



STATE-OWNED ENTERPRISES - A MASSIVE WASTE OF PUBLIC RESOURCES

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STATE-OWNED ENTERPRISES – MASSIVE WASTE OF PUBLIC RESOURCES

When it comes to the waste of public resources in Serbia, it seems that state-owned enterprises and the government with its projects of special importance are competing for the first place.

There are several reasons for this. Some of the state-owned enterprises had not been established to be profitable in the first place, but rather to meet some needs in areas for which there is not enough interest from private capital. There are also state-owned companies that cannot be privatized, for a similar reason. The reason for unprofitability can also be the policy measures of the state or local governments, as a result of which the prices of company services are kept at an unrealistically low level.

The second group of reasons does not belong to the circle of objective circumstances or problems encountered, but stems from the fact that these companies, despite the legislative solutions that have been in force for more than a decade, are still not managed by professional executives, but mostly by persons appointed by the Government, taking into account their political “suitability”. Moreover, in two-thirds of the cases, it is not just about easily replaceable acting directors, but about persons whose term of office has long since expired and who manage large state-owned enterprises without any basis.

INCOMPETENT ACTING DIRECTORS AND THE CONSEQUENCES

Transparency Serbia’s research shows that **out of 34 companies owned by the Republic of Serbia** in which, after the adoption of the Law on Public Enterprises from 2012, the director had to be chosen in an open competition procedure, 17 of them did not for a single have a director elected in such an open competition. In May 2024, of those 34 companies, **22 had an acting director in May 2024**. All of them are **in an illegal status** because their maximum legal term of office in their acting director status has expired. Only 5 out of 34 companies have directors elected in an open competition. Of these, four were the only candidates in the competition, and only in one case there were three candidates.¹

The appointment of acting directors for indefinite terms ensures a managerial staff that is loyal to the political structure that appointed them. The incumbents often lack the professional qualifications to perform that function, so it is unlikely that they would meet the basic requirements of an open competition for those positions.

Run in most cases by non-professional staff, these companies use public resources in an equally unprofessional manner. Some of them, who operate in strategically important economic areas, have not been restructured for years and have outdated infrastructure and an excessive number of employees. The transformation process of Elektroprivreda Srbije, formerly the largest public company, began in April 2023 when the company's legal form was changed² and a little later a competition for the selection of the director was announced. The transformation of this company, which employs about 20.000 people, began after problems caused by incompetent management that resulted in a breakdown in the power system in December 2021, interruption of the supply of electricity and damage to public resources that is measured in hundreds of million of euros. At that moment, the EPS public company was managed by Milorad Grčić, in an illegal acting director status (2016-2022), who was appointed to that position even though he did not meet the requirements prescribed by law.

¹ [Infographic: Illegal state of affairs as a regular state](#), Transparency Serbia, June 2024.

² From a public company to a joint stock company.



CHAMPIONS IN THE DURATION OF ILLEGAL STATUS

PE NACIONALNI PARK KOPAONIK

Director appointed in 2008, not a single act was found after that, except for the incomplete competition from 2013 and 2017



PE NACIONALNI PARK ŠAR PLANINA

Director appointed in 2009, not a single act was found after that, except for the incomplete competition from 2013



PE PUTEVI SRBIJE

Legal acting director status expired in May 2014



PE NUKLEARNI OBJEKTI SRBIJE

Legal acting director status expired in February 2015



PE UVAC DOO

The same acting director since 2016



SRBIJAGAS

the term of office of the director appointed without competition expired in November 2016



DRŽAVNA LUTRIJA DOO

Legal acting director status expired in May 2018



SRBIJA KARGO AD

Legal acting director status expired in May 2018



ANTI-CORRUPTION RULES IN STATE-OWNED ENTERPRISES

The existing legal framework (based on the Law on Public Enterprises of 2012 and 2016) is designed to prevent government influence on the day-to-day functioning of state-owned enterprises. However, in practice, supervisory boards, and directors of companies in most cases function under the direct control of political parties or specific ministries.³ However, these rules do not apply to some of the important companies owned by the state (e.g., Telekom), but rather the norms of the Law on Companies.

The additional deterioration of the legal framework in this area occurred after the adoption of the authentic interpretation of the definition of the term public official in February 2021, **whereby the representatives of the state of Serbia in shareholders' assemblies, presidents and members of supervisory boards, directors and acting directors** in companies are exempted from the obligation to submit reports on assets and income and obligations to report potential conflicts of interest.⁴ Consequently, the Agency does not have the right to act on reports of rule violations by these officials, to impose measures prescribed by the Law on the Prevention of Corruption and to initiate misdemeanor proceedings or criminal proceedings against them.⁵

For now, these "benefits" are available only to managers of state-owned enterprises that are not subject to the Law on Public Enterprises. Unless something changes, officials in all companies will be exempted from these obligations. Namely, the Law on the Management of Companies Owned by the Republic of Serbia, adopted in September 2023, provides for the mandatory transformation of public companies into capital companies and a change in the method of selecting their managers.⁶

Although the Minister of Justice, Maja Popović, announced that this harmful authentic interpretation will be repealed by amendments to the Law on Prevention of Corruption⁷ and the amendments to this Law were the subject of a public debate in August 2023, to this day the report from the debate has not been released, nor has the draft law been submitted to the parliamentary procedure.

