

FROM PAZARDZHIK TO PRAGUE: Ginka Varbakova and the multilevel clientelism and corruption in the energy sector

The Anti-Corruption Fund has filed a report to the Public Prosecutor's Office regarding a deal between a municipality in the Southern part of the country and a private company, Rial Steyts LLC.

The company was supposed to build a 50MW solar park on land that Pazardzhik Municipality had sold to it. Estimated to cost BGN 400 mln. (EUR 200 mln.), the photovoltaic facility was supposed to create at least 52 jobs in the region. To this date, less than 3MW has been built and the municipality has failed to demand its due penalty, amounting to EUR 1 mln.

The fund's analysis shows that the local authorities did not take sufficient care in managing municipal property. This case is a prime example of the failure of preventive mechanisms at the local level and the need to enforce existing regulations more stringently.

Corruption at the local level



The feeling of impunity, due to the inefficient investigation and criminal justice system, continues to prevail among the wide majority of people exercising public authority.

According to the authoritative *Nations in Transit 2018* report, levels of local democratic governance in Bulgaria are declining.¹ Considered a defective and semi-consolidated democracy, the country continues to struggle with wide-spread practices of corruption and clientelism, including at the local level of governance. The cited decline of the local democratic governance score (from 3.0 to 3.25) is partly the result of high corruption levels registered in municipalities. According to the *Corruption Perception Index 2017*, Bulgaria is ranked 71st globally (out of 180 countries)², surrounded by non-European states and remaining at the bottom of the EU. Thus, Bulgaria consistently ranks among EU member states with the highest perceived levels of corruption, and corruption is considered to be one of the most important barriers to developing the business sector in Bulgaria.³

In the recent years, regular allegations of corruption, conflicts of interest, and nepotism have been affecting public trust in the competence and integrity of local authorities across the country. This applies to public officials across the political spectrum. During the past year, local representatives of both the governing majority and major opposition parties have faced public accusations and disapproval, while full-scale police investigations were opened only in a very limited number of cases.

Corruption at the local level has been the focus of the annual Cooperation and Verification Mechanism (CVM) report produced by the European Commission and directed at the evaluation of compliance of the country with the common EU standards in the field of the rule of law and independence of the judiciary, and counteracting high-level corruption and organized crime. In the January 2017 CVM report, special emphasis is placed on the development of preventive mechanisms at the local level for identifying corruption behavior. The Commission recommends the following: "Wider efforts to address corruption at lower levels are needed, in particular in terms of measures to enhance prevention, which should be introduced in combination with wider efforts to increase transparency and professionalism in the public administration."⁴

1 Freedom House, *Nations in Transit 2018*: <https://freedomhouse.org/report/nations-transit/2018/bulgaria>

2 https://www.transparency.org/news/feature/corruption_perceptions_index_2017

3 Report from the Commission to the European Parliament and the Council on Progress in Bulgaria under the Co-operation and Verification mechanism, Brussels, 27.1.2016 COM(2016) 40 final: <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-40-EN-F1-1.PDF>

4 Report from the Commission to the European Parliament and the Council on Progress in Bulgaria under the Co-operation and Verification mechanism, Brussels, Brussels, 25.1.2017 COM(2017) 43 final, p. 12: https://ec.europa.eu/info/sites/info/files/com-2017-43_en.pdf

Meanwhile, independent research indicates serious corruption practices, including political influence and clientelism, in the renewable energy sector. According to the independent Bulgarian think-tank Center for the Study of Democracy, “the first-generation renewable energy policy in Bulgaria was mismanaged to the benefit of a few politically well-connected companies and individuals, unleashing a popular backlash against green energy”.⁵ In this context, due to the preferential market prices of the energy produced from renewable sources, many new investments were made in different types of installations, including photovoltaic systems, over the past decade.

Pazardzhik Municipality



One mayor Popov’s country estates – consisting of a large house, a swimming pool, and a guest house, built on 3,500 sq. meters of land – is valued at BGN 1.5 mln. (approx. EUR 750,000). In 2018, the average salary of the mayor was BGN 2,300 (EUR 1,150).

