

***Submission Via Electronic Mail***

17. August 2012  
Project Complaint Mechanism  
Attn: PCM Officer  
European Bank for Reconstruction and Development – EBRD  
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London EC2A 2JN, United Kingdom  
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**COMPLAINT BY "VREOCI" ECOLOGICAL SOCIETY AND THE COUNCIL OF "MESNA  
ZAJEDNICA VREOCI" TO THE EBRD'S PROJECT COMPLAINT MECHANISM**

**PARTIES**

***1. The Complainants***

**There are two organizations submitting this Complaint.**

**ES "Vreoci"** – Ecological Society "Vreoci" is an association founded in 1991. The main goals of ES "Vreoci" are: the improvement of environmental protection, education of citizens, especially young people, about the importance of preserving and protecting the environment, organizing activities supporting the rehabilitation of affected areas, as well as advocating for the acceptance of good practices regarding the use and preservation of natural resources and the proper treatment of waste material. The bodies of the association are the general assembly, the managing board and supervisory board. The office of ES "Vreoci" is in the Cultural Hall in Vreoci. [2]

Anybody who accepts the society's aims and statute can be a member. ES "Vreoci" finances its activities through membership fees, donations, gifts and other sources, and can obtain funds from sale of recyclable materials collected in environmental clean-up actions or from the products of educational workshops. The association has about 600 voting members. The managing board has 11 members, and the Chair of the board represents the association. The Chair of the board is Gordana Kulić. [2]

The largest actions of ES "Vreoci" so far were: the blockade of the railway line Vreoci–Obrenovac in 2003, demanding immediate improvement of environmental conditions in Vreoci, in which MZ Vreoci and almost all the inhabitants of the Vreoci (see below) participated; protests joined by MZ Vreoci and a large number of citizens (see below) to mark the beginning of the forced exhumation of the local cemetery, and other protest actions. These actions were recorded by the local and national printed and broadcasting media. [2]

**The Council of MZ Vreoci** is the only legal representative of the settlement of Vreoci and is part of the Lazarevac municipality, itself part of the City of Belgrade. The Mesna zajednica (MZ – Local Community) is prescribed by the Law on local administration as an obligatory element of the local administration. The purpose of MZs is "to satisfy the needs and interests of the local population in villages" (Article 72). The territory of Serbia is divided into units of local self-governments, each of these units has established a number of MZs in accordance with the size of its territory and number of inhabitants\*\* . [1], [2], [3]

The current Council of MZ Vreoci was elected in free elections held in December 2008 in accordance with the rules prescribed for local elections. The Council of MZ Vreoci has 15 members: two from the Socialist party of Serbia (SPS), two from the Democratic party (DS), two from the Serbian Progressive party (SNS), one from the Democratic party of Serbia (DSS), one from the Serbian Radical party (SRS), five from the Ecological Movement of Vreoci and two are independent. The mandate of the Council of MZ Vreoci is four years. The elected members of the Council of MZ Vreoci perform their tasks *pro bona*. The work of the Council of MZ Vreoci is financed from mandatory allocations from the budget of Lazarevac city municipality and from payments from RB Kolubara, which the company is obliged due to its activities on the territory of the MZ. The President of the Council of MZ Vreoci is Željko Stojković. [2], [3], [10]

## **2. Contact Information of the Complainants**

Ecological Society "Vreoci"  
Tel : (381-11) 814-5616  
Fax: (381-11) 814-4000  
Address: Diše Đurđevića 91  
Vreoci- Lazarevac 11550, Serbia

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\* The territory of the Republic of Serbia for political and administrative purposes is divided to (based on the size of the area):

- Autonomous Provinces (two – Vojvodina and Kosovo) [16];
- Development Regions (five – Vojvodina, Šumadija and West Serbia, South and Eastern Serbia, Kosovo and City of Belgrade) [17];
- Administrative districts (29 districts including, and 24 excluding Kosovo) [18];
- City of Belgrade [16];
- Cities (23 including, and 22 excluding Kosovo) and Municipalities (150 including, and 122 excluding Kosovo), as units of local self-government [16];
  - City municipality: just Cities have the right to form these for their internal purposes (at the present time they are formed only in two Cities: Belgrade and Niš) [18];
  - Local Office: any of the City/Municipality can establish offices for the provision of basic services, i.e. keeping registers, in appropriate local offices in settlements other than the central settlement of the City/Municipality (it includes one or more settlements out of the central settlement of the City/Municipality) [3];
  - Mesna zajednica (Local Community): any City/Municipality establishes an appropriate number of Local Communities in accord with the size of its territory, number of settlements on the territory and number of inhabitants (within the limits of construction land of the settlement which is headquarter of the City/Municipality it includes city quarters, for other settlements on territory of the City/Municipality it includes one or more cadastre municipalities; as a rule their area is smaller than area of Local Office) [3];
- cadastre municipality: basic unit of land division for the purpose of management of the real estate cadastre [16].

Council of MZ Vreoci (COUNCIL OF THE LOCAL COMMUNITY OF VREOCI)  
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11550 Vreoci, Serbia  
e-mail: mzvreoci@neobee.net  
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**3. There is no representative making this Complaint on behalf of the Complainants.**

***4. Defendant – the Client of the Bank - Company sponsoring the Project***

**EPS** – Public Enterprise Electric Power Industry of Serbia (hereafter EPS) was formed by a Decision of the Government of Serbia on July 1, 2005. The basic task of the company is meeting all the electric power requirements of the economy and inhabitants of the Republic of Serbia. PE EPS is a vertically integrated company that has founded 12 subsidiaries, and 3 public enterprises in Kosovo. The Headquarters of EPS is in Belgrade. [4]

EPS's activities are: electric power generation, electric power distribution and distribution system management, electric power trade, coal production, processing and transport, steam and hot water production in combined heating processes, water power utilization and services in river and lake traffic, wholesale trade in fuel and similar products. EPS operations also include research and development, design, construction and maintenance of energy and mining plants, design, construction and operation of telecommunication facilities and engineering. [4] EPS is 100% owned by the Republic of Serbia. In 2011, EPS employed 33 851 people, as the largest company in Serbia. [4]

**MB Kolubara** – Mining Basin Kolubara Ltd (hereafter MB Kolubara) is a company formed by EPS on November 25, 2005. The basic task of the company is to supply power plants in Serbia with lignite for the production of electric power. The Headquarters of MB Kolubara is in Lazarevac. [5]

MB Kolubara's activities are: excavation of lignite, surface mining of lignite, processing of lignite (washing, drying and crushing), lithotomy for construction, extraction of limestone, raw gypsum, and chalk, extraction of gravel and sand, clay, quartz sand and extraction of other ores and stone. MB Kolubara is 100% owned by the Republic of Serbia. In 2011, MB Kolubara employed about 9 900 people. [5]

## **THE PROJECT – THE SUBJECT OF THE COMPLAINT**

On July 26, 2011 EBRD approved a project to provide up to € 80 million in a sovereign guaranteed loan to EPS for the **EPS KOLUBARA ENVIRONMENTAL IMPROVEMENT PROJECT at Kolubara lignite basin**. KfW Bank from Germany agreed to provide a parallel loan of € 60 million for the same Project. The estimated value of the Project is € 165.2 million. [11]

The Project consists of three closely interwoven and interdependent components:

- 1) An introduction of a coal quality management system on open cast mines in the western part of MB Kolubara. This equipment will allow MB Kolubara to perform online analysis, control and management of lignite quality as it is excavated from various different fields in the basin and blend higher and lower qualities to ensure that the lignite supplied to the power plants is of a uniform quality and within the required parameters;
- 2) Procurement and erection of a spreader in the open cast mine Tamnava West Field. This will allow for the selective mining of lignite, inter-burden and overburden;
- 3) The acquisition of a new ECS system (excavator, conveyor and spreader) for open cast mine Field C that will allow lignite output to increase and the blending of higher calorific value lignite with lower-quality lignite – the lignite in the eastern part of the mining basin has a higher calorific value than the lignite in the western part. [11]

## **CONTENT OF THE COMPLAINT**

ES "Vreoci" and the Council of MZ Vreoci hereby submit a complaint for both a Problem Solving Initiative and Compliance Review to the European Bank for Reconstruction and Development (hereafter: EBRD or Bank) Project Complaint Mechanism (PCM) in order to resolve the problems underlying the complaint and the policy violations by the Bank (EBRD) and by the Client (hereafter: EPS and MB Kolubara, both referred to as the Client) concerning long term mala fide, irresponsible project definition, non-compliance with relevant national and international policies and regulation regarding the resettlement of Vreoci, participation of stakeholders as well as the failures during project assessment to identify the legal risks of the Client's operations in relation to the EPS KOLUBARA ENVIRONMENTAL IMPROVEMENT PROJECT (hereafter: Project) in the Republic of Serbia.

The Environmental improvement project at Kolubara lignite basin belongs to Category A Projects pursuant to Items 14 and 28 from Appendix 1 of EBRD's Environmental and Social Policy (2008).

**The Complainants are requesting that the Bank suspends all activities related to the Project loan until the process of resettlement/relocation of Vreoci is completely physically carried out. This is the result of this Complaint, we hope to achieve.**

### **The Bank's failures**

**This project is part of a larger investment programme by the Client intended to expand mining activities - e.g. open pits, while the improvement of the environmental performance of the Kolubara mines is secondary. As such,** the very existence of the Project provides additional benefits to the Client by strengthening its internal power to achieve lower costs in negotiations with individual households for land acquisition. [28]

**In the Project Summary Document it is stated that: "Land acquisition and resettlement was substantially completed in 2008 in line with EBRD policy and Serbian legal requirements. "**

Within the EBRD's due diligence process the Bank has failed to identify the legal risks of the Client's operations, especially those related to land acquisition and resettlement. Moreover, the Bank requested the Client to produce documents that will enable it to meet the Bank's environmental and social requirements. These documents should have been developed in a consultative process with all stakeholders, and far before the project approval by the Board, however this was not so in reality. Some of the documents have been changed, like the Environmental and Social Action Plan issued on 25<sup>th</sup> February 2011 and revised by the EBRD and EPS RB Kolubara on 5<sup>th</sup> March 2012, while the relevant local stakeholders haven't participated in the process.

- 1.** The EBRD Project appraisal of the Project submitted by the Client fail to comply with the Performance Requirements 1: Environmental and Social Appraisal and Management, namely: they fail to comply with the requirements defined in *Environmental and social appraisal*, para. 5, which is explained and discussed below in the section "5. Policy of MB Kolubara and EPS regarding Vreoci: Expansion of open pit mines as the only objective of the EBRD-financed Project ", in the Explanation of this complaint.
- 2.** The EBRD Project appraisal of the Project submitted by the Client fail to comply with the Performance Requirements 3: Pollution Prevention and Abatement, namely:
  - it fails to comply with the requirements defined in General, paragraph 6;
  - it fails to comply with the requirements defined in Pollution prevention, resource conservation and energy efficiency, paragraphs 10 and 11;

- it fails to comply with the requirements defined in Ambient considerations, paragraph 16;
- it fails to comply with the requirements defined in Greenhouse gas emissions, paras. 17 and 19, which is explained and discussed below in the section "5. Policy of MB Kolubara and EPS regarding Vreoci: Expansion of open pit mines as the only objective of the EBRD-financed Project ", in the Explanation of this complaint.

### **The Client's failures**

**The long-term practice and the current practice of the Client is failing to comply with the following Performance Requirements of the EBRD's Environmental and Social Policy:**

1. The Client's operational practice contradicts Performance Requirement 4: Community Health, Safety and Security, namely:
  - it fails to comply with requirements concerning community health and safety defined in the Section *Infrastructure and equipment safety*, paragraph 11, in the Section *Hazardous materials safety*, paragraph 14, and in the Section *Environmental and natural resource issues*, paragraph 15, which is explained and discussed below in section "2. Environmental pollution in Vreoci", in the Explanation of this complaint.
2. The Client's operational practice contradicts Performance Requirement 10: Information Disclosure and Stakeholder Engagement, namely:
  - it fails to comply with the requirements concerning Engagement during project preparation defined in Section *Meaningful consultation*, paragraphs 15 and 16, and in the Section *Disclosure and consultation on Category A projects*, paragraphs 17 and 18;
  - it fails to comply with requirements defined in *Engagement during project implementation and external reporting*, paragraphs 21 and 22;
  - it fails to comply with requirements defined in *Grievance mechanism*, paragraph 25, which is explained and discussed below in the sections "2. Environmental pollution in Vreoci", and "4. Policy of MB Kolubara and the EPS regarding the settlement of Vreoci: Threats to the settlement of Vreoci from the expansion of open pit mines", in the Explanation of this complaint.

3. The Client's current practice contradicts Performance Requirement 5: Land Acquisition, Involuntary Resettlement and Economic Displacement, namely:

- it fails to comply with and is contrary to the requirements defined in *Compensation and benefits for displaced persons*, paragraph 30, which is explained and discussed below in the section "4. Policy of MB Kolubara and the EPS regarding Vreoci: Threats to the settlement of Vreoci from the expansion of open pit mines", in the Explanation of this complaint.