PROBLEMATIC LEGAL SOLUTIONS FROM THE NEWLY ADOPTED LAW ON THE MANAGEMENT OF COMPANIES OWNED BY THE REPUBLIC OF SERBIA

This Law represents the implementation of certain activities that were planned during the adoption of the planning document – Strategy of State Ownership and Management of Business Entities Owned by the Republic of Serbia for the period from 2021 to 2027.⁹ When this Strategy was adopted, Transparency Serbia pointed out that the basic problem is that the Government of the Republic of Serbia is looking for a solution to many of the problems it itself created, by not applying or supplementing the existing regulations, again looking for changes in the regulation.¹⁰

The goals for which this Law was enacted could also be achieved by applying the existing Law on Public Enterprises if there was a will for it. Not only was this not done during the preparatory phase of the Draft Law, but certain proposed solutions created new problems, which would further weaken the anti-corruption mechanisms in this part of the public sector. The Law on the Management of Companies Owned by the Republic of Serbia provides¹¹ changing the legal form of existing public companies established by the Republic of Serbia into a limited liability company or joint stock company.¹²

3 [Assessment of the system of social integrity 2023 – NIS](#), Transparency Serbia, February 2024, p. 221.

4 Ibid.

5 [Comments on the Draft Law on Amendments to the Law on Prevention of Corruption](#), Transparency Serbia, August 2023.

6 [Directors of state-owned enterprises outside the reach of anti-corruption regulations](#), Transparency Serbia, 6 June 2023.

7 [Popović: Amendment of the law as recommended by GRECO, corruption is not legalized](#), Beta, 16 August 2023.

8 [Comments on the Draft Law on Amendments to the Law on Prevention of Corruption](#), Transparency Serbia, August 2023.

9 [Strategy of state ownership and management of economic entities owned by the Republic of Serbia for the period from 2021 to 2027](#), Ministry of Economy

10 Ibid.

11 Article 42, Law on the Management of Companies Owned by the Republic of Serbia ("Official Gazette of RS", No. 76/2023).

12 [Assessment of the system of social integrity 2023 – NIS](#), Transparency Serbia, February 2024, p. 221.

The Government of the Republic of Serbia submitted to the National Assembly a Draft Law on the Management of Companies Owned by the Republic of Serbia on 26/05/2023. That draft law was withdrawn from the parliamentary procedure. The decision on this was not published as part of the information from the Government session on 8 June 2023, when it was probably formally adopted. Two days earlier, the Prime Minister's statement dated 6 June 2023, was released, according to which the draft law will be withdrawn, "at the request of the President of the Republic", and on 7 June 2023 also the announcement by the Minister of Economy that he sent a "Proposed Conclusion" on the withdrawal of the draft law from the parliamentary procedure. The withdrawal of the draft law came about after numerous criticisms of the proposed legal text, among which the initiative on members of parliament and the announcement made by the Transparency Serbia organization.¹³ The Law was finally adopted on 6 September 2023, and the penultimate session of the 13th convocation of the National Assembly, after a unified discussion with 25 items on the agenda.

Publicity of work, according to the provisions of this Law, is not sufficiently ensured. It is necessary to ensure the publication of documents related to the election of members of parliament, presidents and members of supervisory boards and directors, in order to determine whether the candidates meet the requirements prescribed by law. The Law also stops short of setting restrictions on the advertising of these companies, which opens the door wide to incurring unnecessary expenses, buying media influence, and achieving other hidden goals that are not related to the role of state-owned companies.

The Law on the Management of Companies Owned by the Republic of Serbia, as well as the Law on Public Enterprises, provides for the prohibition of influencing staff and other employees "in connection with support for political entities or candidates in elections". On the other hand, there is no prohibition on exerting influence or obligations to prevent pressure on other natural and legal persons. The term "resources of society" is used in the draft law, but it is not defined. It is stated that resources mean "in particular, the use of office premises, vehicles and inventory of the capital company free of charge". Although these are some of the most important resources, there are many others that have not been mentioned, and listing only certain resources opens up the scope for a narrow interpretation of the norm. Among the resources that have not been mentioned, one can mention carrying out activities of a public company that can bring popularity to the holders of public office and political entities with which they are connected, precisely during the election campaign. A typical example for this is the execution of works that were not previously planned, in order to meet the needs of potential voters (e.g. the case of "Kukulovce")¹⁴ and also the decision to write off or reduce debts to companies during the election campaign (which happens more often at the local level). The Law states as an example the use of premises, vehicles and the like free of charge, but not paid use, but below the market value or enabling the use of resources by only one political entity.

BUSINESS GIANTS IN THE RED

Elektroprivreda Srbije A.D.