Pazardzhik is a mid-sized city (population 76,000) some 100 km away from Bulgaria’s capital Sofia. It functions as an administrative center of the Pazardzhik Municipality (pop. 120,000) and the Pazardzhik Region (pop. 275,000) in the southern part of the country. The city mayor, Todor Popov, is approaching the end of his third four-year term in office, as he was first elected in 2007. He is supported in the Municipal Council by a local political coalition bearing his name – “Todor Popov for Pazardzhik” – thus having a stable political group (with the highest number of councilors – 14) to back up his initiatives.⁶ Before being elected mayor, he served as chairman of the Municipal Council (2003-2007) and a municipal councilor (1999-2007). During his term, there were numerous public allegations of abuse of power and clientelism, and several investigations were opened and closed. However, no proven misconduct or corruption with his direct involvement were established. Investigations focused on the mayor’s property ownership status, questioning the sources and means for acquiring various properties.⁷

Regarding the public image of the mayor, a dark shadow was cast by the murder of Popov’s former head of cabinet on 12 January 2015. There were publicly voiced allegations connecting the crime with the murdered official’s job and position. However, almost four years later, the criminal investigation has stopped, and no indictments have been issued.⁸

An important dimension of the local politics is that the city and the region are considered one of the strongholds of the Bulgarian oligarch and politician Delyan Peevski who has been elected Member of Parliament from the Pazardzhik constituency multiple times. Peevski is an emblematic face of clientelism, political corruption, and shadow power networks, connected to the former communist regime and the criminal underworld. Peevski’s election in 2013 for chairperson of the National Security State Agency, the Bulgarian counter-intelligence and financial intelligence agency, sparked the most intensive civic demonstrations in the country in the past decade, leading to government changes and new parliamentary elections in late 2014.⁹

Who is Ginka Varbakova

Ginka Varbakova is an owner and investor in multiple renewable energy companies. In early 2018, it was publicly announced that one of her companies – INERCOM¹⁰ – which invests predominantly in green energy systems, is planning to purchase the Bulgarian branch of the Czech energy corporation and supplier CEZ.¹¹ This means that, in case the contract is finalized, INERCOM will obtain full control of the energy supply of one third of Bulgarian households in the Western regions of the country (including the capital Sofia). The value of the contract is EUR 326 million. The contract between CEZ Group and INERCOM was signed on 23 February 2018.

Public statements and allegations for political connections of Varbakova and her companies with top-level Bulgarian politicians, including members of the government, have triggered an ad-hoc parliamentary enquiry procedure. An interim parliamentary committee, chaired by an opposition

5 Decentralisation and Democratisation of the Bulgarian Electricity Sector: Bringing the Country Closer to the EU Climate and Energy Core, Sofia: CSD Policy Brief # 79, July 2018, p. 1: http://www.csd.bg/imgShow.php?id=16876&art_id=18291

6 Municipal Council – Pazardzhik, Political Representation: <http://www.obsazardzhik.com/>

7 “The district public prosecution office will investigate the property ownership status of the Pazardzhik mayor Todor Popov”, The Bulgarian National Radio (22.04.2015): <http://bnr.bg/post/100548628>

8 The criminal investigation for murder of a person working for Pazardzhik municipality is halted”, Legal World (11.10.2017): <http://legalworld.bg/66083.spriano-e-razsledvaneto-na-ubijstvoto-na-obshtinarka-v-pazardjik.html>

