/2016/04/15/croazia-terminal-Ing-nel-Haop7GAha1qqDAhcz13nXP/index.html>; http://www.saipem.com/SAIPEM_en_IT/con-side dx/Press+releases/Saipem+and+the+University+of+Rijeka+sign+a+cooperation+agreement.page.

the bankrupt Hypo Alpe Adria. Since Robert Ježić did not pay back a significant part of the loans obtained from the Austrian bank, Dioki assets were part of the debt recovery procedure of Heta.

GOING ONSHORE OR OFFSHORE?

This was not seen as an obstacle by decision makers in Zagreb and Brussels.

Indeed, the Croatian government provided a clearer description of the project in June 2016 when issuing a communication on "accelerating the implementation of the project through a two phases plan"¹⁷.

The Croatian government presented the offshore facility – a floating storage and regasification unit (FSRU) – as the first phase of a larger industrial project, while the "second phase" would include the construction of a bigger onshore regasification plant.

17 <https://vijesti.hrt.hr/428000/vlada-Ing-izmjene-zakona-o-pos-u-i-obveznim-mirovinskim-fondovima-2>

The final project foresees a terminal capacity of up to 6 billion cubic metres of gas, while the cost of the terminal is set at 600 million euro. The phase one of the current project, a FSRU with the capacity of 2.6 billion cubic meters, should cost around 250 million euro according to the Croatian government. The total cost goes over 1 billion euro, including the accompanying infrastructure.

On November 8th 2018, the procurement procedure for the offshore part closed and **Golar Power Limited** was selected by LNG Hrvatska for the conversion of an existing LNG carrier to a FSRU. A final investment decision was announced to be made after December 20th 2018.¹⁸

A publicly-controlled company named **LNG Hrvatska/ Croatia LNG**¹⁹ concluded the authorization process for the plant in less than two years. The "LNG law"²⁰ that was passed in 2018 strengthened the government's direction to *move ahead quickly* thanks to a special procedure designed for this industrial plant only. The LNG law also includes an explicit right for the government to *expropriate private property* necessary to build the onshore infrastructure linked to the offshore facility.

18 <https://www.lng.hr/en/news-details/procurement-procedure-for-floating-storage-regasification-unit-the-fsru-is-closed-95>

19 <https://www.lng.hr/en/about-us>

20 <https://www.total-croatia-news.com/business/29093-parliament-adopts-lng-terminal-law>

Who is Robert Ježić?

Robert Ježić is a Swiss-Croat entrepreneur active in the oil business since the 1980s.

In the early days, he started to collaborate with **Vojko Santrić**, Yugoslavian businessman based in Milan, where he was also General Consul. Santrić introduced him to **Branko Srenger**, an important oil businessman who ran **Petraco Oil**, founded in Milan in 1972. In the 1990s Ježić set up **Starchem Ltd** for Srenger, an offshore oil trading company, and other companies in **Panama**. In that period, he started working with national oil companies as agent of Petraco. That is when he met **Fanjo Gregurić**²¹, Croatian Prime Minister between 1991 and 1992, when Croatia became independent. In 1993 the business relationship with Branko Srenger broke and he started working for foreign companies such as **Landmark Chemicals SA (Switzerland)** and **Laussane BMS (Belgium)**. These companies won several public tenders by INA Oil company, where Fanjo Gregurić was a board member between 1995 and 1999. In the same years, Ježić set up **Forus** in Switzerland, a company that then formed a joint venture with INA in the Rijeka refinery, called **ITT**. His contracts with INA

21 https://en.wikipedia.org/wiki/Franjo_Gregurić

stopped in 2007. Ježić developed close relations with the successor of Gregurić as Prime Minister, **Hrvoje Šarinić**²², who was also in the board of INA. This is when he became president of the Croatian football team HNK Rjeka²³, which he managed until 2008. In 2000, he got a new political sponsor: **Slavko Linić**, former major of Rijeka, deputy Minister of Economy and INA Supervisory Board member. In 2004 he acquired Dioki d.d thanks to a loan granted by Hypo Alpe Adria Bank (see box The Hypo Alpe Adria connection). In the retrial against Ivo Sanader, on October 22nd 2018, he was acquitted - at first instance - from the accusation of having bribed Ivo Sanader in order to facilitate a deal for Dioki to access cheap electricity. A deal that allegedly damaged the company HEP for several million euro²⁴. He is also accused of having taken a bribe for Ivo Sanader from the Hungarian energy company MOL. According to public authorities, the bribe was transferred through one of his Swiss bank accounts.

Research by IRPI (Investigative Research Project Italy) for Re:Common

22 https://it.wikipedia.org/wiki/Hrvoje_%C5%A0arini%C4%87

23 https://en.wikipedia.org/wiki/HNK_Rijeka

24 <https://www.index.hr/vijesti/clanak/robert-jezic-kupio-hdzu-blindirani-bmw-od-42-milijuna-kuna/531680.aspx>

A STILL CONTROVERSIAL PROJECT SUPPORTED BY THE EUROPEAN COMMISSION

Experts and decision makers have different takes on the two-phase LNG project.

It is worth noting that the LNG terminal in Krk was already included in the EU PCI list back in 2013 and 2015, but at the time there were no details in public documents on the nature of the project – onshore or offshore.