The most convincing example of the waste of public resources is the already mentioned Elektroprivreda Srbije a.d. Until recently, it operated in the status of a public company, and after years of "envious" results and disastrous consequences for the Serbian economy and the creation of debts that were repaid by the citizens of Serbia, its status was changed to a joint stock company in April 2023. The Fiscal Council warned back in 2019 that EPS is at a turning point and that a strong turnaround in the company's operations is necessary. The Fiscal Council stated that this company has not been operating successfully for a long time, and the small profits it generated in previous years are nowhere near enough to sustainably finance the necessary investments. "Therefore, it is a critical moment for EPS to fundamentally reform itself and finally remove the key obstacles that prevent its successful operation – excessive labor costs due to excess employees and a generous wage system, low electricity prices, large technical losses on the network and thefts, billing problems etc. Otherwise, EPS could very easily become a serious risk for Serbia's public finances in the medium term."¹⁵ In the period after this report of the Fiscal Council, EPS experienced a series of accidents, the largest of which occurred in December 2021, when due to erroneous management and the use of poor quality coal, the power system collapsed. According to the FC's analysis, the problem occurred due to the decline in the quality of coal from the Kolubara basin. "EPS is alone responsible for the multi-year trend of reduction of the thermal power of coal used for electricity production, because it did not invest enough, which

¹³ [Directors of state-owned enterprises outside the reach of anti-corruption regulations](#), Transparency Serbia, 6 June 2023.

¹⁴ [Drobnjak went to the village that renounced Vučić and promised asphalt](#), N1, 10 June 2022.

¹⁵ [Business analysis and recommendations for the reform and increase of EPS investments](#), Fiscal Council, November 2019, page 1.

led to a delay in the opening of new mines with better coal.” The problem escalated in mid-2021, when the thermal power of coal fell below the minimum acceptable threshold for the operation of EPS power plants. Despite this, EPS continued to use low-quality coal with an excessive content of impurities with abundant addition of fuel oil, which not only directly affected the decline in electricity production, but also indirectly caused operational problems and the shutdown of plants designed to burn higher-quality coal. Last year, EPS also delayed the overhaul of its facilities, and then tried to compensate for the lack of electricity with increased production in gas and hydropower plants. In doing so, it caused enormous damage to the country, because it used up a significant part of domestic gas reserves to produce a relatively small amount of electricity in its inefficient gas power plants, which later had to be compensated by buying this fuel on the European market at record high prices. According to our estimates, EPS’ mistakes cost the state budget close to 200 million euros, which is the amount of the gas purchase that this company unreasonably spent before the winter.¹⁶ The Fiscal Council further estimates that due to the irregularities in the public procurement process, tens of millions of euros annually are lost from EPS. “Public procurement in EPS is full of irrationalities, due to which significant public resources are unjustifiably drained from the company, and hits problem has worsened, particularly since 2017.” One of the main shortcomings is that there is an evident lack of competition in EPS tenders, where often only a few companies appear in various combinations.”¹⁷ As a consequence of the poor performance of this company, the total fiscal deficit of Serbia in 2022 amounted to EUR 1.9 billion – 3,1% of GDP, almost the entire deficit being the result of the losses of EPS and Srbijagas. Without those costs, the deficit would have been only approx. 0,4% of GDP.¹⁸ The Fiscal Council also states that EPS has become a risk for the entire economy of Serbia, hampering the country’s economic development, and that EPS’ problems, which caused a sharp drop in energy production in December 2021, significantly contributed to the deterioration of macroeconomic trends in Serbia. In addition to the direct impact on the slowdown of GDP growth, EPS contributed to the growth of the deficit in foreign trade exchange and the outflow of foreign currency from the country with the huge import of expensive electricity, which is why the National Bank of Serbia had to spend additional reserves to preserve the stability of the exchange rate.¹⁹ According to the estimates of the Fiscal Council, approximately half of the deficit of EPS and Srbijagas from that heating season of around one billion euros (2% of GDP) was borne by all the citizens of Serbia.²⁰

The Fiscal Council sees the solution to this problem in ensuring expertly and professional management of EPS and giving full freedom to such management and clear political support to implement all the reforms that have been delayed for years.²¹ At the time of the accident, EPS was managed by Milenko Grčić, who was appointed by the Government of Serbia in March 2016 in acting capacity, until the selection of the director is finished. He remained in that status and position until January 2022, when, after the disastrous consequences of the disaster, he resigned under pressure from the public and the President.²² The reform of EPS was awaited for another year, when in April 2023, the Government issued the Decision on Amendments to the founding act and the new EPS Statute, which transformed EPS from a public company into a joint-stock one. Management and other matters of importance for the activities of A.D. EPS are regulated by the Statute, which stipulates that the management is organized as a bicameral body. The company’s bodies are the Assembly, which consists of one authorized representative of the founder, the Supervisory Board with seven members, one of whom is the president and one employee representative, as well as the Executive Board with seven members. The Executive Board has seven executive directors, one of whom is the CEO. The Supervisory Board of EPS A.D. appoints the executive directors, one of which is appointed CEO, for a period of up to four years.²³

Transparency Serbia warned of possible harmful consequences of changes to these acts.²⁴ This change in status reduced transparency and competitiveness, which are the basic mechanisms for preventing corruption and the Law on Public Enterprises no longer applies to that company. One of the most significant consequences of this is that there is no longer an obligation to select the director through open competition. Moreover, even in the event of a tender, which took place on 11 August 2023,²⁵ the rules from the Law on Public Enterprises and bylaws, which were adopted on the basis of it, do not apply to the tender.