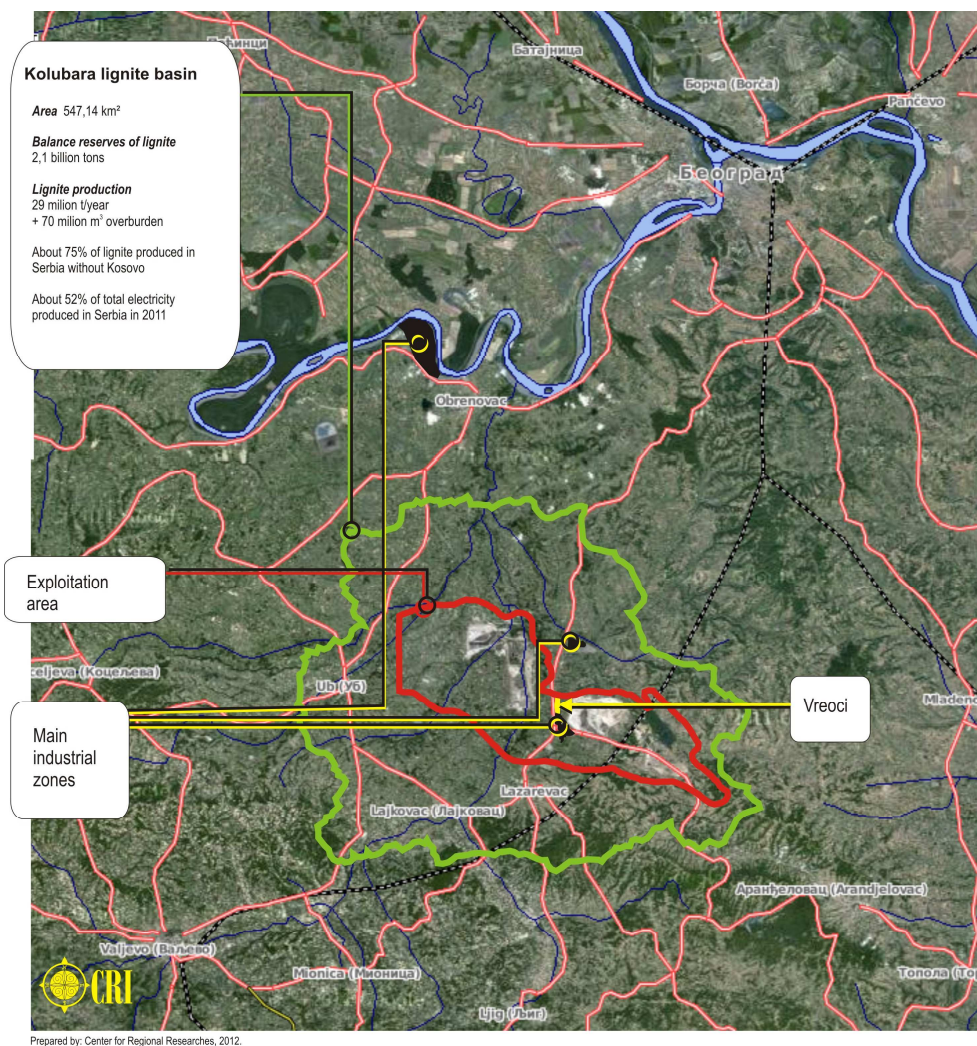
## E X P L A N A T I O N

### 1. Kolubara mine basin and Vreoci – Topography and importance

**The Kolubara lignite basin** is located 50 km southwest of Belgrade in the basin of the river Kolubara. Kolubara lignite basin is part of peri-Pannonian region and is dominantly a lowland, with average elevation of 205 m, laying on mild hills and alluvial plains of river Kolubara and its tributaries (Turijska, Peštanska, Tamnava and others). Basin area is 547,14 km<sup>2</sup>. Land around the basin is very suitable for agriculture, 87% of it is agricultural land. [8]

River Kolubara is a tributary of the river Sava and belongs to medium-sized rivers in Serbia, with length of the watercourse of 123 km. Almost the entire Kolubara river is lowland river with no hydro-energetic potential. Kolubara river basin's water regimes are characterized by extreme variation – merely 1/3 of water basin originate from river sources, while 2/3 originate of torrential flood waves, which means that most of the water passes through the basin as flood waves in spring and winter, while the water level in the vegetation period is very low. [8]

Map 1: Kolubara lignite basin



It is cut by two strategic transportation routes along the central axis following the course of the Kolubara in a north-south direction: the principal road from Belgrade to Čačak and Bosnia and Herzegovina, Montenegro and Kosovo (I grade State road M 22), and the railroad Belgrade–Bar, the only railroad that connects Serbia and Montenegro. A number of regional roads pass through the basin, of which the most important section is Stepojevac–Vreoci–Lazarevac (II grade State roads R 201 i R 203). [8]



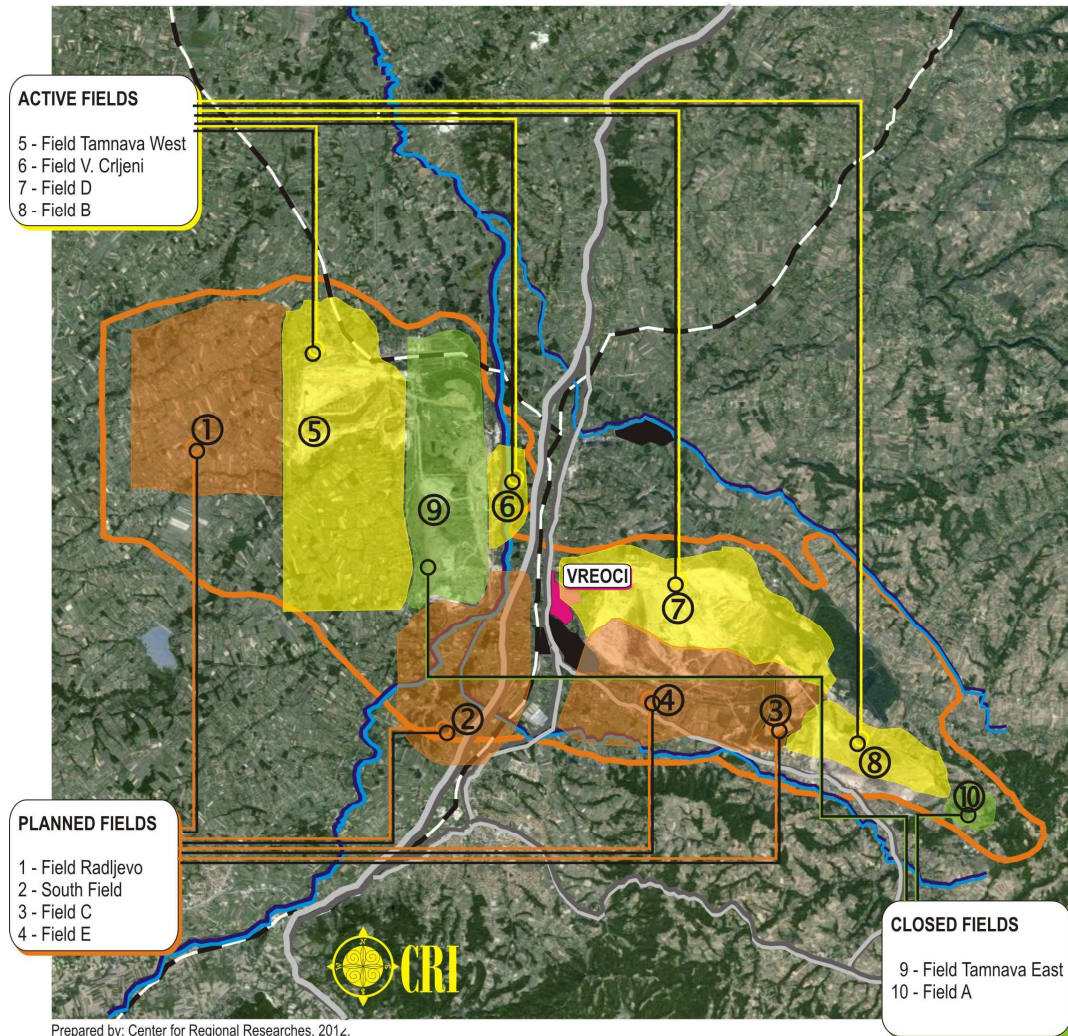
Kolubara lignite basin is widely considered to have exceptional strategic importance for Serbia. Officially, nearly 99% of balance reserves are based on lignite along with a small amount of brown-lignite coal. The total geological reserves of the Kolubara lignite basin are slightly over three billion tonnes of lignite, of which approximately 2.1 billion are balance reserves certified by the State Committee of the Ministry of Mines and Energy. The volume of coal production in the basin is at a stable level of around 29 million tonnes of coal annually, which amounts to 75% of coal produced yearly in Serbia without Kosovo. This production is followed by about 70 million cubic tonnes of overburden. Most of the lignite from the Kolubara lignite basin - some 90% - supplies the TPP Kolubara in Veliki Crljeni, TPP Nikola Tesla in Obrenovac and TPP Morava in Svilajnac, with a total capacity of about 3,100 MW, while the remaining part is processed for industrial and consumer purposes. Although the energy value of lignite is low (on average 7500 kJ/kg, with a high percentage of water and ash), about 52% of the 36 050 GWh total electricity produced in Serbia in 2011 was produced on the basis of the Kolubara mine lignite. [5], [4], [8]

**The exploitation area of Kolubara lignite basin** covers 133.9 km<sup>2</sup>, of which 51.14 km<sup>2</sup> or 38.2% of the area is used for mining purposes. The exploitation area is about 25 km long and 2 to 8 km wide. It covers the territory of two municipalities, Ub and Lajkovac, belonging to the Kolubara district, and two City municipalities, Lazarevac and Obrenovac, belonging to the City of Belgrade, as a part of Metropolitan Area. The most important part of the exploitation area is located on the territory of the Lazarevac cLazarevac. [8]

The Kolubara river divides the exploitation area into eastern and western parts. The eastern part of the area is located between the river Turija in the north, Peštan in the south and Kolubara in the west and is divided into five fields. One of these fields was closed (Field A), two are active fields (open pit mines on Field B and Field D) and two fields are designated for future exploitation (Field C and Field E). The western part of the area is located between the Kolubara river in the east and the rivers Tamnava and Ub in the northwest and is also divided into five fields. One of these fields was closed (Tamnava East Field ), two are active fields (open pit mines Tamnava West Field and Veliki Crljeni Field ), while two fields are designated for future exploitation (Radljevo Field and South Field). [8], [5], [11]

The thickness of the coal seam in the exploitation area varies between 2–10 m at the edges up to 25–45 m at the central parts of the area, and at some locations up to 100 m, which is why the depth of every pit is very different. The ratio of coal and overburden ranges from 1:1 to 1:10, depending on the depth of the coal. Coal is found at an average depth of 20–22 m, which explains the usage of open pit technology. [8], [1]

**Map 2: Exploitation area of Kolubara lignite basin**



Coal mining in Kolubara mine basin has begun in 1896. Open pit mining began in 1952. End of coal mining in the Kolubara mine basin is planned after the year 2060. [5], [8]

**The centre of the exploitation area of the Kolubara lignite basin is in Vreoci.** Vreoci is a twofold centre of the area. Firstly, Vreoci is the physical and natural centre of the exploitation area,

at the junction of the eastern and western part of the area. Communication of personnel and equipment between the two parts of the exploitation area is possible only through Vreoci. [7], [8]

Secondly, in Vreoci the industrial hub of the exploitation area of Kolubara lignite basin is located. The largest industrial-transportation zone of the basin area, covering 272 hectares, is located at the southern part of the settlement. About 7 km north of Vreoci in the settlement of Veliki Crljeni is the second major energy-industrial zone, covering an area of about 250 hectares, where TPP Kolubara and company Kolubara Universal (rubber processing and manufacturing of conveyor belts with steel cords and textiles, for the operation of equipment for open pit mines) are located. At about 7 km south of Vreoci lays the city district of Lazarevac, population of 30 000, where the most of the employees in the Kolubara mine basin live. To the west of Vreoci is the railway from Belgrade to Bar and Montenegro. About 500 m further west of the railway the principal road from Belgrade to Čačak (I grade State road M 22) passes, while the regional road Stepojevac–Vreoci–Lazarevac (II grade State roads R 201 i R 203) passes through Vreoci. The Kolubara river is located west of Vreoci at about 1.5 km. [8], [7]

**The industrial and transportation zone in Vreoci**, one of the largest in Serbia, covers 272 ha. It is located on the southern edge of Vreoci on the way to Lazarevac. Construction of the zone started in 1956 by building a plant for drying lignite and the zone was continuously expanded until 1986. The zone now has around 5,500 employees, much more than population of Vreoci. The zone comprises five companies associated with MB Kolubara: Kolubara Metal (production, repair and installation of equipment and machines for production and processing of coal, 2,800 employees); Kolubara Prerada (processing and refining of coal from surface mines, 1,800 employees); Kolubara Ugostiteljstvo (preparation of meals for 16 000 employees per day, 500 employees); Kolubara Promet (purchase and sale of coal for household consumption, 300 employees); and Xella Serbia (production of light gas concrete blocks, 100 employees). Finally, Vreoci is the key point of communication for about 8,000 employees in the open pits, from a total of 10,000 employees in MB Kolubara. [2], [8]

Kolubara Prerada occupies the largest area in the zone, and has crucial importance in the production of lignite. For the excavation of coal a system of bucket wheel excavators is used. After the removal of overburden, which is deposited to dumps by a tape system, the excavation of the layers of coal follows. Part of the coal is conveyed by conveyor belts to the processing plants, while most of it is loaded directly onto trains for the power plants. The processing plants are in Kolubara Prerada, which has an area of 207 ha and includes facilities for: dry separation (crushing and grading of raw coal in three phases); processing and refining of coal (wet separation, in which coal is washed and tailings extracted); drying and classification; heating, for the entire industrial zone and for Lazarevac; and rail transport of coal for the thermo power plants. For industrial and

consumer use Kolubara Prerada produces around 750 000 tonnes of crushed raw coal and 700 000 tonnes of dried coal annually [5]

A railway junction, with a total area of 18 ha, which is connected with the main railroad Belgrade–Bar is part of the industrial zone in Vreoci. Beside the main railroad the railway line for the transportation of coal for Veliki Crljeni (TPP Kolubara) and Obrenovac (TPP Nikola Tesla) also passes the industrial zone in Vreoci. Also, Vreoci is the terminal point of the narrow-gauge railway Vreoci–Rudovci, which transports coal from Field B. The railway junction has eight tracks and within it, in addition to passenger and freight stations, is the marshalling yard for arranging of transport trains for coal to thermal power plants. Several additional tracks serve for the needs of the crushing plant, drying and classification of coal, as well as for maintenance of all facilities and delivery of parts and equipment. [7], [8]

On the southwest side of Vreoci, between the railroad and principal road, is a wastewater treatment plant (WWTP) for all wastewater from the industrial zone. Several high-power facilities pass through and around Vreoci: two main power lines of 110 kV, and several buildings, required for power distribution and operation in the industrial zone, with voltages of 6 kV to 110 kV. [2], [8]

The settlement of Vreoci is completely enclosed on three sides by the mining and industrial facilities and buildings. From the south it is closed by the industrial zone and wastewater treatment plant. To the east and southeast of Vreoci is the open pit mine Field D, on the very edge of the settlement. To the west are the railway and principal road and the space designated for the future open pit mine South Field. Further to the west and northwest of Vreoci are the river Kolubara and open pit mine Veliki Crljeni. [7], [8]

**The settlement of Vreoci** is the biggest settlement in the city municipality of Lazarevac after the town of Lazarevac itself. Lazarevac is one of 17 City municipalities of City of Belgrade, part of its Metropolitan Area, area of 389 km<sup>2</sup>, with population about 60,000, from which around 30,000 is in town Lazarevac. [1], [8]

The economies of both Lazarevac and Vreoci are completely dependent on mining, energetic and related activities. Traditionally, every municipality and settlement in the exploitation area of the Kolubara lignite basin has been undeveloped and small, with no industrial tradition, except in energy and mining, where aside from mining agriculture is the dominant economic sector. Therefore, Lazarevac is most closely associated with the lignite basin and with MB Kolubara. Of 33 settlements in the city municipality, nine are located in the exploitation area of Kolubara lignite basin (Vreoci, Prkosava, Rudovci, Mali Crljeni, Veliki Crljeni, Baroševac, Zeoke, Medoševac i Cvetovac), bearing all the consequences of being located like that. [1], [8]