An oil and gas expert, that asked to remain anonymous, openly said that every expert who could see the background documents of the current two-phase project would agree that “*it doesn't make any sense, either from an economic, financial or a technical point of view*”. His take is that the offshore and onshore projects are even *conflicting*. “Only politicians could believe that they are truly part of the same project”.

The European Commission, who provided a grant for the project²⁵ and considers it as a “Project of Common Interest”, apparently believes in the current two-phase narrative. However, the rumours in Brussels corridors are that *everybody knows* that the second phase is quite unlikely to happen.

The Croatian government defends it as a Strategic Investment project, important in the diversification of supply of natural gas for Croatia. It also describes it as a project that will increase the energy security of South-East Europe, as confirmed by the inclusion of the project in the Strategy for Liquefied Natural

25 <https://vlada.gov.hr/news/eu-approves-eur-102m-grant-for-lng-terminal-in-croatia/20182>

Gas Storage of the European Commission in 2016²⁶.

A position that could be challenged by the outcome of the second round of the Open Season Procedure for contracting the terminal's regasification capacity, where only the Croatian companies Hep and INA have shown some limited interest in the purchase of gas²⁷. An outcome that is putting the economic viability of the project at stake²⁸.

On the island of Krk, for many years the only foreseen project discussed to some extent with the residents was onshore. The local authority of Omišalj has been on the front line to make sure that the project would fit the needs of the residents. The crisis of the DINA petrochemical plant brought a job loss crisis on the island, so local authorities took the side of workers and residents, asking loudly for over two decades for a plan to relaunch the nearly abandoned industrial plant. After its privatization and acquisition from Ježić's Dioki Holding, people regained hope that production would restart soon. The construction of the regasification plant was part of the then-proposed investment package.

In response to initial concerns of residents over the impact of the plant on the marine environment and on tourism, a consultation process was conducted by a private consultancy firm employed by the government. Tourism is indeed

26 <https://vlada.gov.hr/UserDocsImages//Sjednice/2016/27%20sjednica%20Vlade//27%20-%208.pdf>

27 <https://www.lng.hr/en/news-details/the-second-round-of-open-season-procedure-is-closed-96>

28 http://www.novolist.hr/Vijesti/Gospodarstvo/FIJASKO-LNG-a-Za-zakup-mizernih-kolicina-plina-javili-se-samo-HEP-i-INA?meta_refresh=true

a source of substantial economic income for the residents and the local authorities. As an outcome of the consultation, the residents and local authorities agreed upon an onshore facility that should respect certain standards and conditions.

However, when Ježić fell into disgrace and the industrial plan for Dioki collapsed under the massive debt accumulated towards creditors (including the workers and the municipality of Omišalj), residents fell into dismay.

This is when the government in Zagreb tried to push a different version of the project: an offshore project that would be smaller, cheaper and faster to build through LNG Hrvatska²⁹.

Still, this proposal, championed by the new HDZ government and by the former director of the government's Agency for hydrocarbons (currently director of LNG Hrvatska), Barbara Dorić, has been fiercely opposed not only by the Krk residents, but also by the local authorities, and even by the county/regional government (Primorsko-goranska županija). In March 2018, thousands of people demonstrated in Rijeka against the offshore plant, including the head of Omišalj Municipality, the mayor of Rijeka and the mayor of Krk, together with environmental organisations like Zelena akcija/ Friends of the Earth Croatia, local environmental groups and citizen's platforms³⁰. Just recently, commenting on the fiasco of the Open Season Procedure, the head of Omišalj Municipality, Mirela

29 <https://vlada.gov.hr/UserDocsImages//Sjednice/2016/27%20sjednica%20Vlade//27%20-%208.pdf>

30 <https://www.balcanicaucaso.org/area/Croazia/Croazia-proteste-contro-il-rigassificatore-offshore-186510>

The Hypo Alpe Adria connection

Ahmetović, stated that the LNG terminal is not in the interest of Croatian people, but rather serves foreign interests, including the US. Together with the representative of the County, Zlatko Komadina, Ahmetović announced that they would challenge the LNG law in the Constitutional Court³¹.

But the residents' opposition didn't scare away the investors. In 2018 a private investor showed up with an offer to liquidate the debts of Dioki, acquire the DINA petrochemical plant, and take up and adapt the old project for an onshore plant in Omišalj. The Luxemburg-based group **Gasfin** completed the acquisition in August 2018, purchasing the asset from **Heta Asset** - the "bad bank" owned by the Republic of Austria that tried to recover the loss generated by Hypo Alpe Adria³² - and paying off all the creditors (including the Municipality of Omišalj and workers of DINA). The LNG law and the announced procedure of expropriation of land in the property of DINA were met with concern by the investor and by the residents, adding further complexity to the relations behind the scenes.

31 <https://dnevnik.hr/vijesti/hrvatska/zlatko-komadina-i-mirela-ahmetovic-projekt-plutajucega-lng-terminala-neodrziv-i-nezakonit---543798.html>

32 " HETA ASSET RESOLUTION AG is a wind-down company owned by the Republic of Austria. Its statutory task is to dispose of the non-performing portion of Hypo Alpe Adria, nationalised in 2009, as effectively as possible whilst preserving value". <https://www.heta-asset-resolution.com/en>

Hypo Alpe Adria is a Carinthian bank that was nationalised in 2009 by the Austrian government to avoid its bankruptcy - and the bankruptcy of the Carinthian region who was guaranteeing its business.