16 Ibid, p. 4.

17 Ibid, p. 7.

18 [Assessment of the system of social integrity 2023 – NIS](#), Transparency Serbia, February 2024, p. 221.

19 [Business analysis and recommendations for the reform and increase of EPS investments](#), Fiscal Council, November 2019, p. 3.

20 [Structural problems of Serbian energy in the light of the global crisis: causes, costs and possible solutions](#), Fiscal Council, July 2022, p. 1.

21 Ibid 3

22 [Vučić: Consider that Grcic has already resigned](#), N1, 17 December 2021.

23 [The government made a decision on the transition of EPS to AD](#), Internet presentation of EPS, 10 April 2023.

24 [Harmful and unjustified amendments to the EPS Act](#), Transparency Serbia, April 6, 2023,

25 [The competition for the election of the new general director of EPS has been announced](#), RTS, 11 August 2023.

The information that a new CEO will be elected was published two months after the transformation of the company, only five days after the information that the Shareholders' Assembly of EPS A.D., which consists of only one member – the Minister of Mining and Energy, Dubravka Đedović, elected the members of the Supervisory Board of EPS A.D. On the official website of EPS A.D., there is no information available on the procedure by which members of the Supervisory Board were selected, an explanation of the reasons why the current members were selected, as well as information on whether there were other candidates for those positions who were not selected was not available, i.e. no reasons were given why they were not chosen. According to the Statute of the joint-stock company EPS A.D., the members of the Supervisory Board elect the executive directors and CEO of EPS A.D. On 16 August 2023, Transparency Serbia requested information on the manner in which the Supervisory Board of EPS will determine and assess the fulfillment of the set criteria for the selection of the new CEO of the most valuable state-owned enterprise, since this was not prescribed or specified in the advertisement itself.²⁶ Although the term for applying for the candidates expired on 15 September 2023, EPS responded a few days later. In their answer, they state that “based on the reasoned proposals and expert analysis, the Supervisor Board will render the final decision and select the CEO of this Company.”²⁷ EPS’ answer also shows that the evaluation of candidates is not carried out by EPS A.D, but by an external company. Unlike the acts that were adopted on the basis of the Law on Public Enterprises, where it is clearly prescribed how the fulfillment of certain criteria is evaluated, this was not the case here. If the methodology exists, it was not known to the participants of the competition or to the public, which will make it much more difficult to contest the decision.

The election of the EPS director was awaited for 11 months. For the purposes of this process, EPS ad hired a consultant on two occasions. It is a domestic company Tonchev Advisory Associates from Belgrade, whose owner and director is the Bulgarian consultant Edvard Tonchev. According to data from the Public Procurement Portal, this company is the winner of two open procedures announced by EPS on 12 April 2024. The object of the procurement is the "assessment of leadership potential of managers", while the official name of the other is the "creation and implementation of a set of leadership competencies with mapping of motivational factors of managers". From the publicly available data, it can be seen that Edvard Tonchev's consulting firm was the only bidder in these public procurement procedures, and it is also stated that this consultant's bids are acceptable, that is, that all the required criteria for awarding the work have been met. EPS will pay 22.6 million dinars for these two services, since the first contract was agreed for the amount of 10.8 million dinars including VAT, and the second for 11.8 million. What is interesting is that the same consulting firm received two practically identical contracts from EPS during the previous year, one of which has an identical name. The amounts paid for those purchases were also similar.²⁸

The misuse and wasting of public funds did not stop even after the reform of the EPS and the change in the management structure. Namely, just a week before the elections in December 2023 and without prior announcement, the Minister of Energy and Mining, Dubravka Đedović, announced that all employees of EPS ad (19,591 employees) will receive a bonus of 20,000 dinars in addition to their December salaries: "As a form of gratitude, to all employees for their help in stabilizing our energy system"²⁹. The decrease in the transparency of the work of this company, which was introduced by its restructuring, opens up space for the continued wasting of public resources. There are reasons for concern when considering the affairs of this company that the public came to learn about. Transparency Serbia tried to check the allegations presented in the media in May 2023, according to which EPS was considering a proposal to form a joint company with the company “MVM Group” with Hungary. Eleven hydro power plants would be transferred to this joint venture. Only after TS’s fourth call EPS sent a response that this information is unavailable, because its disclosure “would make it difficult to achieve justified economic interests between the two countries” and that the requested documents are a trade secret “because they were marked as such by the author of the document.”³⁰ It is obvious that the solution of EPS A.D. is not lawful, because the request was rejected on all ten points, even though no business correspondence between EPS and the Hungarian company had been requested, nor were the business secrets of that company, but information about the activities of EPS. In the event that some documents on EPS’ activities contain information about the business secrets of a potential partner, EPS did not use the opportunity to deny access to this data only. It is particularly worrying that this lack of transparency might hide the intention to contract some form of PPP without competition, the latter being an obligation under the Law. This is particularly indicated by the reference to the “economic interests of the two states.” It could be a prelude to already see situations (e.g., the formation of the joint venture “Belgrade Waterfront”), where the PPP is exempted from the application of domestic laws on the basis of an interstate agreement.³¹

26 [Request for access to information of public importance](#), Transparency Serbia, 16 August 2023.