The area of Vreoci cadastral municipality is 1879.00 ha (approximately 19 km<sup>2</sup>), but the area remaining free of open pits is much lower, 1016 ha. The urbanized area of the settlement is about

200 ha. As a result of industrialization, Vreoci has been shaped as a linear structure along the road Stepojevac–Lazarevac. The urbanization of the settlement is directly linked with the development of the industrial zone on the exit from Vreoci towards Lazarevac. [8]

Vreoci is an old settlement. The first written record of Vreoci dates from 1528, from the Turkish census of the Belgrade district. The keeping of civil registers in Vreoci began in 1837, and an elementary school was opened in 1844. According to the 2002 census, 3210 residents lived in 1088 households in Vreoci. Most of the economically active population, 60%, is engaged in mining and industry, while only 5.4% is in agriculture. [2], [7]

Social functions present in Vreoci are the local office and MZ, located in the Cultural Hall, together with other (sport, ecological, cultural and other) associations, as well as the elementary school, post office and a clinic with a pharmacy. Vreoci has its own church and graveyard. [7]



**Map 3: Social functions in Vreoci and its industrial zone**

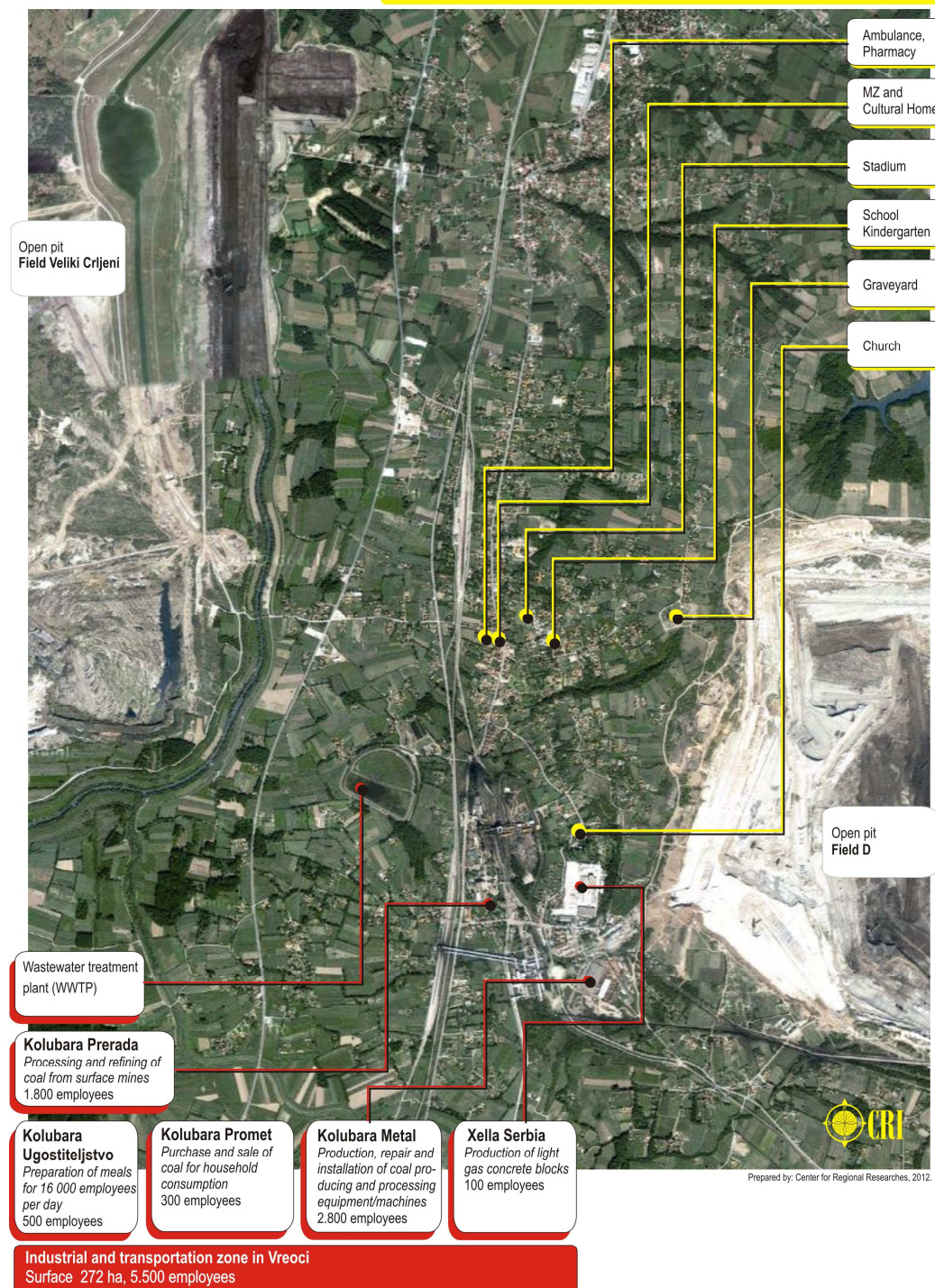
**Vreoci - the center of the exploitation area of Kolubara lignite basin**

Area of Vreoci cadastral municipality 1.879,00 ha

Area remaining free of open pits 1.016 ha

Urbanized area of the settlement 200 ha

3.210 inhabitants in 1.088 households



The official assessment is that beneath the settlement and industrial zone in Vreoci lays about 600 million tonnes of lignite. In order to use these reserves of coal, every valid planning document prescribes the relocation of Vreoci, so that the entire cadastral municipality of Vreoci in future, up to 2020, would be occupied for mining, for the expansion of open pit mine Field D and opening of a new open pit mine - South Field, as well as the relocation of the Kolubara river. Open pit mines in the area of the cadastral municipality Vreoci, after the rearrangement, should produce between 17 and 23 million tonnes of lignite annually, which is 60–70% of the total planned coal production in Kolubara lignite basin. [2], [6], [7], [8]

## **2. Environmental pollution in Vreoci**

**Environmental pollution in Vreoci is extremely high**, and is caused by the closeness of the industrial zone and open pits. The primary pollution occurs at near to its sources (in the industrial plants in Vreoci, at the open pits and dumps of ash and slag), and under adverse weather conditions secondary pollution occurs, caused by deposition of gases and particulate matter in a radius up to 10 km, that affects Vreoci and neighbouring areas. [7], [8]

**The use of open pit technology in the Kolubara lignite basin** changes the land radically and provokes spatial conflicts between the development of open pits and the environment, by the threat of destruction of the entire landscape. Another aspect of the negative impact is serious and permanent pollution of air, water and soil, thereby endangering the health of the population as well as animal and plant life. The third type of negative impacts are smaller and occasional exceedings of environmental quality standards, not significant individually, but which by cumulation can give rise to significant consequences. [8]

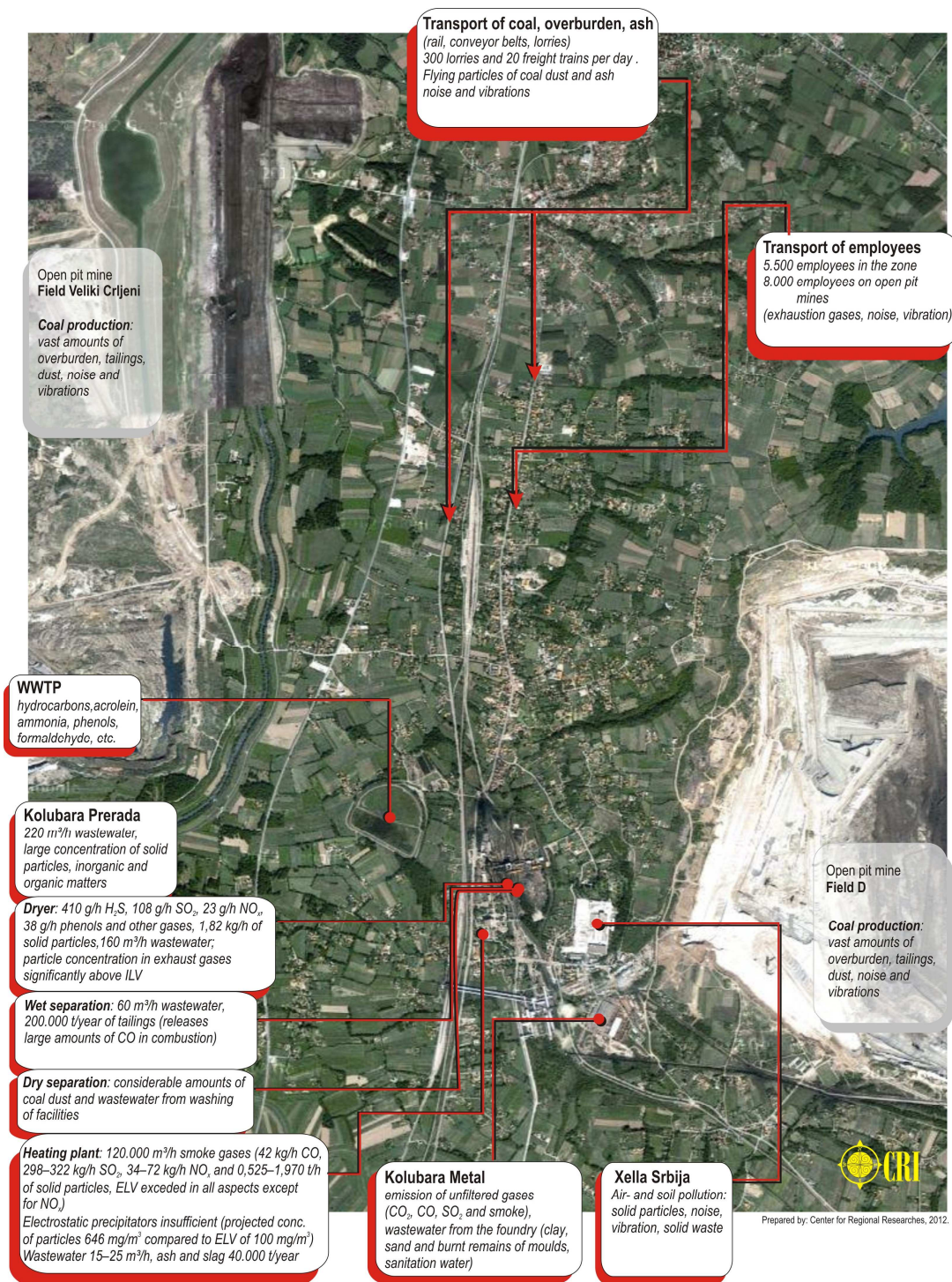
**Coal production at the open pit mines** of Field D and of Veliki Crljeni is followed by vast amounts of overburden, tailings, dust, noise and vibration. The volume of the production of overburden and tailings is much higher than lignite production and in the entire lignite basin in 2005 a total of 55.70 million m<sup>3</sup> of overburden to 26 million tonnes of coal was produced. Overburden and tailings are deposited in the open pit mines that are not operational anymore. The highest emissions of dust come from the zones of open pit mines and dumps of overburden and tailings. Pollution and emissions occurs also from mining equipment and vehicles, containing hazardous gases, nitrogen oxides, carbon monoxide, sulfur dioxide and volatile organic substances. [8]

**The industrial zone in Vreoci is the largest singular source of environmental pollution.** According to observations and measurements conducted in 1992 and then from 2001 to 2007, the most polluting facilities in the zone are: the facilities of Kolubara Prerada including the heating plant, Kolubara Metal, Xella Srbija, the coal transportation system and coal dumps, as well as



central wastewater treatment plant. Each of these facilities is undoubtedly source of pollution, and category of activities that require environmental impact assessment in accordance with article 30 of the Law on EIA (Official Herald of Republic of Serbia No. 135/04 and 36/09). [7], [8], [30]

**Map 4: Sources of pollution and amounts of emissions in Vreoci [7], [8]**





**There are five spatial zones of environmental vulnerability in Vreoci** based on the results of monitoring of imissions and receptors of pollution:

- Zone 1: at 250–500 m northwest from the dryer and dry separation plants and in the immediate vicinity of the industrial railway for Obrenovac and railroad Belgrade–Bar – emission limit values (ELV) of suspended particles in the air, total hydrocarbons, phenols, and sediment materials (measuring point: dry separation) are often exceeded;
- Zone 1a: space between the facilities of Xella and Kolubara Prerada width 100–150 m – increased pollution of suspended particles, sediment materials and increased noise;
- Zone 2: at 100–200 m around the sedimentation tank of the wastewater treatment plant – total hydrocarbons and phenols, and especially soot and suspended particles in the air during the winter (measuring point: waste water treatment plant) often exceed the legal limit value.
- Zone 2a: around the Community Hall – soot and suspended particles often exceed the legal limit value, especially during the winter (measuring point: Cultural Hall);
- Zone 3: occasional and less air pollution (northern part of settlement).