9 Freedom House, Nations in Transit 2014, Bulgaria: <https://freedomhouse.org/report/nations-transit/2014/bulgaria>

10 <https://inercom.bg/en/>

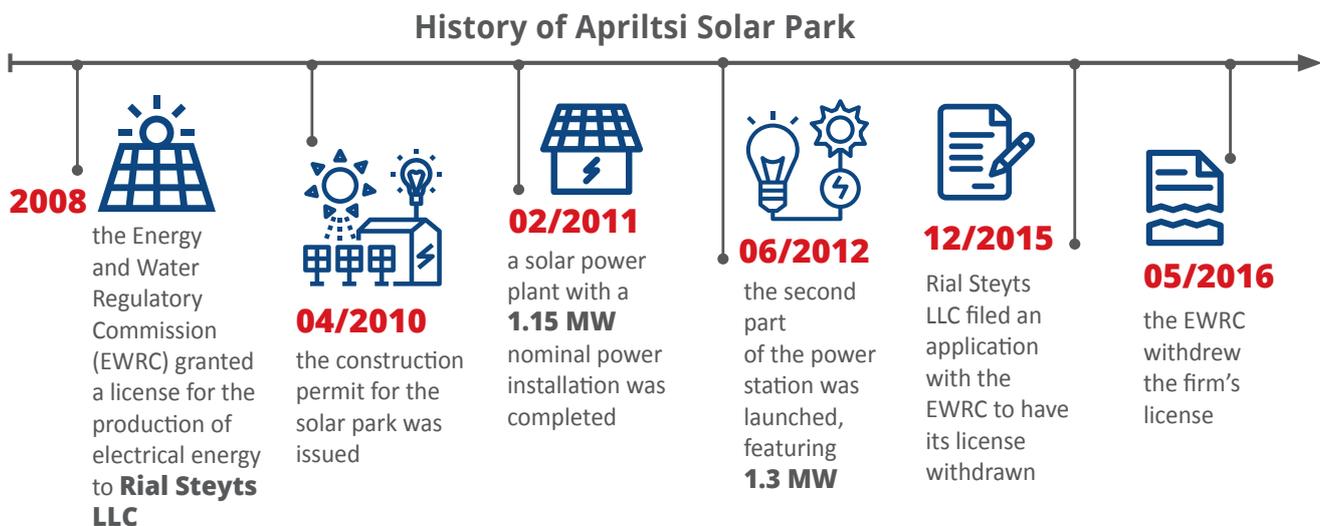
11 INERCOM signed a share purchase agreement for the acquisition of all assets of CEZ, A. S. in Bulgaria (23.02.2018): <https://inercom.bg/en/inercom-press-release>

MP (from the BSP), was established to address different pending questions and to convene public hearings of different interested parties and stakeholders. In May 2018, the committee adopted a report, concluding that the government should amend the regulation concerning strategic objects of national security in order to include energy supply companies among these objects. Furthermore, additional information concerning different aspects of the deal has been requested from the Bulgarian secret services and the Bulgarian National Bank.¹²

Questions concerning national security and the security of energy supply for a significant number of the Bulgarian population were raised in view of the fact that INERCOM lacks experience in managing and constructing conventional energy infrastructure. Meanwhile, in July 2018, the Bulgarian Anti-Trust Authority, the Commission for Protection of Competition, revoked the deal with the argument that it would lead to the establishment of a dominant position on the photovoltaic energy production market. The transaction is of strategic importance for Bulgaria and its potential effects will have direct implications for national security, due to the wide range of activities of the acquired companies and their importance for the Bulgarian electricity system, the regulator said at the time¹³. In September 2018, in a bid to save the deal, Inercom Bulgaria announced that it had sold its photovoltaic business in order to resolve the concerns of the competition authority, which had blocked the acquisition of CEZ' local assets by the company.

According to Reuters "the deal... prompted concerns that strategic energy assets in the EU country were passing into the hands of owners about which little was known, and also raised worries about financing for the deal. With assets worth around 100 million levs (\$60.03 million), little-known Inercom would have acquired a business with annual turnover of about 1.8 billion levs (\$1.08 billion), which operates one third of Bulgaria's power grid."¹⁴

The investor, the mayor and "the biggest photovoltaic park in the region"



On 4 July 2008, following a decision of the Pazardzhik Municipal Council based on a conducted competitive procedure, Pazardzhik Municipality, represented by its mayor, Todor Popov, concluded a contract for the sale of land with the firm Rial Steyts LLC, connected to Ginka Varbakova. According to the terms of the contract, the municipality sold land plots with a total area of 2,000 decares, for the amount of BGN 500,000 (EUR 250,000). The contract obligated the buyer to construct a solar park on the acquired land, consisting of a photovoltaic power station and a 50 MW nominal power installation. The construction should have been realized within 32 months, counted from the issue date of the construction permit and should have involved an investment of no less than BGN 400 mln. (EUR 200 mln.). This solar park was supposed to be the biggest investment project in the entire Pazardzhik Region and the aim was for it to become