27 [Response to the request for access to information of public importance](#), 22 September 2023.

28 [EPS can't choose its CEO, while granting new contracts to the Bulgarian consultant hired for the selection of the director](#), Forbes Serbia, 10 May 2024.

29 [EPS employees and "Pro Tenta" bonus of 20,000 dinars](#), Politika, 14 December 2023.

30 [EPS illegally hides information](#), Transparency Serbia, 15 September 2023.

31 [Report of the prEUgovor coalition on Serbia's progress in Cluster 1 – November 2023](#), PrEUgovor, 22 November 2023. pp. 51-53

Nikola Tesla Airport JSC.

The specificity of the Nikola Tesla Airport "case" is that we cannot say with certainty how much and in what way public resources are wasted. What the public witnessed was that the reconstruction of the Airport took a long time, that during that time the Airport leaked several times, that on several occasions uncontrollable crowds of passengers, bad baggage management, passing through passport control, etc. were created.³² In June 2023, poor business performance after the signing of the concession agreement between the Nikola Tesla Airport and the French company Vinci caused the reaction of the then Minister of Transport Goran Vesić, who demanded from Vinci to urgently normalize the situation at the airport. According to the statement of the ministry, Vesić told the representatives of Vinci Airports that they "have their obligations under the concession agreement."³³

It's again about the specificity of the case of the Nikola Tesla Airport, that is that this agreement was never made available to the public and that its operations are largely shrouded in secrecy.

The agreement on the concession of the Belgrade airport "Nikola Tesla" for 25 years was signed with the French company Vinci Airports, in the presence of Prime Minister Ana Brnabić and ministers on 22 March 2018. The total nominal value of this transaction is around EUR 1.46 billion (EUR 1,461,508,000), which includes a one-time fee, minimum annual concession fees and capital investments. The 25-year concession agreement includes the financing, management, maintenance, expansion and upgrading of the existing airport terminal and runway. Vinci Airports offered a one-time concession fee in the amount of 501 million euros. The payment will be made through a dividend, namely: 417 million euros to the Republic of Serbia and 84 million euros to small shareholders. During the concession period, an annual concession fee will be paid. The minimum concession fee per year ranges from 4.4 million euros to 15.1 million euros. The international tender was conducted from 10 February 2017, through the pre-qualification phase, the non-binding bid phase and the binding bid phase, and the decision was made on 5 January 2018.³⁴ The French company took over Nikola Tesla Airport in March 2018 and will manage it until 2043.

Transparency Serbia filed a lawsuit against the RS Government in May 2024 before the Administrative Court due to the RS Government's avoidance of responding to the request for access to information of public importance that Transparency sent in February 2017, requesting the delivery of the concession act.³⁵ After several urgent requests and judgments of the Administrative Court since 2017, the Government submitted to TS, in January 2024, a decision stating that "the request for access to information dated 14 February 2017, was rejected as irregular, because the plaintiff did not supplement/corrected it, namely the plaintiff did not remedy the deficiency that was pointed out to him in Notice 61, no. 07-1528/2017-17 of 28 December 2023." With the said Notice, the Government requested the plaintiff to edit the request by determining and providing an as precise as possible description of the information requested and that is the subject of interest.³⁶ The information requested from the Government of RS reads: "Concession Act (Article 29 of the Law on Public-Private Partnerships and Concessions) and feasibility study (Article 31 of the Law on Public-Private Partnership and Concessions) for Nikola Tesla Airport".³⁷ The process of obtaining the concession act, which the Government does not understand exactly what it is, is still ongoing. In the following presentation, an overview of this process is provided, with the associated documents (2017-2024).

- [TS request sent to the Ministry](#)
 - » [Response of the Ministry](#)
 - » [Appeal to the Commissioner against the decision of the Ministry](#)
- [TS request sent to the PPP Commission](#)
 - » [Complaint to the Commissioner due to non-action by PPPC](#)
 - » [Decision of the PPPC Commissioner](#)
 - » [PPPC 's response regarding the Commissioner's decision](#)
- [Letter to the Ministry of Transport](#)
 - » [The Ministry's response to the letter](#)
- [TS request sent to the Government of Serbia – airport concession \(2017-2024\)](#)
 - » [Urgent request sent to the Government of Serbia](#)

32 [Big crowds at the Belgrade airport, the biggest – at baggage claim](#), N1, 25 June 2023.

33 [Minister calls for 'urgent normalization' of the situation at the Belgrade airport](#), Radio Free Europe, 23 June 2023.