The spatial zones of vulnerability include the whole of Vreoci, and particularly the urbanized part of the settlement. [7], [8]

**Air pollution in Vreoci is extremely high**, as demonstrated by the results of measurements and extensive testing in 2002 and 2003. The air is polluted primarily by conventional pollutants ( $\text{NO}_x$ ,  $\text{SO}_2$ , soot, suspended particles, sediment material), and there are also pollution by specific pollutants (acrolein, phenol, formaldehyde, volatile hydrocarbons, organic nitrogen and sulfur compounds). The emissions come from the dry separation, drying plants and wastewater treatment plant. Concentrations of pollutants vary, and periodically – mostly in the winter – exceed the ELV by far. Air pollution is also a product of suspended particles and sediment material from the transshipment of coal, dust from the open pit mine, from processes in the industrial zone, from traffic. Measurements of imission values in many cases have shown exceeding of imission limit values (ILV), especially in Vreoci. Mean daily concentrations of suspended particles exceed the ILV for 14–82% at all five measuring points (the most at the Cultural Hall measuring point). The concentration of soot exceeds the ILV by 3–69% on four measuring points, and the most at the Cultural Home measuring point. Total sediment materials largely exceeds the ILV at the measuring points at the dry separation plant and at Barska Street. [7], [8]

**The pollution of land is very intensive.** It is most evident around the industrial zone, due to the deposition of ash particles and other particles from gases from the air, the fertilization of arable land with sludge from the filter residues of the wastewater treatment plant, spillage of polluted water, etc. Periodical tests of land quality have shown increased amounts of arsenic, while levels of some heavy metals (Cu, Zn, Cr, Pb, Ni, Hg) are elevated in comparison to the natural composition of the land. The results of measurements of sediment material around Kolubara Prerada show considerable excesses above the average annual concentration, as high as two times the average

value at all three measuring points (Cultural Hall, plant for dry separation and wastewater treatment plant). In the sediment materials the presence of heavy metals (Ni, Cr, Cd, Mn, Pb, etc.) was noted, while the concentration of some of them (Ni, Cr and Mn) periodically exceeds the maximum allowable concentration (MAC). [7], [8]

**The pollution of surface waters is also high.** . The results of water quality testing for the river Kolubara in 2001 before and after release of wastewater in the area around Vreoci (profiles Slovac, Beli Brod and Draževac) show that water quality was significantly worse after the discharge, although the water of Kolubara did not meet the prescribed requirements for Class II of water (of the five classes of water quality) even before the discharge : values of suspended materia often correspond to Class III or IV of water, while in periods of low water the quality goes below classifiable condition. The percentage of oxygen saturation and the amount of bacteria occasionally exceed the values prescribed for the class. Occasionally elevated concentrations of mercury, volatile phenols, hexavalent chromium, sulfides, mineral oil and other harmful substances occur. Saprobiological analysis shows moderate organic pollution of the water stream. Violation of the prescribed requirements for Class II water occurs due to an excessive number of coliform bacteria and high saprobic levels, and due to increased content of heavy metals (Cd, Hg, Cu, Ni), mineral oils, ammonia and phenols. Based on the tests, it can be assessed that the functioning of the wastewater treatment plant is not satisfactory. The water quality of the river Peštan is also monitored in Vreoci, and mainly corresponds to Class III water. The excesses are most often of suspended solids and change of organoleptic properties, while occasionally an increase of dissolved oxygen and percent oxygen saturation, presence of metals (Mn, Fe) and phenols and reduced electrical conductivity occurs. The regulated watercourses of Jaruga and Stari Peštan are quite small, and since they receive the wastewater from the plants for coal wet separation, they are constantly being highly polluted. [7], [8]

**Groundwater is polluted.** Measurements conducted in 2007 in the area around the sedimentation tank of WWTP showed that the water samples in piezometers exceeded the allowed values of each of basic parameter of water quality: colour, dissolved oxygen, COD, phenolic substances, iron, BOD<sub>5</sub>, suspended solids and the dry residue of filtered water. Groundwater used as a source for supplying the settlements is threatened by three parallel processes: (a) pollution of surface waters has tight interaction with the quality of groundwaters,; (b) operations in the open pit mine and associated drainage systems for their protection from groundwater inflow leads to the radical decrease of piezometric levels in groundwater sources (declining trend of ground water level) that largely aggravates the situation of public water supply systems and individual supply wells; (c) the groundwater is also polluted by the ash and slag dumps. [7], [8]

**The condition of the water supply network is very poor** in the entire exploitation area of Kolubara lignite basin, **especially in Vreoci**. Due to the drastic changes in the groundwater

regime, households are unable to supply their water from individual wells. There are serious problems also in the functioning of public services, since kindergartens, schools and clinics have no regular supply of drinking water. In Vreoci sanitation of the settlement is also very poor due to incomplete construction of sewers in some parts, and the system has lost the characteristics of the separation system. [7], [8]

**Management of municipal, industrial and hazardous waste in Vreoci is not satisfactory either in terms of collection nor disposal.** Organized collection of municipal solid waste is conducted at only about 30% of locations, mainly along the regional road. There are a number of illegal dumps, mostly in uninhabited areas near the open pits. Disposal of waste is conducted in the open pit mine Field D, but that dump is not adequately equipped with infrastructure to obtain the status of a sanitary landfill. Industrial waste is mainly sold as secondary raw material. The treatment of hazardous waste is not known. [7], [8]

**Noise and vibration levels in Vreoci are extremely high,** but not measured systematically. Periodical measurements performed in at Kolubara Prerada have shown that the noise level considerably exceeds the norm. [7], [8]

**Road and rail freight traffic in Vreoci is a particularly large source of pollution of air and soil, as well as noise and vibration pollution.** About 300 heavy trucks per day pass through Vreoci, and on the railroad there are over 20 coal-transporting freight trains passing daily. On the section Vreoci–Lazarevac, that is part of a II grade State road (R 203), within the annual traffic count, during last five years traffic volumes typical for I grade State roads were recorded, or more than 3,000 vehicles per day, and in the Spatial Plan of the exploitation area of the Kolubara lignite basin, traffic volume projected on that section is about 8,000 vehicles a day. [2], [7], [20], [8]

**Environmental pollution in Vreoci has constantly been extremely high, for at least the last two decades.** Pollution has grown with the development of the industrial zone and open pits, and with their reaching the current level during the mid 80's of the 20<sup>th</sup> century, which is their highest level since the formation of the industrial zone and beginning of the operation of the open pit mines, pollution has also reached its highest levels. The current systems for the reduction and treatment of all types of pollution are old and have been poorly maintained for decades, so the question is whether they have any significance for the reduction of pollution. In total, the entire area of Vreoci is a first-class endangered environment. [8], [30]

### **3. Institutional framework for addressing the problem of settlements Vreoci**

**The main entities in the institutional framework** making decisions regarding Vreoci are:

- 1) MB Kolubara ie. EPS; Lazarevac ie. the City of Belgrade; and
- 2) ministries competent for mining, energetic, environment protection, spatial planning, agriculture, water management, transport and finance ie. The Government of the Republic of Serbia. [8]

**MB Kolubara** in all official documents is *imprimis* as responsible for addressing the problems of Vreoci, primarily due to the needs and interests of its activities. [6], [7], [8]

In the past 25 years MB Kolubara has substantially changed its legal status several times, and with it its authorization and licences in relation to solving the problems of Vreoci. Until 1989 it had been an independent complex company named Mining-Energetic-Industrial Complex (acronym in Serbian REIK) Kolubara when by a decision of the Parliament of Serbia the Public Enterprise Electric Power Industry of Serbia (the name has remained to this day) was established, which REIK Kolubara became part of and thereby ceased to exist as an independent entity. Then in 1991 the Government established the Public Enterprise Mining Basin (MB) Kolubara, reduced by several organizational units compared to the situation from 1989, but as an independent entity of equal status as EPS. After the political changes in 2000, Serbia accelerated reforms and in 2004 it adopted a new Energy Law and the Energy Development Strategy until 2015. These documents prescribe the separation of energy activities from other activities for each entity involved in energy production. Based on that, in 2005 a decision of the Government established the current EPS, and by an internal decision of EPS, MB Kolubara was founded as a subsidiary company with the legal status of a limited liability company (acronym in Serbian d.o.o.). [21], [19], [4], [5]

Notably, the legal form of limited liability is the simplest legal form for companies, and is a form suitable for and mostly used by small and medium enterprises having a small number of employees: all decisions whether strategic or at a daily operational level are made at level of one executive individual. This legal form is completely inappropriate for a company with about 10,000 employees, and as a consequence the company suffers from poor organization and inadequate capacities to perform all the required tasks. More importantly, all those who are in some way connected with MB Kolubara suffer from the inappropriate legal form of the company, since because of its legal form, it is not able to make all necessary decisions in required volume, and especially not in the required timeframe necessary for effective performance. [29], [19]

**The relationship between EPS and MB Kolubara** is a very unequal one, based on the *Decision on the establishment of public enterprise for the production, distribution and trading of electricity*, from 2005. The Management Board of EPS has all ownership powers over MB Kolubara (Article 17, paragraph 1, item 10 of the Decision), including the authority on proprietary powers in some matters when they can may be directly performed by authorized representatives of EPS. **The management of MB Kolubara decides just about issues up to 50 million dinars value (a**

little less than half a million euros), while all decisions worth more than 50 million dinars are the responsibility of the Management Board of EPS. In this way, the only purchaser of the product (lignite) completely controls the manufacturer of that product. [21], [19]

**The city municipality of Lazarevac** is one of the 17 municipalities of the City of Belgrade. In 1971 it was added to the Belgrade Metropolitan Area by separation from the Kolubara District. Since it is 60 km away from the inner city area, for a long time it had the status of suburban municipality, with a few more jurisdictions compared with the inner urban municipalities. The Statute of the City of Belgrade from 2008, adopted based on the Law on the Capital City from 2007, abolishes the status of suburban municipalities and equates suburban and urban municipalities. The city municipality of Lazarevac, not being a unit of self-government, has reduced legal jurisdictions and budget compared to units of local *self-government* – the units being the City of Belgrade and the neighbouring municipalities that are not part of the City (Lajkovac, Ub, Ljig, Arandelovac). According to the *Law on Local Self-Government*, a unit of local self-government has all the jurisdictions of local authorities and their own revenues for the implementation of their jurisdiction. The Government is obliged to provide minimum funding for each unit of local government in case the unit is unable to collect the revenues, while the unit of local self-government retains its full autonomy from the Government. Therefore, the City municipality of Lazarevac has no income of its own, but is funded by revenues from the City of Belgrade. Also, the City municipality has jurisdiction only in small issues, such as eg. regarding the issuance of building permits, the municipality is deciding only for buildings up to 800 m<sup>2</sup> gross floor area, or in terms of road maintenance, is responsible for maintenance of only country and dirt roads, etc. [1], [3], [22]

**The relationship between the city municipality and the City of Belgrade** is a clearly and strictly hierarchical one. The City of Belgrade has full-scale legislative and statutory jurisdiction to direct the activities of city municipalities. The main instrument is the control over the execution of the budget of the city municipality, which is in the authority of the mayor of, who exercises his power through receiving quarterly reports of the President of the city municipality on the implementation of dedicated revenues of the city municipality (article 99 of the Statute of the City of Belgrade). Furthermore, a unit of local self-government, in accordance with the Law on Public Enterprises and Activities of General Interest (Official Herald of Republic of Serbia No. 25/00, 25/02, 107/05, 108/05 and 123/07), has no jurisdiction over a company that was founded by the Government. Therefore neither does the City of Belgrade have any possibility to influence companies such as EPS or MB Kolubara. [22]

**The ministries** responsible for mining, energy, environment, spatial planning, agriculture, water management, transport and finance are responsible for solving the problem of Vreoci in accordance with the type of work, eg. for the expansion of open pits, for preparation of planning

documents, for the relocation of settlements, for the relocation of watercourses and/or roads and for numerous other related activities. [23]

**However, the key role in decision-making always belongs to the Government.** Only the Government represents the Republic of Serbia as a legal entity and exercises the rights and obligations of the Republic of Serbia as a founder of public enterprises (Article 4 of the Law of the Government), and adopts its decisions by a majority vote of all members of the Government (Article 26). The Minister informs the Government on all matters from the scope of its jurisdiction, submits to the Government proposals for the regulation of issues within the jurisdiction of the Government and the National Assembly and is responsible for implementation of programmes and policy of the Government in scope of its competence (Article 14). Thus, the policy and allocation of budgetary resources of each ministry is decided by the Government as a whole, and the role of ministries in decision-making is primarily technical. Also, the Government has control and authority regarding upholding the legality and the transferring of certain budget funds over each unit of local *self-governments*, including the City of Belgrade, and from it to the City municipality of Lazarevac. [24], [3]

The institutional framework for addressing the problem of Vreoci indicates the existence of a considerable **gap between the jurisdictions and powers** of the key institutions. MB Kolubara, the city municipality of Lazarevac and the relevant ministries have the jurisdiction required to address issues related to operative activities (eg. preparation of documentation for the expansion of open pits, the implementation of the expropriation of real estate, the determination of environmental protection measures, etc.), but EPS, the City of Belgrade and the Government have the legal authority and financial resources for implementation of the decisions adopted by the institutions of the first group. That means that every institution from the first group, although competent to adopt decisions in area of its jurisdiction, has no power, legal and/or financial, to implement this decision in its entirety, since the institutions from the second group are authorized for implementation: MB Kolubara is controlled by EPS; the city municipality of Lazarevac is controlled by the City of Belgrade; and finally, ministries are controlled by the Government. Thus if the necessary decisions and actions of the organs and institutions of the second – controlling – group are not put into effect, decisions adopted by the organs and institutions from first – executive – group cannot be implemented. However, regarding the problem of Vreoci, only the Government controls all levels of decision-making, and any action or decision in terms of solving the problems in Vreoci by any other institution except than the Government itself is only a preparatory step for the Government's decision, and only the Government's decision has real consequences. But, the Government is not bound to accept any potential preparatory steps. [21], [22], [24]

This institutional framework, that is formed and maintained as a highly centralised system, particularly with regard to strategic areas that include the production of lignite and electricity, in this respect has not changed much over the past 20 years, regardless of changes of the Constitution of the Republic of Serbia since 2006. Apart from the strict centralization of decision-making, this institutional framework creates a large lack of responsibility of each entity. Since the decision is not bound to the implementation, each entity of the institutional framework may adopt any decision, and then transfers responsibility to the superior entity for the lack of implementation. Only the Government has no such option, but because of that, every implementation of decision is transformed into a political issue, by which regular action of state authorities is transformed into a permanent political campaign. [25]

#### **4. Policy of MB Kolubara and the EPS regarding Vreoci: Threats to Vreoci by the expansion of open pit mines**

For many years following 1952 and the beginning of the usage of open pit technology in the Kolubara lignite basin, the fact that this technology conflicts with the environment was substantially acknowledged and respected in the business operation RB Kolubara, ie. by its legal predecessor (Mining-Energetic-Industrial Complex – REIK Kolubara). During the period of largest investment in the energy sector in Serbia and Yugoslavia, from 1965–1979, and later with somewhat decreased investment volumes (that did not affect the amount of coal production) until 1989, the perpetually recurrent actions of expropriation of real estate for the expansion of open pit mines in the Kolubara lignite basin was carried out within three to five years before the occupation of land and property. [8], [9]

Political change and the dissolution of Yugoslavia during the 90s led to a termination of investing in the expansion of open pits. During that decade, when Serbia was under UN economic sanctions, the production of electricity was the only area of energy where Serbia was completely independent, and the production of electricity became a par excellence national-political interest. Since more than 95% of all lignite from Kolubara lignite basin is used to generate electricity, lignite production also became a national-political interest. Both productions, of electricity and lignite, had a decline in the 90s, but in 2005 they reached the level of 1990 and since then both have had a trend of slight increases. Regular works on the excavation of coal led to the situation that the open pits in 2000 reached up to the land and houses in Vreoci that were planned for expropriation in 1995, but expropriation has not been realized up to this day. [8], [9]

Since 2000 the development of the open pits of the Kolubara lignite basin entered into a new phase. Two large open pits, Field D and Field Tamnava East, have reached the end of their service life, and the conditions for opening of new open pits have not been created (Field E, Radljevo Field and South Field). Today the Tamnava East Field is already exhausted and serves as an overburden and tailings dumps for the open pit mine Tamnava West Field. The second important change of

circumstances is related to the conditions for the expansion of the open pits. The expansion of the open pits in the exploitation area over the past 50 years advanced from the edges toward the centre of the area, and in 2000 the open pit mine Field D has reached the center of the area, Vreoci, but over more than 20 years lands and houses have not been expropriated for the expansion of open pits, nor have other required actions for preparation of the ground for this purpose been performed. [8], [11]