Renamed by the Austrian public as "Katastrophenbank", most of the "bad loans" that generated its financial crash were targeted towards the Balkans.

Robert Ježić was one of its main debtors, and the Hypo Adria Bank was one of the key players in Robert Ježić's investments in Dioki d.d. and his other businesses.

The allegedly corrupt system of relationships between the bank and the tycoon was rooted in Ježić's close relationship with Prime Minister Sanader and his political party HDZ. It was the managing director of the group Wolfgang Kulterer who supported the initial 20 million euro loan for Robert Ježić, which he needed to purchase Dioki d.d. The deal included the payment of 1 million euro on the bank account of HDZ, Sanader's political party. Apparently, the request came from Sanader in person³³. The German newspaper Die Zeit published in 2011 documents from the Croatian Intelligence Agency about the corrupt deals involving Hypo and Sanader, revealing that "a certain amount of money" for Ivo Sanader was delivered on May 1, 2004. The money was supposedly picked up by then Croatian Minister of Foreign Affairs Miomir Žužul in Trieste, Italy³⁴.

33 Akte Hypo Alpe Adria (2015), a journalistic investigation by Renate Graber and Andread Schnauder. Linde Verlag. <https://www.lindeverlag.at/buch/akte-hypo-alpe-adria-6274>

34 <https://www.24sata.hr/news/die-zeit->

Supporting Ježić was an entry point for the Hypo group to conclude other investments in Croatia. For this "service" Ježić was allegedly employed under a 5 million-euro consultancy contract with Hypo managing Director Kulterer. Even when Kulterer left his position as director in 2007, he introduced Ježić as a key figure to the new Director of the Hypo group. Ježić remained in that privileged position until 2009. Between 2003 and 2009, the Hypo Alpe Adria signed credits for him worth 63 million euro - while 14 million euro were ultimately not repaid by Ježić³⁵. Robert Ježić was never investigated for any criminal activity in Austria.

An international chapter of the criminal case against Ivo Sanader is closely interlinked with the corrupt system around Hypo Alpe Adria and its investments in Croatia. On October 22nd 2018, a court in Zagreb convicted the former Prime Minister to two and half years in prison for the crime of "war profiting". The first instance conviction refers to events that happened during the war in 1994-95, when he was employed by the Croatian government to negotiate a loan with the bank for purchasing several buildings in order to open new embassies abroad. According to the court, he did not act in the interest of the State, but in the interest of the Hypo group, facilitating its entry into Croatia in exchange for a bribe paid in cash for the equivalent of 5% of the loan's value³⁶.

[miomir-zuzul-u-trstu-pokupio-proviziju-zasana-211881](https://www.miomir-zuzul-u-trstu-pokupio-proviziju-zasana-211881)

35 Akte Hypo Alpe Adria (2015), a journalistic investigation by Renate Graber and Andread Schnauder. Linde Verlag. <https://www.lindeverlag.at/buch/akte-hypo-alpe-adria-6274>

36 <http://www.lavoce.hr/politica/2540-ivo-sanader-condannato-per-l-affare-hypo-bank>

2. WHAT THE STORY OF THE CROATIAN ENERGY SECTOR TELLS ABOUT STATE CAPTURE AND PRIVATISATION IN CROATIA

Under the monitoring and guidance of the World Bank and the International Monetary Fund (IMF), Croatia significantly reshaped its economy during the 90s.

The focus of international financial institutions was to make sure that the public wealth of Croatia was fully privatised - favouring the so-called transition to a market-based economy – with little attention to *who would actually benefit from such privatisation*. In other words: would it help the transformation of the country, away from the “crony capitalism” of the precedent era? Would privatisation be accompanied by increased public scrutiny and a more transparent and participatory decision-making process?

Evidence showed that the privatisation process was steered by hidden interests of individuals and political parties that wanted to strengthen their power, get personal benefit and at the same



Oil refinery in Sisak, Croatia /INA, photo @ Donatus, wikimedia, CC BY-SA 3.0

time maximise the benefits of private investors. The debt which increased over the years was left in the public coffers. A questionable approach from the point of view of the public benefit: is it fair that citizens have to bear the costs of a privatisation process that is just investor-oriented? Is it acceptable that the process is mainly driven by private interests to the point that it overtakes collective interests?

This chapter will delve into a specific sector of the Croatian economy – the energy sector – and analyse how such privatisation process took place, and what lessons can be learnt from it.

A CAPTURED PRIVATIZATION OF THE ENERGY SECTOR

The dismantling and privatisation of INA – the national oil and gas company - happened through a long and laborious process that lasted for over a decade. INA and HEP - the national electricity company

- were among the “companies of strategic relevance” nationalised by the Croatian government with the Law on Transformation of Socially Owned Enterprises (1991) just after independence. INA was fully nationalised in 1993.