34 [Agreement on 25 years Airport "Nikola Tesla" for the concession with "Vinci Airports"](#), Blic, 22 March 2018.

35 [Request for access to information of public importance](#), Transparency Serbia, 14 February 2017.

36 [Response to the request for access to information of public importance](#), 28 December 2023.

37 [Request for access to information of public importance](#), Transparency Serbia, 14 February 2017.

- » [Lawsuit against the Government of Serbia](#)
- » [Judgment of the Administrative Court](#)
- » [Request to the Government to proceed according to the order of the Administrative Court](#)
- » [Addressing the Administrative Court due to the Government's failure to act on the verdict](#)
- » [Government – decision on rejection of request for access- January 2018.](#)
- » [Decision of the Administrative Court at the request of TS- February 2018.](#)
- » [Complaint to the Administrative Court due to the rejection of TS's request- February 2018.](#)
- » [Proceedings by order of the Administrative Court – April 2018](#)
- » [Judgment of the Administrative Court – October 2022](#)
- » [Request for adoption of an administrative act based on the judgment of the Administrative Court \(September 2023\)](#)
- » [Notice to the Administrative Court on non-compliance with the judgment \(September 2023\)](#)
- » [Application to the Administrative Court – proceeding according to notification\(December 2023\)](#)
 - [Notice and response to the request – Administrative Court \(January 2024\)](#)
 - [Letter of the Administrative Court – specifying the decision \(January 2024\)](#)
- » [Government of Serbia – request to supplement the request from 2017 \(December 2023\)](#)
- » [Response to the Government notice – Specifying the subject of the request \(January 2024\)](#)
- » [The response of the Government of Serbia – concession – refusal](#)
- » [Lawsuit against the Government – Airport Concession \(May 2024\)](#)

The concessionaire of the Nikola Tesla Airport, the Belgrade Airport company, a daughter company of the French Vinci Airports, recorded a net loss of 809 million dinars or about 6.9 million euros last year (2023). This is actually a significantly better result than the one from 2022, when the loss amounted to 2.1 billion dinars or almost 18 million euros. Last year, Belgrade Airport invested 7.3 billion dinars or 62 million euros in construction works, which is about a third less than the investment of 10.8 billion dinars or 92 million euros invested in the previous year 2022. The company's operating income last year amounted to 21.7 billion dinars, and revenues from the sale of services amounted to 11.7 billion dinars, which is three billion more than in 2022. Business income was also "pumped up" by income from the activation of performance and goods to the extent of investment in infrastructure. In any case, Belgrade Airport achieved a profit from operations of 2.7 billion dinars, while it recorded a loss of about four billion dinars from financing. This is a consequence of high interest expenses, of 2.3 billion dinars or almost 20 million euros. Interest expenses of this magnitude arise from the method of financing investments, which are mainly from loans. The company's total liabilities at the end of last year amounted to 876 million euros. It owed the parent company 266 million euros based on a loan that matures in the last year of the concession, 2043, and with an interest rate of six percent. When this is added to the loans of the international financial institutions EBRD, IFC, DEG and Proparko, the total long-term loans of Belgrade Airport are 654 million euros on the last day of 2023. Short-term loans amounted to around 20 million euros.³⁸

Air Serbia a.d.

The establishment of the new national airline company, Air Serbia in 2013, was carried out in a non-transparent procedure and, like the concession act in the case of the Airport, the agreement establishing this company was hidden from the public eye for a long time, and then, after a year, only certain parts of it were release. The article of the contract that talks about the confidentiality of data served the Government of Serbia to justify the non-publication of this contract, which stipulated that the details of the entire deal should not be published until the day the contract is completed. From the parts of this agreement, it was revealed that part of the agreement with the partner company Etihad airways obliged Serbia to pay over 90 million dollars, while the partner from the United Arab Emirates paid 40 million dollars in the form of a loan for a 49% ownership share. In addition to this, the state was left to pay all debts, which were estimated at over 230 million dollars.³⁹ The government assumed almost EUR 200 million of JAT's debt and turned into public debt, took on additional liabilities of over 100 million dollars in the first year (social program, debt and losses incurred in 2013, covering the lack of working capital), introduced assets and rights worth about 150 million dollars and committed to subsidies in the next three years and additional subsidies through the write-off of the Airport's receivables. Etihad provided a loan of 100 million dollars (40 million in the

³⁸ [The concessionaire of Belgrade Airport incurred a loss of 6.9 million euros in 2023](#), Danas, 5 April 2024.