In the new phase of the development of open pits, the policy of MB Kolubara and the EPS concerning Vreoci was implemented in three stages, the dynamics and quality of which, but not the objectives, were brought forth by the changes of leadership in each of members of the institutional framework (Prime Minister and the responsible ministers, directors and management of MB Kolubara and EPS, the mayor of Belgrade and president of City municipality of Lazarevac, and political leadership of the City and City municipality). This new phase of development of open pits in general is characterized by intensifying conflict between the technology of open pits and its environment, and the continual insistence of members of the institutional framework on achieving the interests of MB Kolubara and EPS at the expense of the citizens of Vreoci. [6], [7], [8], [9], [10]

**The first stage of the policy of MB Kolubara and EPS regarding Vreoci**, encompassed the period from 2001 to the first half of 2004, and was initiated through the complete negligence of the individual and collective rights and lawful interests of the citizens of Vreoci by MB Kolubara and City municipality of Lazarevac. [9]

In mid-2001 the management of MB Kolubara for the first time in 10 years undertook activities to expand the open pits and announced the idea of the relocation of the graveyard in Vreoci a few hundred metres north, in order to expand the open-pit Field D. Citizens of Vreoci demanded more details about these plans in order to plan their own lives and in March 2002 the director of EPS presented the internal MB Kolubara plans on expanding open-pit Field D and of opening the open-pit Veliki Crljeni Field on the territory of cadastral municipality of Vreoci. A highly bad solution was laid out in these plans: relocation of only half of the population of the settlement, reduction of the territory of the settlement to 1/3 of the current territory, the remaining part of the settlement left standing on a 500 m wide strip of land, between the two 100 m deep open pits, and other unacceptable solutions. Citizens of Vreoci held an assembly in April 2002 to discuss these plans by MB Kolubara and sent a request to the Government demanding the protection of their fundamental rights. Representatives of MZ of Vreoci, ES "Vreoci" and citizens of Vreoci were received in the Ministry of Mines and Energy. It was agreed that a commission would be formed, comprising representatives of the ministries of mining and energy, environment, economy and spatial planning, with the task of proposing a solution to the problem of Vreoci. The commission was formed in autumn of 2002 and it had 20 months for the preparation of a proposal. [9]



Regardless of the deadline that the Commission of the Government had, MB Kolubara announced that it would begin the relocation of the graveyard in Vreoci in maximum 12 months. Attempts by MZ Vreoci, ES "Vreoci" and citizens to open negotiations with MB Kolubara regarding the possibility of the relocation of the graveyard yielded no result. In January 2003, about 1,000 citizens of Vreoci, among whom were members of ES "Vreoci" and members of MZ Vreoci, blocked the regional road Stepojevac–Lazarevac, railway Belgrade–Bar and industrial railway Vreoci–Obrenovac, protesting against the relocation of the graveyard, and against the disastrous condition of the environment caused by the regular operations of MB Kolubara. The basic requirement of citizens and ES "Vreoci" was that if the graveyard was to be relocated, the whole settlement must also be relocated. After three days of protests, that were recorded by all national printed and broadcast media, the current Energy Minister, Kori Udovički arrived to Vreoci and issued a press release confirming the legitimacy of requests of the citizens, the need for acceptance of their interests in the process of expanding of open pit Field D and the necessity of urgent reduction of environmental pollution in Vreoci. In May 2003, at a meeting at the Ministry of Energy, the Minister introduced to the representatives of the MZ and citizens of Vreoci a decision, according to which MB Kolubara should bypass the graveyard, instead of relocating it, and the Vreoci would not be relocated for at least 10 years. The Minister sent a personal letter to each family in the settlement where, among other things, it was written that *"the law, your demands and a technical-economic analysis are forcing RB Kolubara to bypass the graveyard, at the cost of losing a lot of coal. (...) Only some ecologically endangered households will be relocated"*. So, the first stage was completed by the recognition of the legitimacy of the demands of MZ Vreoci and citizens of Vreoci and by the decision to postpone the expansion of open pits for at least a decade. [9], [13], [26]

**The second stage of policy by MB Kolubara and EPS regarding Vreoci**, from the second half of 2004 up to the first half of 2010, began with a legal-formalistic approach of all members of the institutional framework, especially RB Kolubara and EPS and the city municipality of Lazarevac, towards the citizens of Vreoci, followed by constant circumvention of acknowledgements of the legitimate rights and interests of the citizens. [10]

In autumn 2004 the Management of RB Kolubara again started activity on the relocation of the graveyard in Vreoci, despite the decision of the Minister in 2003, since the minister was changed after elections held in late 2003. This time, MZ Vreoci, ES "Vreoci", and citizens were involved in the decision-making process. New position of RB Kolubara and EPS on problem of Vreoci was that the open pit mines should expand immediately, and that precondition for their expansion was the relocation of the whole of Vreoci, including the graveyard. On this basis the currently applicable documents and decisions were adopted:

- 1) The Management Board of EPS, on November 12, 2007 adopted a Decision on the acceptance of the Programme guidelines for the relocation of the settlement of Vreoci, No. I-925/3, and

the Government gave consent to this decision by Decision No. 310-5277/2007-3, on November 22, 2007;

- 2) The Assembly of the city municipality of Lazarevac, in accordance with the Programming guidelines, on December 25, 2008, enacted a General Regulation Plan for the area of the Vreoci – the Programme guidelines and the results of a poll of residents of Vreoci regarding relocation are integral parts of Plan;
- 3) The Government, on December 30, 2008, enacted a Spatial Plan of the exploitation area of the Kolubara lignite basin;
- 4) The Government, on February 19, 2009, enacted a Decision on determining the public interest for expropriation – administrative transfer of real estate – lands and buildings on the land which by law may be subject to expropriation. The expropriation beneficiary is EPS, and the purpose of the expropriation is expansion of the open pit Field D and opening of the South Field;
- 5) The Assembly of the city municipality of Lazarevac, on March 30, 2009, adopted the Decision on terminating the use of the local graveyard in Vreoci (Official Gazette of the City of Belgrade No. 13/09), that prohibits the burial and building of new monuments and other memorials, determines Lazarevac 2 Šopić as a new graveyard, and authorizes RB Kolubara to perform transfer of mortal remains and monuments and other memorials at its own expense;
- 6) The Assembly of the city municipality of Lazarevac, on the same day, March 30, 2009, enacted a Conclusion that allows the relocation of the graveyard after signing of contracts and advance payments to owners of graves amounting to 35% of the assessed value<sup>\*\*</sup>. [6], [7], [8], [10]

The *Programme guidelines for the relocation of the settlement of Vreoci* is the basic document for solving the problem of Vreoci. It completely eliminates the problem of threats to Vreoci by the expansion of open pits and the problem of catastrophic environmental pollution in Vreoci, and it is also the baseline for the entire legal framework for addressing the problem of Vreoci. Programme guidelines set the ground rules about relocation. It was enacted as an internal document of EPS, without any consultations, but the rules in the Programme guidelines acknowledge all demands

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<sup>\*\*</sup> This conclusion is an example of violation of the prescribed rules on expropriation of real estate, because it legally binds the purchasing of secondary property with purchasing the real estate of the same person. The local graveyard in Vreoci is recorded in the cadastre not as a graveyard, but as ordinary parcel, where any person who is a guardian over the burial place has a stake in the property. Binding the purchasing of an ownership share of parcel of one person for the purchasing of all real estate of the same person is a violation of property rights. Moreover, the base for the advance payment is a rough estimate of real estate value prepared by the expropriation beneficiary, in this case MB Kolubara, the only customer in the process of expropriation. Because of the conflict of interests it is unacceptable that the price of real estate should be determined by MB Kolubara. A particular source of the problem is the fact that, because of the traditional avoidance by owners of registering their ownership in the real estate cadastre, the advance payment of the value of real estate was carried out to any representative of the household, usually to young persons, who often do not live in the settlement where their parents live, which is the source of a large number of subsequent litigations. However, despite the apparent illegality contained in this Conclusion, about 1/3 of households envisaged for the resettlement (about 350) accepted the advance payment.

and the lawful rights and interests of MZ Vreoci and citizens of Vreoci and generally are accepted by them. [6]

The entire legal framework for the implementation of resettlement of Vreoci was adopted, after the adoption of the Programme guidelines, within just three months, from December 25, 2008 up to March 30, 2009. [7], [8], [10]

The General Regulation Plan for the area of the Vreoci, though in compliance with the content of Programmatic basis, was passed very quickly, which was possible among other reasons, by ignoring all suggestions by ES "Vreoci", MZ Vreoci, and the citizens of Vreoci. At the public hearing on the Plan, held at the Cultural Hall of Vreoci, the planning commission of the city municipality of Lazarevac rejected all 37 explained and well justified objections and suggestions submitted by MZ Vreoci. A particularly controversial detail of the Plan was the proposal of the location of Kusadak for collective resettlement: this proposal was rejected by the citizens of Vreoci. Although rejection of this proposal was not taken into account, this location still had not been adjusted to its purpose and is not designated as construction land, which makes it completely inappropriate for any type of resettlement. The General Regulation Plan, from the aspect of site selection, is focused on the construction of municipal infrastructure and the development of Lazarevac, from the funds which should be provided by MB Kolubara and EPS, instead of focusing on the relocation of Vreoci. [7]

The most important parts of the General Regulation Plan for the area of Vreoci, in terms of addressing the problem of Vreoci, are:

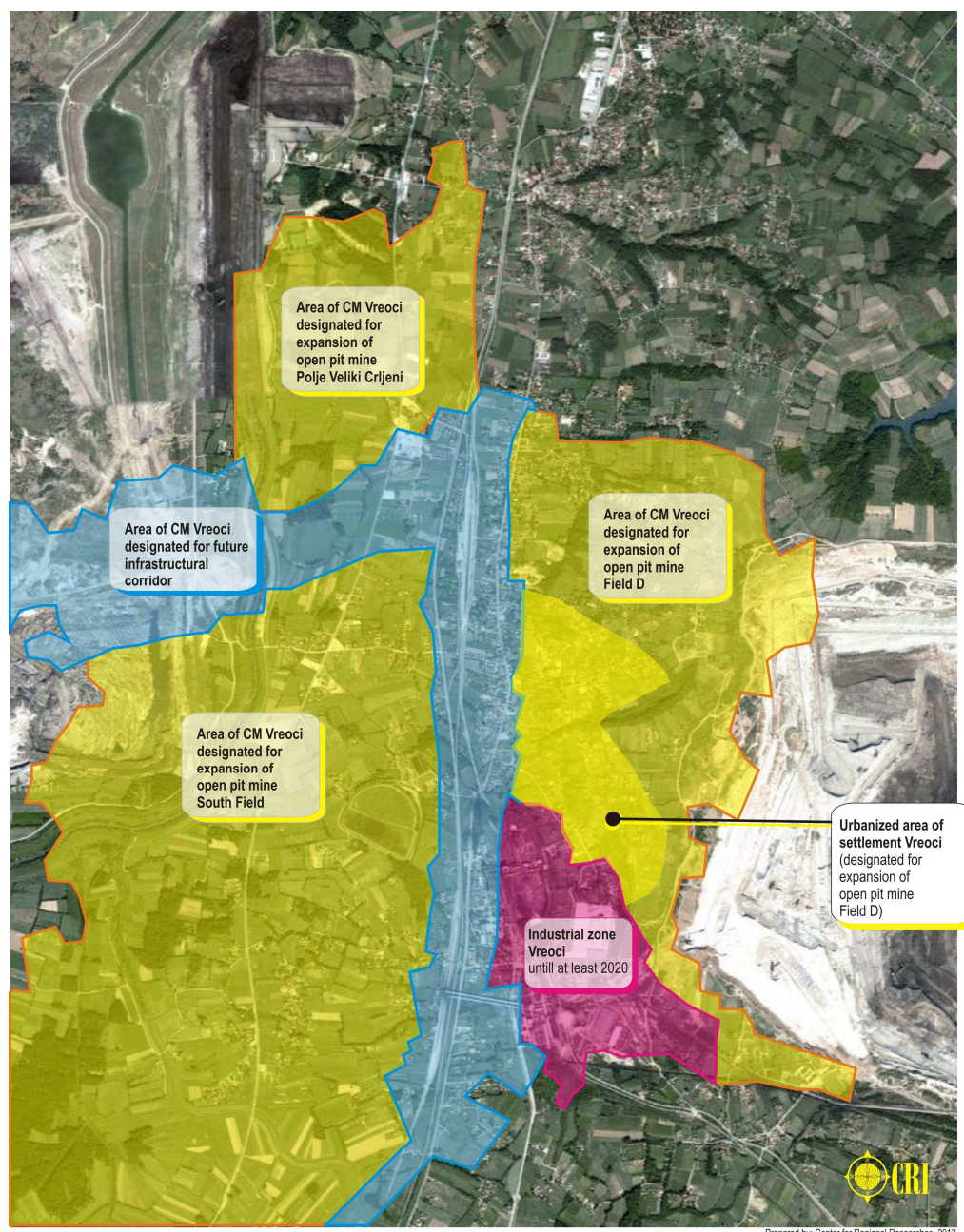
- 1) that the entire area of the cadastral municipality Vreoci up to 2020 should be occupied as an addition to the occupied areas for the open pits Tamnava East Field and Field D, and also for the expansion of open pit Field D, for the opening of new open pits South Field and Field Veliki Crljeni and for the relocation of the river bed Kolubara;
- 2) to resettle a total of 1006 out of 1088 households in Vreoci in the time frame of 2008–2015 in three phases:
  - a) Resettlement Phase 1, in the period 2005–2008, 85 households in the zone of Veliki Crljeni open pit field and on the Vreoci hill in the zone of open pit Field D;
  - b) Resettlement Phase 2, in the period 2008–2011, 603 households from the central part of Vreoci in the zone of Field D open pit and in the zone of the first phase of exploitation of the South Field open pit;
  - c) Resettlement Phase 3, in the period 2011–2015, 318 households in the zone of South Field open pit, in the zone of a new infrastructural corridor and parts of settlement that are indirectly endangered by mining operations. [7]

The weak point of the Plan is the fact that the realization of expansion of open pits is not possible without strict execution of the planned time frame for resettlement of Vreoci, because without previous resettlement living conditions in Vreoci will be unacceptable. The Plan also confirmed that

the urgent relocation of Vreoci is the only solution for the threats of open pits and environmental pollution of the settlement. [7], [15]