Shortly after, when the adoption of the Privatisation Law (1996) made it clear that public ownership would not last forever, INA and HEP were put on the list of companies to be privatised³⁷. The privatisation law for both companies was passed in 2002, allowing the sale of the first 25% of public shares.

The Hungarian company MOL was the privileged buyer for the initial 25% of INA. How and why MOL could conclude the purchase and secure dominant management rights

³⁷ https://www.researchgate.net/profile/Nevenka_Cuckovic/publication/259591655_Privatisation_of_the_Oil_and_Gas_Industry_in_Croatia_and_SEE_Assessment_of_Impacts/links/576280e708ae0c8c2553aa36/Privatisation-of-the-Oil-and-Gas-Industry-in-Croatia-and-SEE-Assessment-of-Impacts.pdf?origin=publication_detail

is still being discussed in court. So far, the Hungarian government denied any wrongdoing by the publicly-controlled MOL. However, Croatia launched a commercial arbitration against MOL in 2016³⁸. The Croatian anti-corruption unit USKOK is still trying to prosecute the CEO of MOL, Zsolt Hernádi, for international corruption: Hernádi is accused of bribing Sanader in late 2008 to secure dominant management rights for MOL in INA³⁹. Two requests for extradition were issued in 2013 and again in July 2018 - after Sanader's new trial opened and the European Court of Justice in Luxembourg expressed itself in favour of Hernádi's extradition to Croatia⁴⁰.

In the meantime, the sale of the majority of shares of INA was concluded. Today, the Hungarian company MOL is the majority shareholder of INA, with 49,1%⁴¹ and since 2009 it took over the management of INA. Thanks to this move, facilitated by an allegedly corrupt deal, Hungary became the fourth largest investor in Croatia, according to the media⁴². Still, this may not last long though, since in January 2018 the Croatian government declared its intention to buy MOL's stake in INA⁴³.

38 <https://www.tportal.hr/vijesti/clanak/vrdoljak-proziva-sanadera-i-mol-hrvatska-je-bila-isprovocirana-20160420>

39 <https://www.reuters.com/article/us-croatia-mol-hernadi-idUSKCN0S91O320151015>

40 https://bbj.hu/news/court-refuses-to-execute-european-arrest-warrant-for-mol-ceo_153953

41 <https://www.ina.hr/investors-9847/ownership-structure-9901/9901>

42 <http://www.balkaninsight.com/en/article/croatia-and-hungary-on-delivering-gas-from-lng-terminals-10-03-2018>

43 <https://vlada.gov.hr/news/pm-says-lng-terminal-would-enhance-croatia-s-role-in-eu-energy-strategy/23273>

MOL'S ROLE IN KRK LNG TERMINAL

MOL also plays a significant role in the Krk LNG story. First of all, INA is the main client of Dioki d.d., so INA's last ten years of business were undoubtedly affected by the legacy of Robert Ježić's bankruptcy, as well as the outstanding debts (also with INA) and the liquidation of Dioki.

Secondly, the business plan for the LNG plant in Krk involved Hungary as *a major beneficiary* from the very beginning.

Country	Gas demand, bcm/year
Primary markets	
Croatia	2.7
Hungary	9.5
Other potential markets	
Austria	8.6
Czech Republic	8.2
Slovakia	4.7
Serbia	2.0
Slovenia	0.7
Bosnia & Herzegovina	0.2
Total	36.7

Source: LNG terminal Krk presentation Open Season. LNG Hrvatska. https://www.lng.hr/upload_data/editor/files/LNG%20terminal%20Krk_presentation_Open%20Season.pdf

The project was designed as an export-oriented project to contribute to the energy diversification in Central and Eastern Europe, where Russia is the main gas supplier. On various occasions Hungary declared its interest in the purchase of gas from the expected Krk facility. In early October 2018, Hungary's Foreign and Trade Minister, Peter Szijjarto, met Tomislav Coric, Croatia's Minister of Environment and Energy, in Budapest to discuss joint energy projects and gas supplies.



Archaeological site near the Dioki industrial site in Omissalj. Photo ©Re:Common

On this occasion, Peter Szijjarto stated to media that the Croatian LNG terminal was an important opportunity for Hungary to diversify its energy supply after 2020, when its long-term gas supply contract with Russia expires⁴⁴.

In other words, MOL and Hungary would benefit *more* from the regasification plant in Krk than Croatia itself, given that the latter is not foreseen as a final user – or only marginally - of the imported gas.

Moreover, MOL is a shareholder of Plinacro, the company which is the co-owner of LNG Hrvatska. Plinacro and MOL are both part of the joint venture to build the gas pipeline Zlobin-Bosiljevo-Sisak-Kozarac-Slobodnica, which according to the European Commission “represents the main evacuation route for the Krk LNG terminal to a number of countries in Central-Eastern and South-Eastern Europe”⁴⁵.

The legacy of an allegedly corrupt deal is very much alive in the present decision-making process around the Krk LNG terminal.

44 <http://www.balkaninsight.com/en/article/croatia-and-hungary-on-delivering-gas-from-lng-terminals-10-03-2018>

45 This project is maximum 50% funded through the EU. The total cost is € 4.5 million. The cross-border costs allocation (CBCA) has been decided with a deal signed by Hungary and Croatia (10 April 2017)

Through its publicly-controlled company MOL, Hungary is exerting a huge influence on strategic energy decisions in Croatia today, together with businessmen and political leaders who allegedly belong to the same political structure that was in power a decade ago.