³⁹ [Uncovering the secret of the ministerial safe](#), Byrne, 7 August 2014.

first year).⁴⁰ The Government of Serbia paid its liabilities through state aid mechanisms. However, the procedure for awarding state aid is shrouded in secrecy because certain data concerning the amount of aid awarded have been omitted from the decision on the award of state aid. The state Aid Control Commission, which is competent in this case, referred to the Law on the Protection of Trade Secrets and Article 22 of the Law on State Aid Control.⁴¹

At the end of 2015, the Government of Serbia asked the Belgrade Airport to forgive the debt of over 22 million dollars incurred by the airline "Air Serbia". Before the celebration of the New Year, on December 30, the Government of Serbia decided to help the airline "Air Serbia" – in which almost half of the ownership is held by the Arab company "Etihad". That aid, however, is causing damage to the Belgrade airport "Nikola Tesla", which is state-owned and will not be able to collect over 2.3 billion dinars (22 million dollars) of debt that "Air Serbia" had incurred.⁴² How did the write-off of the debt to the Airport come about? The agreement, in addition to direct subsidies of 14 million dollars per year (in 2014, 2015 and 2016), stipulates the obligation for the Government to provide an additional 22 million dollars in 2014 and 18 million dollars in 2015. It can be a direct cash subsidy, or it can be provided by "reducing cash costs." The latter was done, by writing off the debt of the Airport, the cash costs were reduced. And what happened is that the agreement prescribed that it is taken from a company that is 84% owned by Serbia (and the rest by the citizens) and given to a company that is 51% owned by Serbia (and the rest by Etihad). At the same time, the Airport embarked on privatization in a weakened position, because, instead of investing profits and growing, it made renouncements in favor of Air Serbia.⁴³

A decade later, the state is once again the full owner of Air Serbia, after the share of Etihad permanently decreased in recent years, and the state's share, thanks to capital increases, went up. It is not known whether and how much Serbia paid Etihad to take over the remaining slightly more than 16 percent share, but it is known that from now on the national carrier will be managed exclusively by our country. The agreement that was concluded between the strategic partners in 2013 was kept as the strictest secret for a long time, and even to this day all the details of that pompously announced partnership are not known, as until now it was mostly guessed how much money it was worth and on what grounds the state had set aside that money during these ten years to have the right to operationally manage the company in which Etihad had 49 percent ownership, and for it to operate profitably. From 2013 to 2022, Serbia invested 63.8 billion dinars, or 545 million euros, in the national airliner. In addition, Air Serbia has received subsidies, or rather budget money, on several occasions from the very beginning, that is, since its establishment, on various grounds. In 2014, 2015 and 2016 alone, subsidies in the amount of 14.4 billion dinars were paid out, while in 2017, this company received a subsidy from the Ministry of Tourism of 1.4 billion dinars, which, truth be told, it did not register as income but as a reduction of its costs. After the outbreak of the Covid-19 pandemic and the suspension of airline traffic, the state increased the capital of Air Serbia in two stages, first in December 2020 with 11.5 billion dinars, and then in the fall of 2022, with 1.8 billion. Since in neither of these two moments, the state's partner, i.e. Etihad did not want to do the same, Serbia's share increased due to capital increase, and Etihad's share decreased and hence until the complete exit from ownership, the Arab partner had a share of only 16.42 percent. In the years of the pandemic, more precisely during 2020 and 2021, Air Serbia, in addition to the money acquired through capital increase, also received subsidies from the state in the amount of 7.7 billion dinars.⁴⁴ Details on how and how much the RS paid to take over the remaining 16.42% share owned by Etihad Airways in November 2023 are not stated in Air Serbia's final accounts either.⁴⁵

In terms of customer service, data for 2023 shows that Air Serbia was the second worst company in Europe in terms of the percentage of flights delayed or cancelled, with a final figure of 42.3% of flights that did not take off on time, or they didn't take off at all.⁴⁶ In the name of various traffic irregularities, Air Serbia paid passengers almost one and a half billion dinars during 2023, according to the company's final accounts. "Expenses based on traffic irregularities refer to passenger compensation for canceled flights, accommodation, lost luggage and other costs related to traffic disruptions," it is stated in the documentation accompanying the financial statements of Air Serbia for 2023.⁴⁷

40 [Write-off of the Airport's receivables from the Air Serbia company](#), Transparency Serbia, 22.1.2016.

41 [The secret of the ministerial safe revealed \(2\)](#), Vreme, 14 August 2014.

42 [The government forgives the \\$22 million debt of "Air Serbia"](#), 18 January 2016.

43 [Write-off of the Airport's claim against the Air Serbia company](#), Transparency Serbia, 22 January 2016.

44 [Adventure with Air Serbia cost citizens at least 64 billion dinars](#), Forbes, 23 November 2023.

45 [Air Serbia paid 1.48 billion dinars to passengers for canceled flights, and to Etihad for ownership – it is not known](#), N1, 15 April 2024.

46 [Air Serbia second worst in Europe in terms of delays in 2023](#), Zama aero, 26 June 2024.

47 [Air Serbia paid 1.48 billion dinars to passengers for canceled flights, but how much they paid Etihad for ownership is not known](#), N1, 15 April 2024.