On the basis of Programme guidelines and the General Regulation Plan for the area of the Vreoci, on May 12, 2009, bodies to ensure stakeholder and public participation and transparency during the relocation were established: a Committee for monitoring the Vreoci resettlement (12 members – three representatives of EPS, MB Kolubara, Lazarevac and MZ Vreoci) and the Committee for monitoring the Vreoci graveyard relocation (10 members – three representatives of EPS and MB Kolubara and two representatives of the Lazarevac and MZ Vreoci). Despite the fact that the office of both the Committees was designated in the Cultural Hall in Vreoci, neither of these two Committees have ever held a session at its headquarters. The sessions were held only in the administrative building of MB Kolubara, and only MB Kolubara determined the time of their sessions and the content of the agenda. [6], [7], [10]

**Map 5: The General Regulation Plan land use of cadastral municipality Vreoci**



As a special type of control and guarantee for the implementation of the Programme guidelines and the General Regulation Plan for the area of Vreoci, the Government established a Project group for coordination of activities on the relocation of Vreoci by decision No. 310-01-00525-2009-06, on August 25, 2009. The project group consists of one representative of each relevant ministry (mines and energy, finance, and environment and spatial planning), two representatives of EPS and MB Kolubara and one representative of Lazarevac. [6], [7], [10]

The Committee for monitoring the Vreoci resettlement held 11 meetings until October 2010, approximately one session every month. This Committee includes also activities of the Committee for monitoring of the Vreoci graveyard relocation in its work, for reasons of economy, because its scope covers the whole scope of the second Committee. The work of this committee was characterized by a lack of implementation of the committee's decisions by MB Kolubara and Lazarevac, open indifference of MB Kolubara and Lazarevac to addressing the large number of irregularities in the implementation of the resettlement activities of the Vreoci (improper conduct of process of the appraisal of real estate in the process of expropriation, lack of drinking water in the Vreoci which MB Kolubara should provide, not providing sufficient conditions for the normal functioning of all institutions and public services in Vreoci - clinic, school, Cultural Hall, and others), as well as constant rejection of suggestions by representatives of MZ Vreoci. Representatives of MB Kolubara and Lazarevac especially ignored complaints about increasing delays in resettlement and constantly avoided suggesting locations for the collective relocation of the settlement. Furthermore, between the Committee for monitoring of resettlement and the Government's Project group for coordination of activities on resettlement no communication existed, so it is unknown whether the Project group acted at all. [27]

**The third stage of policy of MB Kolubara and EPS regarding Vreoci**, from mid 2010 to now, began with the decision of the Council of MZ Vreoci from June 28, 2010 to suspend its participation in the Committee for monitoring of Vreoci resettlement and in the Committee for monitoring the Vreoci graveyard relocation. The decision was taken at a citizens' gathering attended by hundreds of citizens and a large number of members of ES "Vreoci". With this decision, both of Committees have lost their legitimacy. This decision was the culmination of the growth of distrust of Council of MZ Vreoci and citizens of Vreoci, that was caused by a persistent legal-formalistic approach that avoided to solve the problem, and the lack of any proactive decisions or other activities of MB Kolubara and EPS and Lazarevac. [27]

While both of the Committees have lost their legitimacy and ceased to hold meetings from end of 2010, MB Kolubara and Lazarevac continued to conduct activities, mostly on the relocation of Vreoci graveyard Vreoci. However, on the 10th session of the Committee for monitoring of the resettlement of Vreoci held on November 17, 2010, without representatives of MZ Vreoci, the Committee unilaterally adopted a decision that Petka shall be the location for collective resettlement, and thus accepted the proposal of ES "Vreoci" and the Council of MZ Vreoci that was rejected during public hearings on the presentation of the General Regulation Plan. Simultaneously they made a unilateral commitment to extend special financial support for MZ Vreoci, public services and organizations in Vreoci and employment of unemployed people from Vreoci. These unilateral commitments have not been met to date, thus confirming the manipulative approach of MB Kolubara to problem solving in the Vreoci resettlement. [27]

The dispute about the local graveyard in Vreoci between citizens and MB Kolubara took a dramatic turn on July 04, 2011 when the police and representatives of MB Kolubara occupied the graveyard without any prior notice. Based on the above mentioned Decision of the Assembly of the city municipality of Lazarevac on terminating the use of the local graveyard in Vreoci, which regulates the relocation of the graveyard to the new location and authorized MB Kolubara to carry out relocation, as well as the Conclusion of the Government 05 No. 352-4102/2011 from May 27, 2011 and a letter from the Ministry of Environment, Mining and Spatial Planning No. 352-07-00004/2011-07 from June 21, 2011 addressed to the Ministry of Interior, workers sent by MB Kolubara and about 1,000 police officers surrounded the graveyard at 4 o'clock in the morning, after which began the process of exhumation of mortal remains and graveyard relocation. The occupation of the graveyard was followed by protests by citizens of Vreoci, launched by ES "Vreoci", and was recorded in all national printed and electronic media. [15]

One of the many disputable questions concerning the relocation of the graveyard in Vreoci is that MB Kolubara had determined 4409 grave sites for relocation, although the Council of MZ Vreoci has obtained data on the number of entries in the deaths register for Vreoci for the period from 1837 up to 2009 that is 8906 from the Archive of the City of Belgrade, as well as from the Secretariat for Administration of the City of Belgrade. Owners of more than 120 graves and tombstones sued MB Kolubara for the process of relocation of the graveyard, and the Court hasn't ruled on their lawsuits yet. In consequence of the raid of the police linked to relocation of the graveyard, the official communication between the Council of MZ Vreoci and MB Kolubara and EPS has ceased. [15]

The Committee for monitoring the Vreoci resettlement, after an interruption of longer than one year, held its 12th session on February 21, 2012, without representatives of the Council of MZ Vreoci. At that session, inter alia, it was stated that 1141 grave sites of a total of 4409 determined grave sites remain to be relocated to complete the relocation of Vreoci graveyard. [27]

Finally, in March 2012, on the initiative of MB Kolubara, a meeting was held with the participation of representatives of the Council of MZ Vreoci, citizens of Vreoci, MB Kolubara and Lazarevac, but at the meeting again no proposals that could alleviate disputable issues were made – no proposal for reconciliation because of the forced relocation of graveyard, no proposals of locations for the formation of New Vreoci settlement or any other proposals of measures for real improvement of the conditions in Vreoci and overcoming deep distrust. [27]

In mid-2012 conditions in Vreoci regarding the threat of expansion of open pits and disastrous environmental pollution is unchanged since before 2008, prior to adoption of the legal framework needed to solve all these problems. The everyday life of the citizens and the functioning of social services has the same problems as before the adoption of the General Regulation Plan for the area of Vreoci which establishes the responsibilities for maintenance of social functions in the settlement

until the final resettlement: the local water supply works only every two hours; pollution is unabated; the volume of freight transport, road and railway, is even higher, and so on. The problem of pollution in Vreoci is even more enlarged: because of preparatory works on the extension of the open pit Field D, heavy equipment is always present in the settlement, while a new transmission line of high voltage is being implemented through the settlement. Moreover, the local graveyard is still under 24 hours police guard, with strict prohibitions on visits by citizens of Vreoci. MB Kolubara treats Vreoci as a mechanical sum of households, using its vast superiority in negotiations with individual households for unfair estimation of prices of real estate – lands and buildings, continues with the relocation of the graveyard regardless of the attitude of citizens and owners of grave sites, and does not perform any activity aimed at collective resettlement in order to preserve the identity of the settlement and at the formation of settlement Novi Vreoci. [28]

*The most important fact is that the timeframe for the relocation Vreoci from Programme guidelines and the General Regulation Plan has been completely abandoned:* the number of resettled households from Vreoci up to June 2012 is less than 100, while the timeframe from the Plan prescribes that by 2011, 688 households should be resettled, or more than 2/3 of the total number of households planned for resettlement, including the whole urbanized part of the Vreoci. [28]

Non-implementation of the General Regulation Plan has aggravated the already disastrous living conditions in Vreoci. Apart from the the huge pollution caused by the proximity of open pits, the industrial zone and the transportation of coal through the settlement, and continuing violations of the property rights of citizens by MB Kolubara for activities on expanding of open pits, the General Regulation Plan added special measures to ensure a fair determination of the price of real estate in the process of expropriation and to facilitate the use of land after expropriation. These special measures state the prohibition of construction in the settlement and prohibit the use of graveyard. [10], [7]

**Table: Requirements for construction, reconstruction and adaptation of the household** (– prohibited, + permitted)

Type of construction	Defined time for resettlement			
	by 2011	2011–2016	2016–2020	after 2020
The formation of new lots and construction of new houses	–	–	–	–
Building a new home on an existing plot	–	–	–	+
Upgrading of an old house	–	–	+	+
The renovation of an old house	–	–	+	+
The construction of new auxiliary facilities	–	–	+	+
Upgrading or renovation of existing auxiliary facilities	–	+	+	+
Building a new fence or gate	–	+	+	+
Reconstruction of an existing fence	–	+	+	+
Construction of new commercial building in housing	–	–	+	+
Renovation of existing temporary building in housing	–	+	+	+
Construction and replacement of installation in a house	–	–	+	+
Reconstruction of existing installations in a house	–	+	+	+
Construction of septic tanks, digging wells	–	–	+	+



While the prohibition of use of the local graveyard shifts the cost and increases the expenses of burial for the citizens of Vreoci (transportation expenses of the deceased to a more remote new graveyard), the above table shows that any serious activity in the maintenance of facilities in housing is prohibited in the vast majority of households in Vreoci: not only that construction of new houses is prohibited, but also upgrading and renovation of old houses, new construction or renovation or upgrading of existing ancillary facilities, construction of new and replacement of old installations in the home and much more cannot take place. These special measures are meaningless if the timeframe for resettlement is not respected, but they could be, and in fact are a source of conflict, especially in determining the value of the property for expropriation. [7], [10]

## **5. Policy of MB Kolubara and EPS regarding Vreoci:**

### **Expansion of open pit mines as the only objective of the EBRD-financed Project**

The proposed investment programme for the modernisation of RB Kolubara's coal mining operations, with the wider hidden objective of the expansion of open pits involve relocation of Vreoci. The Bank failed to meet own requirements defined in *Environmental and social appraisal*, para. 5 : "Through appraisal activities such as risk assessment, auditing, or environmental and social impact assessment, the client will consider in an integrated manner the potential environmental and social issues and impacts associated with the proposed project. The information gained will inform the EBRD's own due diligence related to the client and project and will help to identify the applicable PRs and the appropriate measures to better manage risk and develop opportunities, in accordance with the applicable PRs. The appraisal process will be based on recent information, including an accurate description and delineation of the client's business or the project, and social and environmental baseline data at an appropriate level of detail. The appraisal should also identify applicable laws and regulations of the jurisdictions in which the project operates that pertain to environmental and social matters, including those laws implementing host country obligations under international law 2 (for example commitments related to land use planning and protected area management)."

### ***The presence of the Project in planning documents as a part of the development of mining***

Consistency in the policy of MB Kolubara and EPS regarding Vreoci, explored in Section 4 of this complaint, confirms that the EPS KOLUBARA ENVIRONMENTAL IMPROVEMENT PROJECT, submitted by the Client to the EBRD for a loan, is part of a wider strategy objective, namely the expansion of open pits. Besides this, the Project provides additional benefits to the Client by strengthening its internal power, which is then used in its relationship with local and central authorities, in the Client's relationship with interested representatives of collective entities, such as

the Council of MZ Vreoci, and councils of other MZ from areas designated for the expansion of open pits, or to achieve lower costs in negotiations with individual households for the expropriation of real estate. [28]

Though the environmental pollution in Vreoci, described in the Section 2 of this complaint has been continuous for over two decades, neither MB Kolubara nor EPS has conducted serious measures to reduce it. The political crisis and the disintegration of Yugoslavia during the 90s of the 20th century seriously harmed the production of electricity in Serbia, which became a top national-political issue. The bombing of FR Yugoslavia by NATO in 1999 caused particularly great damage to facilities for the distribution of electricity. Therefore, the primary interest of EPS since 2000, and since the changes in the political system in Serbia, has been the restoration, rehabilitation and modernization of production facilities and distribution of electricity. In the period 2001–2005 EPS and the state have invested about 400 million euros in the reconstruction of the generation system, mostly in capital repairs of thermo power plant blocks.

In the same period, 2001-2005, EPS invested only about 25 million euros in environmental issues. That means that environmental protection by reducing pollution from the thermo power plants and other plants of EPS and related companies, as well as reducing of emissions of greenhouse gases, was not the subject of investments, especially not of large investments. [8]

Besides, the Energy Development Strategy of Serbia for the period 2005–2015 (Official Herald of the Republic of Serbia No. 44/05) and the Decree on definition of the Implementation Programme of the Energy Development Strategy for the period 2007–2012 (Official Herald of the Republic of Serbia No. 17/07 and 73/07) puts the greatest emphasis on bringing into operation at least one new lignite-fired thermo power plant, installed capacity of 700 MW, as well as an increase of coal production by about 20%, from the current approximately 29 million tonnes to about 36 million tonnes annually. On the issue of reduction of the high pollution caused from Serbian thermal sector the energy policy of Serbia gives only brief mentions, without any serious measures for its real decrease. [8], [7]

It is therefore not surprising that this Environmental improvement project at Kolubara mine basin is outlined in the Spatial Plan of the exploitation area of the Kolubara lignite basin and in the General Regulation Plan for the area of the Vreoci, although without parts on the environmental protection. [8], [7]

The Spatial Plan of exploitation area of the Kolubara lignite basin, in the second part: *Concept of spatial planning and developmental policies for the use, development and protection of the area by sectors / 2.1. Mining*, emphasizes "the need that equipment for excavation should be rehabilitated and modernized as preparation for work on the new open pits" and the need for "replacement of equipment of open pit Field B and overhaul of equipment of open pit Field D". [8]

The equipment, to be purchased from the EBRD project is aimed to improve the efficiency of EPS' mining operations at the **whole** Kolubara basin.

The General Regulation Plan for the area of the Vreoci shows the purpose of the opening new pits even more clearly. The reason for adoption of the Plan is not the necessity for urban regulation of the settlement or environmental protection, but the adoption of the Plan was necessary as to justify the *Preliminary design and Feasibility study for expansion of open pit Field D* (Management board of EPS, No. 613/11 on March 3, 2006), the *General plan for the open pit Veliki Crljeni Field* and a corresponding study of contouring open pit South Field, as well as by the auxiliary studies: "*The feasibility study and preliminary design of limits of expansion of Field D*" (Kolubara Projekt, 2005), "*Study of conditions for the resettlement of Vreoci*", along with an opinion poll of households, index and evaluation of real estates (IAUS, 2005), and "*Choice of limits and the opening of open pit mine South Field in the Kolubara coal basin*" (Kolubara Projekt, 2006/07).