However, the unexpected outcome of the second round of the Open Season Procedure for contracting the terminal's regasification capacity tells a different story: MOL hasn't tabled the expected expression of interest in the purchase of gas from LNG Hrvatska. An outcome that is putting the economic viability of the project at stake. In order to make the project economically viable, there needed to be an expression of interest for at least 1,5 billion cubic metres of gas per year⁴⁶.

A corrupt privatisation process

The Croatian Privatisation Fund/ Hrvatski fond za privatizaciju was the institution in charge of ensuring that the sale of public assets would be conducted transparently and according to the law.

But in early 2000s, the management of the Fund was tainted with alleged corruption⁴⁷. This was a signal that the so called "crony capitalism" – that anyone would recognise as "typical" of the Tudman regime⁴⁸ and that resulted in the frequent selling off of assets to associates of the President⁴⁹ - may have actually outlast his death in 1999.

Linking back to the story of Hypo Bank, it should be noted that in the late 1990s the privatisation of banks in Croatia began, with banks being sold to the leading banks in Central and Eastern Europe. As a result, 90% of

Croatia's total bank assets became part of foreign banks' equity portfolios, mostly in Italy and Austria⁵⁰.

Still in 2010 the portfolio of the Croatian Privatisation Fund included shares and stakes in a total of 1,112 companies. The total equity base of these companies was HRK 177.6 billion, while the equity of the State's portfolio amounted to HRK 21.8 billion⁵¹. The privatisation process turned into a huge selling off of productive and financial assets of the country, with foreign capital entering Croatia and shaping the so-called transition to the capitalist economy.

Sanader's verdict in late October 2018, which is the first conviction for "war profiteering" in the history of the country, gives a sense of the looting that took place in those years, with a handful of individuals taking personal advantage of the entire national economy.

⁴⁷ <https://www.find-croatia.com/senior-officials-of-croatian-privatisation-fund-arrested-on-corruption-charges/>

⁴⁸ Franjo Tudjman was the first President of Croatia and served as president from 1990 until his death in 1999

⁴⁹ <https://www.ucis.pitt.edu/nceer/2003-817-01f-Ballinger.pdf>

⁵⁰ <https://www.hnb.hr/documents/20182/121519/e-analiza-inozemne-zaduzenosti-rh.pdf/4ddf54e1-70a0-46b8-9f9c-642c739127f0>

⁵¹ <ftp://ftp.repec.org/opt/ReDIF/RePEc/osi/journal/PDF/InterdisciplinaryManagementResearchVI/IMR6a44.pdf>

⁴⁶ http://www.novilist.hr/Vijesti/Gospodarstvo/FIJASKO-LNG-a-Za-zakup-mizernih-kolicina-plina-javili-se-samo-HEP-i-Ina?meta_refresh=true

3. THE TWO LNG PROJECTS: WHO IS WHO? AND WHY WOULD THE EUROPEAN UNION GRANT ITS SUPPORT?



"Golar Frost," Photo ©Lens Envy, Flickr, CC BY-NC-ND 2.0

According to the Croatian government, the proposal for a “two-phase” project is an answer to the difficulties to find investors for the onshore project over the last years. In 2016, the current formula gained traction in Zagreb and was officially presented.

In the meantime, a foreign investor (Gasfin) showed up to acquire the debts of Dioki, pay off the creditors, relaunch the petrochemical production and invest in the construction of an onshore LNG plant.

In 2010, after Sanader’s arrest, the Croatian government set up an ad hoc company, LNG Hrvatska⁵², that would take care of the construction of the LNG project. The company and its shareholders presented

different versions of the project to the European Commission, with changes in the offshore and onshore facilities between 2013 and 2018.

For instance, the plan presented to investors by ex- Managing director of LNG Hrvatska, Goran Frančić, a few years ago *only* mentions the offshore plant⁵³. However the description of the project presented to the European Commission - that was included in the first list of “Projects of Common Interest” in 2013 - and the following version included in the EU Ten Year Network Development Plan in 2015 indicate that the plan was to build offshore facilities.

In parallel, the onshore LNG project – authorised, but yet to be built - remained part of the Dioki assets that Heta Asset was trying to sell to recover the massive loss generated by Hypo Alpe Adria.

Uncertainty lasted until 2017, when the Croatian government became more outspoken about its plans. The proposal that was accepted by

the European Commission included an FSRU project that would be the “phase one” of a larger LNG project onshore, on the Dioki industrial site.

The “good news” of a foreign investor being interested in the onshore project that finally arrived in 2018 suddenly looked more like a *problem* than a solution to the Croatian government. The approval of the LNG law in summer 2018 de facto confirmed it: the expropriation of the land of the Dioki property may apparently include not only the cadastral parcels needed for the construction of the pipes connecting to the facilities, but a much larger area.

According to the Croatian magazine Nacional⁵⁴, since the change of plans in 2016 by the government of ex-Prime Minister Tihomir Orešković, appetites for large amounts of gas declined in Zagreb, and the government pushed for a cheaper project of a floating terminal that could be built faster.