PUC Beogradske Elektrane Belgrade

It is not only large national companies that are serious wasters of public resources, local public companies such as Public Utility Company (JKP) Beogradske elektrane (Belgrade Power Plants), which is in charge of heating the citizens of Belgrade, are not exempt from this practice. The quality-of-service provision to consumers was the subject of an audit by the State Audit Institution (DRI) in 2021. The report on the audit of the expediency of the operation "Consumer protection in the field of heat energy supply", dated 28 December 2021, stated that certain provisions of the Law on Communal Activities and decisions of local self-government units in the part of the obligation to conclude individual contracts on the supply of heating energy, the right to terminate contracts and consumer rights to complaint, are not aligned with the Law on Consumer Protection, the provisions of which provide a greater degree of consumer protection. In the period 2018-2020, JKP Beogradske elektrane billed for heating energy about 90% of users from the residential space category according to the surface area of their respective homes, instead of according to actual consumption, as prescribed by the Law on Energy, the Law on Efficient Use of Energy and the Decision on the Method of Payment for Communal Services in the City of Belgrade.⁴⁸

And while the citizens, in contravention of the law, paid a flat rate for the consumption of thermal energy, JKP Beogradske elektrane, according to DRI, did not fully comply with the Law on Public Procurement in 2020 and 2021 when planning and implementing the public procurement procedure, the estimated value of which is 8,60 billion dinars and the contracted value is 8.57 billion dinars without VAT. Furthermore, in 2021, the company planned for more funds for fees under contracts for work outside employment and other personal expenses in the amount of 77.52 million dinars and concluded more contracts on the performance of temporary and occasional work for jobs that by their nature they last longer than 120 days in a calendar year, which is not in accordance with the law. In 2020 and 2021, the company did not fully dispose of funds for special purposes (donations, humanitarian activities, etc.) in accordance with regulations. Observed irregularities in public procurement mostly relate to: in 2020 and 2021, in 32 public procurement procedures, with a total estimated value of 7.83 billion dinars, when determining the estimated value, the company did not document the method of testing and researching the market, which is not in accordance with the Law on Public Procurement and in one public procurement procedure from 2021, the estimated value of 260 million dinars and the contracted value of 243.97 million dinars, a shorter term for submitting bids than the legally prescribed term was set. For the year 2021, the company planned for funds for fees under contracts for work outside employment and other personal expenses in the amount of a total of 77.52 million dinars above the amount of funding planned for the year 2020, which is not in accordance with the Law on Public Enterprises, i.e., the Guidelines for the Preparation of the Annual Business Program. In the calendar year, the company concluded two or more contracts for the performance of temporary and occasional work for specific, identical jobs, despite the fact that these are jobs that by their nature last longer than 120 working days in a calendar year, which is not in accordance with the Labour Law. In 2020 and 2021, the company planned for funds for special purposes (donations, sponsorships, humanitarian activities, etc.) in an amount higher than 40 million dinars, which is not in accordance with the Law on Public Enterprises.⁴⁹ As a "reward" for managing JKP Beogradske Elektrane at the time of the observed irregularities, the then acting director Rade Basta, a member of the United Serbia party (the party that is part of the ruling coalition), was elected Minister of Economy in December 2022.

48 Report on the audit of business expediency – Consumer protection in the field of heating energy supply, State Audit Institution, 28 December 2021, pp. 1-2

49 Report on the audit of the regularity of the operations of the Public Utility Company "Beogradske Elektrane", Belgrade in the part related to public procurement for 2020 and 2021, compensation costs under contracts for work outside employment and other personal expenses for 2021 and the use of funds for special purposes (donations, sponsorships, humanitarian activities, etc.) for 2020 and 2021, State Audit Institution, 24 October 2022, page 3

HOW SHOULD COMPANIES OWNED BY THE REPUBLIC OF SERBIA OPERATE IN THE PUBLIC INTEREST – RECOMMENDATIONS

- The government should establish a centralized coordinating body to monitor, control and supervise the work of state-owned enterprises, and the data from that system should be available to the public.
- The government should ensure greater independence in the operation of companies, especially from political influence, by ending the practice of appointing acting directors and announcing an open competition for the selection of directors of public companies for all companies managed by legal or illegal (expired term) acting directors. After the start of implementation of the Law on the Management of Companies Owned by the Republic of Serbia, legality should be ensured by state representatives in supervisory boards and shareholders' assemblies.
- The Government and the Assembly should prepare and adopt amendments to the Law on the Prevention of Corruption in order to annul the authentic interpretation of the definition of the term public official and ensure that directors, acting directors, members of supervisory boards and representatives of the state in assemblies of shareholders of state-owned enterprises have the status of public officials and that they are subject to obligations to report assets and income and conflict of interest;
- The Government and the Assembly should prepare and adopt amendments to the Law on Public Enterprises and the Law on the Management of Companies Owned by the Republic of Serbia in order to reduce the opportunities for misuse of the resources of these companies for the purpose of political promotion or the achievement of goals that are not related to the scope of the company's business;
- The government should specify, to the extent possible, the criteria for determining whether a director has performed his/her duties unprofessionally and negligently and whether there was a (significant) deviation from the achievement of the basic goal of the public company's work, that is, from the business plan.⁵⁰

50 [Assessment of the system of social integrity 2023 – NIS](#), Transparency Serbia, February 2024, p. 236



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