All these documents and studies were prepared or ordered by RB Kolubara, to be internal documents, with the sole purpose of the expansion of open pits and of increasing coal production.

[7]In the General Regulation Plan, in section III: Development of mining activities and the impact on the environment / 1. The development of mining activities in the Kolubara basin and their impact on the environment, the following items contain very explicitly outline of the **EPS**

**KOLUBARA ENVIRONMENTAL IMPROVEMENT PROJECT:**

- a) "the need that existing excavation equipment revitalize and modernize for the operation on new open pits";
- b) "delays in the design and procurement of additional equipment";
- c) "opening of replacement capacities for the open pits where the exploitation cease by 2020 (Field B, Field Tamnava East and Field D)";
- d) "completion of investment program at the open pit Field Tamnava West and reaching the level of production from the current 9 million t/year up to the projected 12 million t/year, replacement of obsolete equipment on the Field B, as well as the revitalization of equipment from the Field D";
- e) "reduction of annual production at open pit mine Field Tamnava West after 2020, due to large deterioration of the coal deposit conditions in the southern part of the open pit mine (stratification of coal-bearing series), demands harmonization of the amounts of low-quality coal (from open pits Field Radljevo and Field Tamnava West) with the amounts of quality coal (from open pits Field E and South Field ), since for the homogenization of coal, that will have to occur, it is necessary that the quantities of low-quality coal and quality coal to be in the appropriate proportion ". [7]

These quotations prove that the mala fide and irresponsible attitude of MB Kolubara and the EPS toward the citizens of Vreoci in the process of acquiring land for the expansion of open pit are

incorporated in the key documents nominally dedicated to the resettlement of Vreoci. The real purpose of spatial and urban plans for more than 10 years, as well as the Project submitted to the EBRD, actually is to hide the true objective that is just the acquiring of land for expansion of the open pits and increase production of coal without fulfilling responsibilities to the citizens of Vreoci. [7], [8]

The EBRD Project appraisal of the Project submitted by the Client fail to comply with the Performance Requirements 3: Pollution Prevention and Abatement, namely:

- it fails to comply with the requirements defined in General, paragraph 6;
- it fails to comply with the requirements defined in Pollution prevention, resource conservation and energy efficiency, paragraphs 10 and 11;
- it fails to comply with the requirements defined in Ambient considerations, paragraph 16;
- it fails to comply with the requirements defined in Greenhouse gas emissions, paras. 17 and 19, which is explained and discussed below in the section "5. Policy of MB Kolubara and EPS regarding Vreoci: Expansion of open pit mines as the only objective of the EBRD-financed Project

### ***Potential harm that might be caused by the Project to Vreoci***

The environmental impact assessment study for the Project "Coal exploitation in the open pit mine Field C, for the capacity of 5 million tonnes annually, with the excavation of dump site Istočna kipa", that is part of documentation submitted by the Client to the Bank, mentions Vreoci several times, in context of potential direct and indirect harm that the Project might cause to the inhabitants of Vreoci. [31]

**Indirect harm, that the Project may cause to the Vreoci**, can be found in several places in the Study. *Chapter 2: Description of the location planned for the Project implementation / 2.10. Data on the existing economic and residential facilities and infrastructure and suprastructure facilities*, confirms that Vreoci is the spatial-geographic and production node for the transport and processing of coal, through and across which all the coal produced in the future open pit Field C is going to be transported and processed. [31]

Chapter 3. of the Study: Project Description / 3.2. Description of the object, the planned process and the technological features / 3.2.2.2. Production process and technological features, emphasizes that the Vreoci and the dry separation plant in Vreoci, is the point where all coal from future open pit Field C shall be brought by necessity, by five carriers with a total length of 4,780 m. [31]

**Direct harm which the Project will cause to the Vreoci** is given in the Study in *chapter 2. Description of the location planned for the Project implementation / 2.4. Water resources and water supply sources*, where it is stated that:

- "Open cast coal exploitation in the central part of Kolubara basin physically destroys the inter-stream aquifer, a greater part of the alluvial aquifer and disturbs the floor aquifer regime";
- The water supply system "Vreoci" provides water for a part of the population of Vreoci and the plants of Kolubara Prerada. The source consists of several drilled wells capturing water from various depths from three different hydro geological collectors. The source capacity in the present state amounts to 60 l/s. The source of this water supply system is jeopardized by the opening of the open cast mine (Field C) in this area". [31]

Space for open pit Field C is located southwest of Vreoci, but more important is that it is upstream of Vreoci's water supply system, on the river Peštan (see Map 2: Exploitation area of Kolubara lignite basin). The quoted consequences of open pit mining are inevitable and require more serious measures to protect water sources than the measures provided for in *chapter 10 of the Study: Summary of non-technical information*, especially because the source for the Medoševac water supply system, which supplies part of Vreoci, also is located downstream of the future open pit Field C. [31]

Water supply in Vreoci is very poor as stated in the parts 2. and 4. of this complaint. Local water supply in Vreoci works every two hours in the best case, and by appearance the water is not suitable for drinking, but only for technical purposes. In periods of low water levels in the Kolubara river basin, the water supply in Vreoci does not deliver water to residents of the Vreoci at all, but directs all water to the facilities of Kolubara Prerada. [28]

To avoid harm from the disturbance of regimes and supply of underground water or normal water supply of the Vreoci that may be caused by future work on the open pit Field C, the only satisfactory solution is to bring fresh water from distant areas that are not threatened by open pit mining. The need for water supply from remote areas is stated in the Spatial Plan for the exploitation area of Kolubara lignite basin, but not in the quoted study. This potential direct harm to the Vreoci is present throughout entire implementation of the Project. [8], [31]

Bearing in mind that development of the exploitation area of Kolubara lignite basin in the near future will almost completely surround Vreoci, which is explicitly defined through the General Regulations Plan for the area of the Vreoci, outlined in the section 4. of this complaint, as well as that this creates the most logical spatial connection of production and processing of lignite, there is no excuse for delay in the resettlement of Vreoci. The immediate need for resettlement is confirmed in all planning documents primarily by defining the target to increase coal production by about 20%, which is a direct increase in pollution of the Vreoci. The Bank should take into account the treatment of citizens of Vreoci by MB Kolubara and EPS and treat it as mala fide and

irresponsible behavior, the sole purpose of which is to acquire land for the expansion of open cast pits and increase production of coal, without fulfilling commitments to the citizens of Vreoci. [7], [8]

#### **PREVIOUS COMMUNICATION REGARDING THE ISSUES IN THIS COMPLAINT**

NOTE: Attached on the end of this complaint are three letters sent from MZ Vreoci to EBRD, and we have received one letter from EBRD as a reply (from 28 March 2012, by Mr. Kevin Bortz).

We have contacted the Project sponsor, and many other relevant national and international institutions in a number of letters, related to the resettlement issues raised in this Complaint, which is huge documentation, available on request, if relevant. All issues mentioned in those letters are indicated and more elaborated in this Complaint.

#### **THE FINAL STATEMENT**

The Complainants expect that the Bank, in the project complaint mechanism, within a reasonable timeframe shall conduct an examination of claims and allegations from this complaint and conduct its own investigation related to the Client's treatment of the resettlement of Vreoci, and to the failures in compliance with EBRD policies and potential harms of the Project to the Vreoci.

The Complainants consider that the Bank should decide as set forth in the Content of this complaint.

This Complaint is signed by authorized representatives of the Complainants and their signature confirms that this complaint is a statement of their will.

In Vreoci, August 17, 2012

Ecological Society "Vreoci"  
President of Managing Board

Gordana Kulić

Council of MZ – Local Community, MZ Vreoci  
President of the Council

Željko Stojković

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## LETTER FROM MZ VREOCI TO EBRD FROM JULY 5, 2011

COUNCIL OF THE LOCAL COMMUNITY VREOCI

REPUBLIC OF SERBIA

Date: 5.07.2011.

РЕПУБЛИКА СРБИЈА  
Општина Лазаревац  
МЕСНА ЗАЈЕДНИЦА  
бр. 01-334/1  
Датум 05 JUL 2011  
ВРЕОЦИ

For: The European Bank for Reconstruction and Development (EBRD) - to Directors

Subject: Request to postpone the decision on loan for the Environmental Improvement Project at the Kolubara Mine Basin in Serbia

Dear Sir/Madame,

We, representatives of the local community in Vreoci, are addressing you in regard with the prepared project to be financed by EBRD: the Environmental Improvement Project at the Kolubara Mine Basin in Serbia, project of EUR 140 million worth, e.g. social impacts of this project related to the relocation of households and settlements at Kolubara mining basin.

We request postponing your decision for certain time of this loan for the Electric Power Company of Serbia (EPS) and consequently to the Government of Serbia (that is giving guaranties for the loan) as the one of the most important request in preparation and approval process of this project is not being fulfilled, which is full implementation of the Plan of relocation of populated place Vreoci on sustainable and acceptable way for Vreoci citizens.

Despite the existence of two planning documents:

1. The Programme for setting the framework for relocation of the settlement Vreoci of 12.11.2007., and
2. The General Regulation Plan for the Settlement Vreoci of 17.12.2008.

in which there are defined principles of relocation (collective relocation) with whom in general the citizens of Vreoci are agreed, we would like to point on the irregularities made so far in their implementation, on the corruption and misuse of the funds aimed for relocation of the people in Vreoci, violation of the laws and the Serbian Constitution, on the delays in the implementation, which altogether represents unacceptable violations of the rights of the concerned stakeholders in the consultation process and implementation of the relocation programme.

People in Vreoci are confused, they live in uncertainty and in fear, as the media have produced picture of their totally groundless opposition to relocation which is at the end endangering electric energy security and production of the electric energy in the whole Serbia.

Currently in Serbia there is huge investigation against corruption activities and robbery in EPS. Considering this we have position that EBRD can not continue with the approval process for this loan until this investigation finalizes and reveal the corruption case related with the Vreoci settlement relocation, as we might end up in fraud, with no financial means for the sustainable relocation, in forced resettlement (according to existing practice in Serbia).



### Short review of main violations and irregularities:

1. The Serbian Ombudsman has concluded that allegations and complaints made by citizens of Vreoci are justified and confirmed violations of the Serbian laws and Constitution in his Recommendation No. 8260 dated on 21.04.2011.

2. In our letter to the Minister for Environment, Mining and Spatial Planning dated on 30.05.2011. we reiterated our decisions from the public hearings held in 2006 and 2007 that we are not in consent with the proposed locations "Lazarevac 2" for cemetery and location "Rasadnik" for the settlement (for us unacceptable locations) and that those locations are forced solutions, despite our publicly stated needs and request for relocation of the whole settlement to location „Petka”.

3. Until now no location is provided with the necessary infrastructure for collective relocation of Vreoci, and thus no conditions are set for the acceptable relocation.

4. Activities so far conducted on the land acquisition are showing that there is no process of relocation but of resettlement and that there is no possibility for relocation of our main objects of public importance such as: Culture House, Post office, House of pensioners, Youth House, ambulance building, playgrounds, Kindergarten, local fair, sport hall, shopping mall, veterinary station, local cemetery and the church, which is very important for us.

5. Process of assessing economic value of citizen's assets is particularly problematic. The value of the land is not being assessed according to the Law on expropriation on the basis of tax decisions issued by the Tax Administration, but through the findings of the mixed commission formed from representatives of the municipality and EPS, while the property –object on the land is being estimated by the City Center for Expertise in Belgrade who is in contract relations with the EPS; the situation which leads to undervaluation of property in Vreoci as the City Center for Expertise is paid by the EPS and biased. In both cases, it is conflict of interests and it is not logical that our assets and land is being assessed by the user of land acquisition. In addition, we do not have rights on separate and independent assessment done by the court expert because of this situation explained above.

6. Concerning the relocation of the local cemetery, process of expropriation has already started quite ago, while the user –the EPS- have not assured citizens of Vreoci and have give no guaranties that our rights will be respected in the procedure together with our deep concerns, values and emotions. Moreover, EPS has started signing of Contracts on (cemetery) displacement conditions with the physical persons that are not legally holders of the rights on grave use in Vreoci, which is setting the conditions for excavation of bodies in the settlement's cemetery without consent from the true holders. By doing like this, EPS will conduct grave breach (Art. 354 of the Criminal Law of Serbia). Because of these concerns, we wrote to Serbian Ombudsman and started several court cases on several instances which are still ongoing. Also, EPS has incorrectly stated the number of 4000 graves in Vreoci cemetery both in media and in official documents while we have received number of 8906 buried from the Archive Institution in City of Belgrade, and the Belgrade Administration (official data from the Book of deaths for period from 1837 to 2009). Citizens are in fear that more then half of our deceased will be forgotten, not evidenced, not respected and excavated violently without right on exhumations and church ceremony.

Despite the above mentioned since 04.07.2011. at 4.00 in the morning our cemetery has been occupied with approximately one thousand policeman, not allowing access to Vreoci citizens even for religious service, as the forced excavation of bodies has started.





Moreover, to be worse, this excavation is being conducted in summer time, during high temperatures, which is outrageous as the sanitary regulation is violated, as all of this is endangering health of our citizens, as the cemetery is located near the centre of the settlement.

We are also stressing that the primary school of 500 children is few hundred meters away from the cemetery, while the EPS will be conducting excavations in the next one year thus coinciding with the school activities. If this happen, our children will be exposed to infection risk as the excavations will be conducted also on the graves formed recently –for which did not pass mandatory resting period.

7. Citizens of vreoci do not have basic living conditions, because in addition to enormous pollution of land, air and water (coal dust, ash, sewage sludge, industrial waste) we face with the drinking water scarcity due to drying of wells, caused by mining activities, which is outrageous considering guaranties of citizens rights according to the international conventions and the national legislation quoted in the alien 1, of the chapter 2, point 2 of the General Regulation Plan for the Settlement Vreoci of 17.12.2008, and considering respect for the right to a healthy environment in accordance with Article 37 EU Charter and Article 74 Constitution of the Republic of Serbia. The above mentioned regulation plan have proclaimed the entire territory of the local community of Vreoci as pit surface, and we are excluded from solving our living problems until relocation.

**Recommendations, conclusions and requirements:**

- We want to point out clearly that it is only acceptable for us collectively to relocate on other place to ensure the preservation of our cultural and historical and spiritual heritage and identity and continuity of existence of our community also after the relocation, in accordance with the planning documents related to relocation, in which the EPS and the Serbian government took over that responsibility.
- We do NOT accept here on us application of well-established policy of bringing a fait accompli, which has been repeatedly applied in Serbia the cases of displacement) (Roma settlements in Belgrade, Corridor 10 in southern Serbia, and in many other cases of displacement for the construction of large buildings and other infrastructure objects)
- We request from the EBRD to postpone the decision on granting this loan, to provide monitoring of current state of the relocation in settlement of Vreoci, and send its delegation in Vreoci to ensure to citizens their rights guaranteed with the standards of EBRD and international legislation and laws of Serbia.

