

Shareholders announce legal suit against ERS claiming 30 million BAM of damage

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BANJALUKA – The process of separation of distribution and supply in “Elektroprivreda Republike Srpske” (ERS) presents a heavy blow for minority shareholders. The total damage for all shareholders of distribution companies ranges between 100 and 150 million, which means from 20 to 30 million BAM for minority shareholders in proportion to their share, which is why suit against Parent company ERS and distribution company management is possible, says Tripko Krgovic, a member of the Council of Association of the Republic of Srpska Energy Sector Minority Shareholders (UMEAS), in an interview for CAPITAL.

Krgovic, who is also member of Board of Directors in DUIF Kristal invest Banja Luka, points out that attempts are being made to deprive distributions from an important business segment, leaving them with an enormous redundancy rate that should be resolved to the detriment of distribution companies.

„An ideal solution to this would be for the Holding to transform the Supply into a joint-stock company, giving minority shareholders their respective shares. Another option would be for the Holding to indemnify the minority shareholders of distribution companies in cash”, says Krgovic.

CAPITAL: The Republic of Srpska National Assembly adopted the Law on Amendments and Modifications to the Law on Companies at the end of last year, depriving the shareholders of their right to demand payment for shares in case they disagree with decisions passed by the Shareholders Assembly. It was all justified by the planned restructuring of ERS and “harmonization of the business with international contracts”. How does it affect small shareholders in the energy sector?

KRGOVIĆ: We are indeed startled with the new situation. When the controversial provisions of the Law referring to dissenting shareholders were adopted, it was considered that the intention of passing the law was to prevent minority shareholders from objecting in the following process of separation of distribution and supply, all in line with EU directives. We considered it justified, for it would not be fair to separate the two existing distribution companies in two joint stock companies with the same ownership structure and have some misuse the situation and disagree. Distribution and supply have to be separated, given that the first mentioned is a strictly regulated business, while the other one is a market orientated business in its nature, hence they should not be found within the same legal entity. However, holders of vouchers and investors on the stock exchange found this as an existing situation and by buying shares they also bought a part of distribution and supply.

CAPITAL: How can you explain the separation procedure conducted by “Elektroprivreda RS“, and/or Holding?

KRGOVIĆ: With all the good will, it is really difficult to find any rational explanation why the supply is not separated from the distribution in a particular joint stock company or a limited liability company, but the business has been taken over by the Parent Company through the establishment of the Supply Directorate, except to cause damage to minority shareholders of the distribution companies. The fact that the Parent Company has never had a dialogue with minority shareholders nor has the stock exchange been informed about such an important event only confirm their bad intention. In one word, this process presents a heavy blow to minority shareholders, this is an attempt to take away one valuable business, leaving a huge number of redundant employees that needs to be settled at the expense of the distribution companies.

CAPITAL: How much do you estimate the damage caused to minority shareholders??

KRGOVIĆ: Taking into consideration the official data, distributing companies have above 500.000 users, and evaluation of one user ranges from 200 to 300 BAM for the needs of any serious evaluation, the total damage amounts to between 100 and 150 million marks, and/or that damage for minority shareholders is 20 to 30 million marks.

CAPITAL: What are your further steps?

KRGOVIĆ: Currently, two directions are being considered. The first is the possibility of lawsuits against the majority owner for compensation for discrimination against minority shareholders, but also the management structures of distribution companies that have done nothing to maintain the supply segment, i.e. to protect minority shareholders. The second course of action, which in our opinion is always more productive, is to initiate a dialogue with the Holding on this issue and generally the position of minority shareholders within the energy sector who are increasingly threatened by poor corporate governance and business policies not applicable to joint stock companies.

CAPITAL: What could be possible solutions?

KRGOVIĆ: The ideal solution would be for the Holding to convert the Supply Directorate into a joint stock company and give minority shareholders an appropriate share. Another possibility would be for the Holding to compensate the minority shareholders of the distribution companies in cash. It is also very important for the future that distribution companies start to achieve satisfactory rates of return on capital after the separation. I guess that is the essence of this process, to separate supply as a market activity from the distribution that is regulated, and to provide it with a satisfactory regulatory return on capital because it is a monopoly that must not be abused.

CAPITAL: What are the main problems in energy sector in your opinion?

KRGOVIĆ: The main and basic problem is that electricity is still not treated as a commodity and that the overall energy system is neither regulated with an appropriate rate of return on capital, nor is it liberalized to operate on market principles, and such a situation leads

nowhere. We will soon publish a comparative analysis of all power systems in the region, which will show that such a low return on capital exist only in RS. In this way, the value of the energy sector of the Republic of Srpska is reduced and its citizens is impoverished. We note that the interest of minority shareholders in the energy sector is identical to the state interest of RS. Certainly, our Association does not advocate for the sudden liberalization of the market and a blow to the standard of citizens. We must behave responsibly towards the socially vulnerable population, there are various modalities on how to solve this. But we must stop as soon as possible to subsidize rich individuals and economic entities at the expense of energy sector shareholders, and through unrealistically low prices of network fees and electricity. Take a look, for example, at what is being done across RS when it comes to mining with crypto currencies, where individuals get rich at our expense thanks to cheap electricity.

CAPITAL: Is there a similar example of separation of distribution and supply in the region, or are there indications that something similar is planned?

KRGOVIĆ: We are sure that such an attempt to take away from shareholders and citizens will not happen anywhere in the region. Even after the separation of distribution and supply at "Elektroprivreda BiH" and "Elektroprivreda Hrvatske zajednice Herceg Bosne", small shareholders will still be proportional owners of supply. Take the example of "Elektroprivreda BiH" where the payment of dividends was ordered to finance highways and the similar and ensure that minority shareholders would not be damaged. In the same time, for example, bridges, swimming pools and various other projects are funded only from the funds of "Hidroelektrana na Trebisnjici", which have absolutely nothing to do with the company's business.

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