52 <https://www.lng.hr/en/about-us> ; <http://www.energetika-net.com/vijesti/plin/osnovana-lng-hrvatska-8559>

53 https://lng.hr/upload_data/editor/files/LNG%20terminal%20Kr%20presentation_Open%20Season.pdf

54 http://www.presscut.hr/Web%20Sharing%20ZON/10-2018/23-10-2018/Nacional/Presscut_18273233.pdf



Kontra LNG action in Zagreb in March 2018. Photo© Kontra LNG

At that point, the land on the Dioki property became completely redundant for the project: only a small piece of land was needed, for the necessary ancillary facilities of the offshore FSRU and a gas pipeline to transport gas to the junction with the international interconnector heading to Hungary. But Nacional highlights that the adoption of the LNG Law de facto allows LNG Croatia to request land for the construction of the first and second phase of the project. Apparently, the company has taken steps to proceed with the expropriation, a move that generated tensions with Gasfin Sa, the foreign investor that just acquired Dioki (see box: Who is Gasfin).

WHO ARE THE SHAREHOLDERS OF LNG HRVATSKA/ LNG CROATIA?

LNG Hrvatska/ LNG Croatia is a publicly owned company, controlled by the government of Croatia. Its main shareholders are the energy

transportation company **Plinacro Do.o**⁵⁵ with 50% of shares and the electricity company **HEP**⁵⁶ with 3,56%. Since 2018 the company has a new CEO: **Barbara Dorić**. Dorić is the former director of the Croatian Hydrocarbon agency. In that capacity she was among the key experts writing the LNG law approved in 2018 to fast track the construction of the LNG project in Krk. More than one voice claimed that there is a clear conflict of interest between her current position and the role she played previously to move the project forward.

Plinacro is involved in building the Croatian pipeline Zlobin-Bosiljevo-Sisak-Kozarac-Slobodnica. This pipeline will connect to another existing pipeline bringing gas to Hungary⁵⁷. The project is a joint venture with the Hungarian

⁵⁵ <http://www.plinacro.hr/>

⁵⁶ <https://www.hep.hr/en>

⁵⁷ The Slobodnica Donnji Miholjac Dravaz-erdahely Varosfold pipeline

company MOL and received EU funds. “The pipeline represents the main evacuation route for the regasified LNG to a number of countries in central-eastern and south-eastern Europe”, as stated by the EU Connecting Europe Facility programme which financed the project. A deal was signed by Hungary and Croatia on April 10th 2017 in relation to the allocation of costs for the project. Clearly, the gas transport infrastructure supported by Plinacro totally relies on the construction of the Krk LNG terminal for the supply of gas.

WHO IS GASFIN?

Gasfin Sa is an energy company part of the **Gasfin Group** registered in Luxembourg. The head of Gasfin Sa is **Davor Grgevic**, also chairman of the Eastwell Group, a holding company that provides investment capital and new technologies to businesses in Former Soviet Union countries (CIS) and Central Asia. Gasfin is pushing to build an onshore LNG project smaller than the one originally planned by the Croatian government.

The managing director and main shareholder of Gasfin group is the Slovenian businessman and wine producer **Vladimir Puklavec**. Puklavec became an important businessman through **TGE Gas Engineering**, a company based in Germany that is currently part of Gasfin Group. Already in 2009, Puklavec tried to invest through TGE in building an LNG terminal in Koper (Slovenia), but the project failed to be approved by the Slovenian government⁵⁸. In 2017, the terminal in Koper was considered again as a possible

⁵⁸ http://ricerca.gelocal.it/ilpiccolo/archivio/ilpiccolo/2009/05/29/NZ_06_APRE.html

investment, but the competitor in Krk already got financing through the Connecting European Facility and was selected as an EU Project of Common Interest⁵⁹.

When Gasfin managed to acquire Dioki, paying off all the debts left by Ježić, the LNG law was approved allowing LNG Croatia to start the expropriation of its property.

Gasfin Development SA, another company part of the Gasfin group, is involved in Ghana in a consortium with the Russian gas giant **Gazprom**. Voices around Puklavec and Gasfin report that they are representing Russian interests. However, the Luxembourg registry does not allow to see who the beneficial owners of the group are. The **Eastwell Group**, controlled by Grgevic, was involved in an allegedly corrupt case with some companies owned by Uzbekistan's president Karimov (see OCCRP investigation "Corruptistan"⁶⁰).

"AT THE GATE OF THE ENERGY UNION"

In January 2018, the EU Commissioner Maroš Šefčovič visited Zagreb to attend a conference on the new Croatian energy strategy. In his speech, he explained several aspects of the Energy Union, and what specific role Croatia could play in this framework. A speech that was all about "what the EU expects from Croatia". In a sentence, *a service role*.

59 <https://www.total-croatia-news.com/business/20319-slovenia-planning-rival-lng-terminal>

60 <https://www.occrp.org/en/corruptistan/uzbekistan/gulnarakarimova/presidents-daughter-controlled-telecom-industry>

The demand articulated by Šefčovič to the country is to produce renewable energy for export, including specific private users as far as Ukraine, and to host a gas regasification unit - again for selling the fossil fuel in the European gas market⁶¹.

