Thermal power plant projects under legal scrutiny

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How to create as many obstacles as possible for TPPs

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How to just close your eyes – TPPS do not have to comply with the law

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Bulgaria accused of illegal aid to fossil fuel

Romania keeps giving state aid to coal even as it holds EU presidency

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Why relevant in the EnC?

- Environment and Climate Change
- State aid:

1. EnC Treaty
2. TFEU
3. Case Law
5. Other legal acts
6. National law
Case study: Kolubara (Serbia)

- Electricity sector in Serbia: EPS
- Thermal Power Plant Kolubara
- State aid enforcement system in Serbia:
  - Law on State Aid Control (2009)
  - Commission for State Aid Control
- Complaint:
  - Loans by EBRD and Kreditanstalt für Wiederaufbau (KfW) -> State guarantee
  - Transfer of property
- Complaint: Lack of assessment
Case study: Tuzla 7 (BiH)

Tuzla 7 project

Loan by Chinese Export-Import Bank for 80% of the costs

Secured by State guarantee for the entire loan

State aid:
- More than 80% covered
- Level of premium market-based?

Cooperation mechanism with national authorities (Art. 2 DSR)
Case study: Kosova e Re (Kosovo*)

- Case pending, not opened yet
- Kosovo C project (450 MW)
- Deal signed in March 2018
- Potential state aid elements:
  - PPA, incl capacity payment
  - VAT exemption
  - Sale and lease of property
  - State guarantee
- Lack of assessment by State aid authority
Take aways

• Lack of enforcement of State aid prohibition in the energy sectors
• Superficial assessment due to...
• Lack of expertise and...
• Lack of courage
Thank you for your attention!

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