¹² <http://www.parliament.bg/pub/cw/20180511043609DOKLAD%20FINAL.pdf>

¹³ "Inercom Bulgaria divests PV assets to win approval for deal with CEZ": <https://renewablesnow.com/news/inercom-bulgaria-divests-pv-assets-to-win-approval-for-deal-with-cez-627529/>

¹⁴ "Bulgaria's Inercom divests solar power assets to save CEZ deal" (21.09.2018): <https://www.reuters.com/article/bulgaria-energy/bulgarias-inercom-divests-solar-power-assets-to-save-cez-deal-idUSL8N1W745G>



The promised deal

- **EUR 250,000** paid by Rial Steyts for municipal land
- **EUR 200 million** pledged investment
- **50 MW** solar photovoltaic plant
- **52** local jobs
- **32** months deadline to build the solar park
- **EUR 1 million damages** to be paid to municipality if investment plan fails

The reality

- **2.45 MW** the total nominal capacity of the Apriltsi Solar Park to date
- **0 damages paid** to Pazardzhik Municipality

the largest photovoltaic power station in Southeastern Europe. According to the terms of the contract, if the buyer fails to realize the promised investment project in full within the agreed timeline, or if he fails to meet any of the other negotiated conditions, he would have to pay damages to the municipality in the amount of EUR 1 mln.

Rial Steyts LLC was granted a license for the production of electrical energy by the Energy and Water Regulatory Commission (EWRC) in 2008. The construction permit for the solar park was issued on 16 April 2010. The first stage of the construction and launching of the photovoltaic power station, which featured a 1.15 MW nominal power installation, was completed in February 2011. In June 2012, the second part of the power station was launched, featuring 1.3 MW. On 28 December 2015, Rial Steyts filed an application with the EWRC to have its license withdrawn. With a decision dated 11 May 2016, the EWRC withdrew the firm's license.¹⁵

To date, the Apriltsi Solar Park contains two photovoltaic power stations with a total nominal power installation of 2.45 MW, which is 20 times less than the nominal power agreed for in the contract. At the same time, there are no pending construction activities and it has been stated that such can only be initiated on condition of securing funding for the project. As can be seen from the annual reports of the firm, published on the Companies Register, the negotiated investment of BGN 400 mln. has also not been realized.

In response to an inquiry filed on behalf of the Anti-Corruption Fund¹⁶, we were told by the mayor of Pazardzhik Municipality, Todor Popov, that there have been no disputes between the municipality and Rial Steyts LLC with respect to the execution of the contract. The subsequent three annexes, signed without the approval of the Pazardzhik Municipal Council, did not raise the issue of compensation. There have been no claims for damages, and the contract has not been rescinded. According to the mayor, there has been no breach of contract by Rial Steyts.

When asked whether the municipality has verified the execution of the contract in any way, the mayor stated that "due to the fact that the obligation to construct a solar park has been fulfilled, no checks were carried out or commissioned." It should be noted that the contract stipulates an obligation to construct a solar park with specific parameters, namely a 50 MW nominal power installation. It remains unclear why the Pazardzhik Municipality believes that the obligation to construct a solar park with the specified parameters has been fulfilled.

The fact that Rial Steyts has not secured funding for the project within the past several years and that it applied for withdrawal of its license in the end of 2015 shows that the firm does not have the capacity to fulfill its contractual obligations. It is also evident that the firm has not taken any action to construct the remaining part of the Apriltsi Solar Park within the past three years.

Pazardzhik Municipality has failed to satisfy the standard of care due in the management of municipal property. The damages that Rial Steyts LLC will have to pay, if a breach of contract has been established, amount to EUR 1 mln. As a result of the inaction of the competent municipal authorities – exemplified in the lack of control, the failure to delegate controlling functions to other authorities, and the failure to file a claim for damages – the municipal budget may incur the costs of the forfeited claim for damages in the amount of EUR 1 mln.

¹⁵ Without such a license, any power station with more than 5 MW nominal power installation is barred from engaging in energy production.

¹⁶ Access to public information request regarding the execution of the terms of the contract, Pazardzhik Municipality Decision for Access to Information No ЗДОИ-13/01.10.2018; Decision for Access to Information No ЗДОИ-9/01.08.2018

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