Šefčovič was pleased to acknowledge that Croatia had *undertaken the required steps*, and was on the right path to respond to the Energy Union's needs. But is this the only possible vision of Croatia's role in the EU? One could wonder whether the EU should rather meet the actual needs of ordinary people in Croatia, whose interests the EU should be serving instead. Is hosting export-oriented mega projects and bearing the costs and impacts in terms of land use and environmental degradation locally, as well as shady decision-making processes actually the "terrific" role that Croatia wants to play?

So far, quite a few contradictions have emerged in the Croatian energy choices. As pointed out by the environmental group Zelena akcija, not decommissioning coal power plants like Plomin 1⁶² - considered "strategic" for internal consumption - is in sharp contradiction with its efforts to match the EU renewable energy targets. But at the same time, the current energy path promoted by the EU for the country, including environmentally-harming hydropower plants and climate-wrecking regasification and deposit projects like the one planned on the island of Krk, is just as questionable.

61 https://ec.europa.eu/commission/commissioners/2014-2019/sefcovic/announcements/speech-conference-new-croatian-energy-strategy-zagreb_en

62 http://zelena-akcija.hr/en/programmes/energy_and_climate_change/hep_must_shut_down_plomin_1_and_focus_on_renewables

Maroš Šefčovič (TTE). Energy Ministers press conference. Photo: Arno Mikkor (EU2017EE). Flickr (CC BY 2.0)



Vice-President Šefčovič said:

"I am pleased to see that Croatia is already achieving its 2020 targets for renewable energy and the reduction of greenhouse gas emissions, thanks not least to its strong hydropower sector. I encourage it to further develop its renewables industry, and also to make additional efforts to meet its energy efficiency target. The EU's new Smart Finance for Smart Buildings initiative, announced as part of the 'Clean Energy for All Europeans' package, will be able to help finance the energy efficient renovation of buildings in Croatia. The EU is also financing the construction of a liquefied natural gas terminal at Krk. This will help to diversify sources of energy supply in Croatia and the wider region and make its energy markets more competitive. Croatia's story is a testimony to the Energy Union's impact on the ground. It has already fulfilled its 2020 targets for CO2 emissions, renewables and energy efficiency, although the latter's potential should be tapped further. Moreover, Croatia's energy security is being gradually strengthened, in particular thanks to the regional cooperation under CESEC as well as a prospective Krk LNG terminal."⁶³

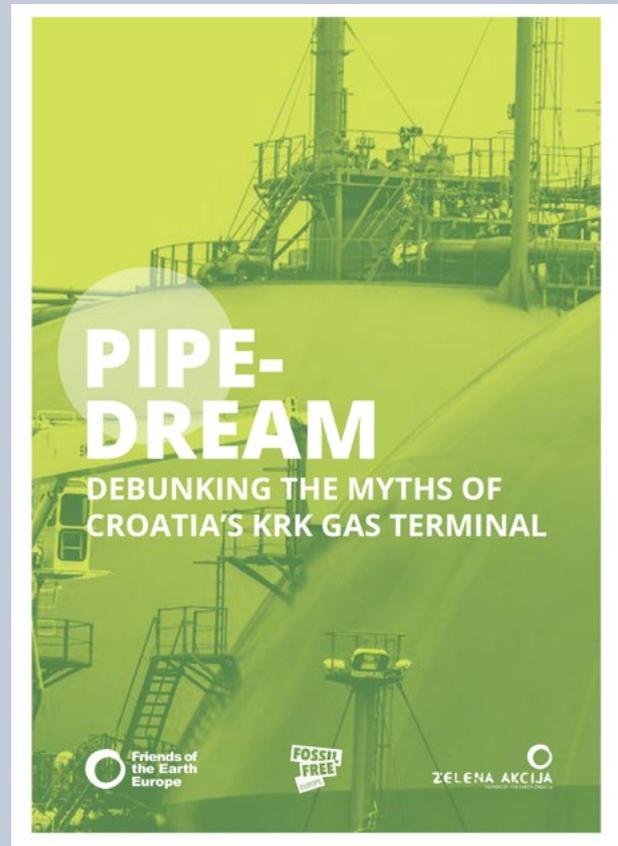
63 https://ec.europa.eu/info/news/focus-croatia-energy-union-tour-2018-jan-26_en

Debunking climate and energy myths around the Krk LNG terminal

On 12 December 2018, Friends of the Earth Europe and Zelena akcija/Friends of the Earth Croatia released a publication⁶⁴ deconstructing the Krk LNG terminal. The report's conclusions are the following:

1. A new LNG terminal is at **odds with the Paris Agreement** and the newest IPCC scientific report
2. **Gas is a carbon intensive fossil fuel** that does not deserve its climate-friendly reputation, nor its transition fuel designation
3. Gas infrastructure, such as the Krk LNG terminal, creates **significant environmental and health impacts in and outside Europe**, and does not merit its clean and safe reputation
4. Taking into account existing gas infrastructure, and projects currently under construction in the region, Croatia and its neighboring countries are already energy secure, and sufficiently resilient. This means the Krk LNG terminal is unnecessary, and doubly so given the planned decline of gas demand all over Europe in the coming decades
5. Building **new gas infrastructure to counter Russian gas dominance is not just the wrong strategy, it is a failed one**: many existing infrastructure are largely underused and several new projects under construction will in fact bring even more Russian gas to Europe
6. The Krk LNG terminal is an unnecessary but expensive project, with questionable market demand, and so it will **largely be paid for with taxpayers' or consumers money**
7. The Krk LNG terminal is being pushed forward **against the interests of the local population and consumers, with little transparency or consideration given to public opinion**

⁶⁴ http://www.foeeurope.org/sites/default/files/extractive_industries/2018/pipedream-debunking-myths-croatias-krk-gas-terminal.pdf



CONCLUDING REMARKS - UNDERSTANDING STATE CAPTURE

There are cases where it is hard to see where the personal interests of the so-called “politically exposed persons” begin and where they end.