Yours respectively,

Council of the Local Community Vreoci

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President of the Council  
Mr. Slobodan Đokić



**LETTER FROM MZ VREOCI TO EBRD FROM JULY 20, 2011**

EUROPEAN BANK FOR RESTAURATION AND DEVELOPMENT (EBRD)- for the directors

**Subject:** Request for postponement of decision concerning the project: **PROJECT FOR IMPROVEMENT OF ENVIROMENT AT COAL BASIN KOLUBARA**

**Date:** 20.07.2011.

To whom it may concern,

СРБСКА СРЕМАЈ  
ОПШТИНА Вазаревац  
МЕСНА ЗАЈЕДНИЦА  
ПОЛ 01-359/1  
ДТУМ 20 JUL 2011  
БРЕОЦИ

Since we discovered from the media that you will decide on the 26<sup>th</sup> of July, 2011 concerning the request for a credit, for which PD RB "Kolubara" and EPS applied: **PROJECT FOR IMPROVEMENT OF ENVIROMENT AT COAL BASIN KOLUBARA**, we want to inform you that we have consulted, concerning this question, with the Ecological movement of Serbia, who is a Republic Alliance of Non- Government Organizations, who is going to initiate and organize a protest against an excessive and misused borrowing , in front of your busyness building in Belgrade on the 25<sup>th</sup> of July, 2011, at 11 o'clock, which will be transmitted by many domestic and foreign media.

Taking into account that the citizens of Vreoci and the Coal Basin Kolubara, for decades suffer many catastrophic living and ecological conditions, and since PD RB "Kolubara" and EPS haven't shown themselves as socially responsible companies, because of carelessness toward nature and living environment , where there is a broad spectrum of pollution of earth-air- water, once more, with this protest, we will send a request to EBRD, to not allow the approval of loan for the **PROJECT FOR IMPROVEMENT OF ENVIROMENT AT COAL BASIN KOLUBARA**, because PD RB "Kolubara" and EPS will, just as many other consumers, spend this money excessively, just as the recourses that were preplanned for solving of dust problems project in "Kolubara processing", which was credited for this purpose, but was never realized as a project.

Wastewater from this plant for processing of coal, still flow out untreated, uncooled, while the precipitator is in the center of this area. Air pollution is enormous. There is scum, ash, cinder, smoke, emissions, coal smoke, while in wastewater can be found traces of heavy metals and poisonous elements like: cyanide, phenol, mercury, led, nickel, arsenic, zinc, chrome, cadmium, nitrogen nitrate, phosphorus, carbon monoxide. The citizens are constantly exposed to the vibrations, dust, noise and many other unpleasant fumes. Across the roads of Vreoci, daily 300 heavy trucks pass by, and also 40 compositions of train wagons, with which coal is being transported. Electromagnetic radiation is right above our heads, since across the whole area, we have high-voltage transmission lines.

Managers of PD RB "Kolubara" are fed up with concerns for ecology and protection of environment, while the case on the field says otherwise. It's enough to look upon the uncultivated surfaces that remind us of moon craters, especially since after the exploitation of coal, re cultivation of the surface is not done, but is the case everywhere in the world.

Method by which the exhumation of the graves is done, is whole another story, because this is being done by the most primitive way with construction tools (shovels, picks, mining picks), without any piety for our dead, where the corpses are being broken into pieces while still in discomposing state. What is even worse, this is being done in the middle of July, when the temperature is over 40 degrees Celsius (104 degrees Fahrenheit).

Because of all the above, we request that you do not allow the approval of loan for a company that brakes laws, European standards, and technological norms, and before you make a decision about issuing this credit, we ask you to perform strict monitoring concerning this case, and send your delegation to the field, so that realization of rights which are guarantied by norms of EBRD and international legislation and laws of Serbia, would be made possible for the citizens of Vreoci.

Sincerely,

COUNSEL OF THE LOCAL COMMUNITY VREOCI

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for

President of the Counsel of the Local Community



Mr. Slobodan Djokic

*[Handwritten signature]*



**LETTER FROM MZ VREOCI TO EBRD FROM MARCH 13, 2012**

**Local Community of Vreoci,  
Belgrade city municipality of Lazarevac  
Republic of Serbia**

Date: **13.03.2012.**

**To:** Directors of EBRD and to

Environmental and social department: [environmentandsocial@ebrd.com](mailto:environmentandsocial@ebrd.com),

Office for communication with civil society: [CSO@ebrd.com](mailto:CSO@ebrd.com)

Chief Compliance office: [compliance@ebrd.com](mailto:compliance@ebrd.com)

And natural resources department: Mr Kevin Bortz ,Subject: **The request for the suspension of the credit arrangement with energy company IC MB "Kolubara" for ENVIRONMENTAL IMPROVEMENT PROJECT IN KOLUBARA MINING BASIN**

We address you for the constant and increasing violations of human and property rights by the Public Company Mining Basin "Kolubara" - Lazarevac that has applied and signed the credit arrangement regarding the Environmental improvement project in Kolubara mining basin (Project ID 41 923 EPS Kolubara Environmental Improvement).

With regret we want to state that the attitude of the mentioned company since our first addressing to you on 05.07.2011 has not changed in no way for the better. Planning documents - Program basis for the relocation of settlements in Vreoci from 12.11.2007 (Board of directors decision PE "EEPS number I-925/3 from 12.11.2007 to which the Government of RS approved 05 No. 310-5277/2007-3 22.11.2007) and General Regulation Plan for the settlement Vreoci (from 17.12.2008 number 145/2008-XI - "Official Gazette of the City of Belgrade" 54/08) are still not respected. On the field there is a gross violation of the dynamics of the process:

## **1. Delay of the relocation:**

Considering that the dynamics of moving of the households is behind the schedule, as determined in the "General Regulation Plan for the settlement Vreoci", there is a situation where the speed of the execution of technical works related to the relocation of the transport and energy infrastructure necessary to expand the open pit mines has surpassed the planned eviction of households, so during the installation of power transmission lines of 110 and 35 thousand volts (110 and 35 KV) diagonally through the center of the village over the households, foreseen for final eviction in 2011, households are still inhabited.

Regarding this issue Local community Vreoci has during the public insight in the Spatial plan of city municipality of Lazarevac with the Report of the Strategic environmental assessment,<sup>1</sup>, submitted an complaint. After the public meeting held on 31.01.2012, the Planning Commission of the City Administration of Belgrade, which was formed in accordance with the Law on planning and construction ("Official Gazette of RS", no. 72/09, 81/09, 64/10 and 24/11) in a closed session 02.02.2012 (174th Session), discussed the submission of complaints by the stakeholders- including one from Vreoci representatives, and have accepted complaint of Vreoci community about the terms for the transmission lines.

The textual part of underlying plan is to be complemented in the chapter: Rules of regulation and network construction and infrastructure objects, electric power infrastructure in a way that will be added in the following sentence; "For the power lines voltage of 35kV or more it is necessary to develop special urban documentation in accordance with law".

The final version of the underlying Spatial plan with the Report about the public insight will be submitted to the City Council of Belgrade in order to accept it, after which it will be directed to the Belgrade City Council for consideration and adoption, from which it clear that the construction of these power lines is done without proper planning documentation and outside the law.

## **2. Negligence of the company about the environmental, infrastructure and utility conditions of life in the village during the process of moving to the end of the Project:**

Most pressing issues regarding condition of environment in Vreoci community are as follows: Noise, dust, vibration, fumes, the unresolved problem of waste water from industrial plants from Kolubara-processing plant, electromagnetic radiation from the power lines above heads of inhabitants, destroying of the road in the possession of the local government by transport trucks and machinery of IC MB "Kolubara" (Kolubara uses public roads as internally industrial infrastructure but without providing resources for their maintenance).

Waste water - still the unresolved problem of waste water from the plant "Kolubara processing" that flows out from the factory untreated, uncooled, un-piped, while the filter sedimentation tank of waste water is in the center of the village- contrary to all technical regulations and applicable laws- from which further through systems of open channels the wastewater is released into the river Kolubara (we have video footage).

Heavy machinery of Public company Mining Basin "Kolubara" passes by our houses as this is already an open pit mine, and not an inhabited town. On this issue we

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<sup>1</sup> Prepared from the side of Secretariat for urban planning and construction of the City Administration of Belgrade

addressed the Director of PC MB "Kolubara" on 04.01.2011, and an immediate cause for this was the passage of trucks heavier than 5 tons on the streets of Vreoci although forbidden by traffic regulations notified by the traffic signs. Problems that occur on the field are:

Falling of dangerous materials from trucks and trailers, damages on the communal roads, danger for the children and pedestrian for the reason of massive scale of industrial traffic few meters from houses, school and other

Also the passage of such machinery is contrary to republican law on environmental protection, due to toxic materials transported without specially precautionary measures, in trucks without a tarpaulin.

### **3. Discrimination of vulnerable inhabitants of Vreoci in becoming employed by “ Kolubara” mining company , contrary to the undertaken commitments:**

Regarding this issue we addressed the Director of IC MB "Kolubara" in writing on date 05.01.2011, and to this day we have not received an answer, although **the obligations of employment of vulnerable citizens** from the territory of LC Vreoci, confirmed in a document of IC MB "Kolubara": Relocation of the settlements in Vreoci 26.11.2011 under Item 3 - Employment of unemployed persons from Vreoci.

### **4. Withholding of financial support to the local community and civic associations of Vreoci:**

The decision to take over the costs of the local community of Vreoci, starting from 01.01.2011, which is in accordance with the planning regulations issued by the Monitoring Committee for the relocation of settlements in Vreoci on a session on 17.11.2010 under the 3rd agenda item - conclusion No. 7, and PC MB "Kolubara" confirmed on 26.11.2010 in the case: Moving settlements of Vreoci are generally not respected.

This issue has become especially relevant after the statement of Mrs. Vukice Popadić - Assistant Director of IC MB "Kolubara" for environmental protection, stated at a consultative meeting: Climate change, energy and the environment (CCEE) organized by: CEKOR & Rockefeller Brothers Fund held on 21.02.2012 , "that PC MB "Kolubara" is a socially responsible company because last ( during 2011) year “Kolubara” has approved donations in the amount of 1,300,000 €"; after such presentation of the “Kolubara” manager for environment, President of the Council of LC Vreoci Mr. Zeljko Stojkovic stated "that PC MB "Kolubara" is not a socially responsible company because as a beneficiary of the expropriation, violates the rights of the population covered by the plans for social displacement, contrary to the positive examples of business practices, norms of EBRD and obligations undertaken in the Stakeholder engagement Plan (PC MB "Kolubara" - PE EPIS, February 2011) "; **after such discussion we got impression that the reason for failure to comply with obligation to support financially work of local community in Vreoci is not lack of money, but the intention to shutdown the local community which is struggling for protection of rights of Vreoci community.**

### **5. Failure to comply with the Law on Expropriation:**

Implementation of the principles of contractual relocation – by paying up to 30% of agreed sums to people that should be relocated without clear guarantee that remaining sum will be paid off in some reasonable time “Kolubara” is braking its legal obligations from Serbian Law on expropriation

### **6. Devaluation of property:**

By payment of amounts significantly smaller than the market value of land contrary to the Law on planning and construction, PC MB "Kolubara" acquires unlawful material gain at the expense of the citizens of Vreoci (filed a criminal complaint to the Higher Public Prosecutor's Office in Belgrade on 30.11.2011, the case No. KTR - 4468 / 11). Also, extensive material has been submitted to the Special Prosecutor Mr. Mirko Radosavljevic in a special department for organized crime, the High Court in Belgrade about organized crime in PC MB "Kolubara" regarding the illegality of the expropriation procedures in Vreoci.

**7. Failure to comply with the Law on cemeteries and burial grounds (Art. 18-20):**

Forcing people to agree to exhume their deceased before they make the expropriation of property, so before they are able to know where their new residence will be, as the location for a collective move of Vreoci is not yet established. Around 120 court cases have been raised in the Administrative Court relating to the attempt to cancel decisions for illegal and forced excavation and transfer of remains from Vreoci cemetery to cemetery Lazarevac 2 - Šopić).

**8. Failure to meet the most important social aspect in the process of moving - the obligation of the collective relocation to preserve the entity of the local community and the continuity of existence:**

The situation on the field is such that in practice the obligation of determining the location and construction of new settlements with the objects of public infrastructure is not respected. Together with lack of space and solution for social infrastructure there is no possibility that the citizen can obtain adequate land for the construction of a new household on the site for the collective relocation, which is contrary to the Relocation plan because in this case it's about an individual displacement and not a collective relocation.

**As for concerns about the credibility of the Council of LC Vreoci** in the documents of EBRD we inform you that the Council of LC Vreoci as the basic unit of local government was legally elected in the electoral assembly of 2008. The population that we represent (about 3000 people) is still not displaced, and they live on their addresses in a populated area of Vreoci. In October 2011, the population census was taken in the Republic of Serbia on which forthcoming statistics will show that the population still resides in Vreoci at their addresses in their homes, led by their legitimate political representatives - the Council of LC Vreoci. Since this year are the regular elections in Serbia, these same citizens will get the invitations for the elections to their proper addresses, while the elections will be organized at three polling stations in the territory of Vreoci.

The viewing angle of EBRD is not clear to us on this issue, especially as the representatives of EBRD (Michaela, Martin and Jan) on 24.08.2011 were at the meeting in LC Vreoci with the representatives of the local community, especially given that the LC Vreoci completely legally, in their correspondence with the government agencies, uses a seal, otherwise it would have been accused and convicted of misrepresentation, which would constitute a criminal offense. Therefore we expect from EBRD and its employees to fully respect citizens and their elected representatives in Vreoci and other local communities affected by this project and to change attitude from now on in communicate with Our and other local communities.

From all of the foregoing it is evident that the energy company PC MB "Kolubara" contrary to law and positive examples of business practices as well as the norms of the EBRD, and pursuant to commitments in the Action Plan for Environmental Protection and Social Affairs of 25.02.2011 (ARUP) and Stakeholder Engagement Plan from 01.02.2011

(EPIS), realizes their interests in violation of the law and European conventions guaranteed human, property and social rights of local people and communities covered by the displacement of the mine expansion needs.

**The request:**

From EBRD this time we explicitly demand that the loan arrangement with the company PC MB "Kolubara" is suspended, given that it turned out to be socially irresponsible and criminally, both in terms of corruption and in terms of violations of laws and social rights of citizens of Vreoci included in the displacement given that in the credit agreement you have not conditioned power company IC MB "Kolubara" in terms of fulfilling unexecuted obligations to the community and the population.

Sincerely

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**President of the Council**

**Željko Stojković, s.r.**