This is the case for post-independent Croatia, and the financial and energy deals that we explored in this briefing.

While trying to analyse the multi-layered implications of the Krk LNG project, we could see the complexity of state capture unfolding before our eyes. The legacy of the turbulent 1990s means that hundreds of politically exposed persons part of the bureaucratic structure of former Yugoslavia started to reposition themselves in the new state structure or supported new private entrepreneurs that could benefit from the sale of publicly controlled companies, including strategic sectors such as energy. It is not surprising that this legacy of corrupt relationships still influences the decision making in the country today.

We could understand how rotten relationships between finance and politically exposed persons had provided protection for the looting of a country. And how the same structure could serve multiple interests, from personal to externally-driven economic

and financial ones, securing them through interlinked contracts and commitments to the point that even European institutions are embedded, through financial and political support, in a structure of interests that ends up being systemic.

In this context, first the World Bank and the IMF, and then the European Union, have pushed severe restructuring programmes in Croatia. None of them may have realised *who really benefitted* from the subsequent privatisation processes. None of the international institutions were interested in questioning if the democratic space for engagement in the economic and political life of the country would benefit from the restructuring programmes or rather shrink as a consequence. Oddly enough, the so-called transition to Western “democracy” turned out to be also a space for regeneration of the same, old relations of power.

The questions around the Krk regasification plant and whether it is needed or not for Croatia are legitimate. It’s worth understanding whether the project is strategic or not for the energy security of the country and the EU. The story of the Krk LNG terminal, including the interlinkages with one of the largest corruption scandal after independence, tells us that a capture of the state structure allowed the same, old private interest to drive the decision making processes in strategic sectors, such as energy, excluding the majority from the political and economic life of the country. Ten years later, the risk is that the Croatian people will be left – again - with the bill to pay for a mega infrastructure that may turn out useless and even corruptive at the end.

There are *other questions* that we tried to address to support a broader understanding of this project. For instance, what is the political and economic context in which this project sits? What are the related economic and financial interests? What is the role that international financial institutions – and the European Union - are playing today, by using once again the leverage of public debt? And who is eventually benefiting from such mechanism?

Croatia could go 100% renewable, but with a decentralised model, community-owned and oriented to serve the internal needs first, and not driven primarily by export goals. But in order for this to happen, Croatian people and communities should have the democratic space to discuss their energy model first, instead of being forced into decisions based on private interests, seeing they will have to bear the economic, environmental and climate costs for decades to come.

The European Commission has a clear responsibility in pushing its agenda forward, without pursuing an adequate due diligence on the Krk LNG terminal that would have revealed the critical aspects of the project. Understanding the private interests and offshore companies involved, as well as the failed history of the project, should have been part of such due diligence.

The EUR 107 million given by the EC to the Croatian government to carry studies and construct the Krk LNG plant, along with additional EUR 2,2 million to run studies for the Zlobin-Bosiljevo-Sisak-Kozarac-Slobodnica pipeline, have now put the institution in a position to push for the completion of *both projects*, as a matter of credibility for how EU “projects of common interest” are scrutinised and selected.

If any serious scrutiny and due diligence had taken place in the European Commission, then the EC would have kept both grants on hold, avoiding the risk to invest EC money in projects potentially harmful to the environment, economically unviable and rooted in allegedly corrupt deals.

ABOUT US

Re:Common

Re: Common is an independent and not-for-profit “association of social promotion” under the Italian law that conducts investigations and promotes campaigns against the dodgy economy and the devastation of the territories in the North and in the South of the World caused by the indiscriminate exploitation of natural resources and major public and private infrastructure projects.
<https://www.recommon.org/>

Counter Balance – Challenging public investment banks

is a European coalition of development and environmental non-governmental organisations (NGOs) with extensive experience working on development finance and the international financial institutions (IFIs) as well as campaigning to prevent negative impacts resulting from major infrastructure projects.
<http://www.counter-balance.org/>

Zelena akcija (ZA)/Friends of the Earth Croatia

Zelena akcija (ZA)/Friends of the Earth Croatia is a non-governmental, non-profit, non-partisan and voluntary association of citizens for environmental protection. It was founded in 1990 and is based in Zagreb.
<https://zelena-akcija.hr/hr>

Friends of the Earth Europe

Friends of the Earth Europe is the largest grassroots environmental network in Europe, uniting more than 30 national organisations with thousands of local groups. It is the European arm of Friends of the Earth International.
<http://www.foeeurope.org/>

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