

# A Synergy of Failures: Environmental Protection and Chinese Capital in Southeast Europe

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## Introduction

Chinese outward capital<sup>1</sup> has attracted considerable attention worldwide, triggering both positive and negative reactions. While some countries, especially developing and crisis-stricken EU nations, view it as an important new source of investment, others fear that it is centrally controlled and promotes China's aggressive foreign policy agenda. Regarding Southeast Europe (SEE), over the last five years, European policy makers, think tanks, consultants and journalists have exhibited rather alarmist attitudes towards expanding Chinese economic activity and the political leverage this might entail in a region traditionally seen as Europe's 'soft underbelly'. This ongoing, and largely inconclusive, debate has concentrated on political and security concerns about China's actual or potential influence over current and aspiring EU member-states and its impact on EU cohesion (Benner et al., 2018; Casarini, 2015; Godement and Vasselier, 2017; Hellström, 2016; Karásková et al., 2018; Meunier, 2014; Vangeli, 2017; van Pinxteren, 2017; Pavličević, 2018; Rogelja and Tsimonis, 2019). Threat perceptions associated with Chinese capital have flourished and fuelled policy responses. Characteristically, the EU FDI screening mechanism was created in 2019 to safeguard the Union against the security or public order threats of foreign investment, primarily originating from China. Both the debate and the policy responses have widely neglected areas of direct concern for European citizens and societies, including labour practices, environmental protection, and the impact of Chinese capital on local economies (with notable exceptions like Drahekoupil, 2017 and Neilson, 2018 on labour).

Another stream of the literature is increasingly concerned with the model of development that Chinese capital promotes and the corresponding challenges for Western liberal norms and regulatory standards (Adisu et al., 2010; Armony and Strauss, 2012; Baah and Jauch, 2009; Lee, 2017; Trofimov, 2007). The Chinese president's 2017 assertion that China offers a 'new option' for developing countries (Xi, 18 October 2017) has further intensified this debate, raising fear and criticism of the corporate governance and social responsibility standards of Chinese companies (Economy, 2019). This literature however focuses predominantly on regions of the Global South characterized by underdevelopment and weak institutional capacity, where Western and other developing country actors have a long track record of exploitative activities and unethical corporate practices (Elliot and Freeman, 2001; Duanmu, 2014; Moran, 2002). As a result, it is often not analytically possible to distinguish the impact of Chinese capital from the effect of structural limitations emanating from neoliberal reform programmes imposed by Western lenders or weak developmental bureaucracies and corruption.

The present article engages directly with the debate on regulatory standards and practices by examining a key area of concern about the Chinese developmental model, namely environmental protection.

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<sup>1</sup> Under the rubric of 'Chinese outward capital', we include foreign direct investment as well as other overseas flows such as concessional loans resulting in contracted work for Chinese companies, following the work of Lee (2017) on varieties of capital and Klinger and Muldavin (2019) on the need to approach state, capital and development in a multi-scalar way. We approach the term 'Chinese capital' in an emic way, emphasising the role of Chinese state-owned enterprises which transcends divisions into 'loans', 'aid', or 'investment'.

It concentrates on Southeast Europe, an integral part of China's new 'Silk Road'. This region combines EU countries (Bulgaria, Croatia, Greece, Romania and Slovenia), where environmental protection is regulated according to EU legislation, and aspiring members (including Albania, Bosnia-Herzegovina, Kosovo, North Macedonia and Serbia) where national regulation could be more amenable to investors' interests in an effort to attract investment. As such, SEE offers a unique opportunity to investigate the assumed downward spiral effect from different regulatory starting points. This represents a novel evaluation of Chinese capital which is particularly relevant given the intensification of anti-Chinese FDI policy and rhetoric by the EU in recent years (Rogelja and Tsimonis, 2020). As major Chinese capital flows into SEE are a trend of the last decade, the article is also timely in being able to track the development of Chinese projects and their impact on environmental standards in the region and to identify emerging trends that may also be applicable at a European level.

The paper also contributes to the literature on state-investor relations, specifically transnational state-owned enterprises that for the most part, over 19% globally, come from China (Babic et al., 2017). Examining the investment and financing behaviour, negotiating priorities, and sustainability policies of large Chinese transnationals is linked to understanding the role of host states and supranational regulatory frameworks precisely because Chinese companies have faced a steep learning curve in their effort to seek business overseas (Jacoby, 2014), suggesting their practices are still in flux and reflect host state regimes as much as they do domestic Chinese institutional arrangements. Consequently, our work does not tend toward the 'comparative capitalisms' approach, which emphasizes modelling relations between the owner state and state-owned enterprise (cf. Nölke et al., 2015: 542 on 'state-permeated market economies'). Instead, we emphasize host state-investor relations as an important variable that helps us understand the behaviour of transnational corporations from emerging economies such as China, as they co-create different practices and regulatory norms in liminal regions like SEE.

### **Methodology and argument**

This study represents a collaborative methodological design combining fieldwork with input from civil society, by bringing in the views of participants on the ground as co-authors of the analysis of China's outward capital. The great variety of potential cases across SEE states required an exploratory phase to map recent developments. This stage culminated in a workshop titled 'Chinese Investment in the Balkans: an Environmental Perspective' that took place in Athens on 14-15 June 2018, funded by King's College London and organized in conjunction with the Mediterranean Programme for International Environmental Law & Negotiation (MEPIELAN), Panteion University. The workshop brought together environmental NGOs from SE Europe, local civil society groups and researchers, focusing on the experiences of civil society on the environmental challenges associated with Chinese capital.

We paid particular attention to the resilience and implementation of regulatory standards, the role and interplay between local, regional, EU and Chinese actors, the observed impact of Chinese capital on the environment and local communities and the way it compares to Western investors. The workshop provided us with empirical evidence from the ground that we could then fact-check, corroborate and analyze in this paper. Unfortunately, the debate on Chinese capital has long been dominated by often exaggerated and unsubstantiated threat perceptions, political discourse and sinophobic or sinophilic attitudes (for more on this see Pavličević 2018; Rogelja and Tsimonis, 2019). By focusing on specific issues of compliance, even of 'technical' nature, we aim at recalibrating the debate on Chinese capital in Europe towards a more

meaningful, for our societies, fact-based discussion on its actual impact. By doing so, we are not disregarding the broader picture of the developmental and political implications of Chinese capital, thereby “missing the forest for the trees”. On the contrary, we fear that the debate around the real or imagined security implications of Chinese economic presence in Europe has deflected attention on its impact on environment, health, labour standards and local communities. By bringing in specific cases, we aim at identifying common practices and developmental understandings of Chinese companies, analyze possible trends and foster further thinking on local and regional regulatory gaps and possible policy responses.

Regarding the projects we analyze in this paper, from 12 cases examined during the workshop, we decided to concentrate on the port of Piraeus (Greece), the Kostolac power plant (Serbia), the Stanari power plant (Bosnia and Herzegovina), the construction of the Kičevo-Ohrid Highway (North Macedonia) and the Patos-Marinza oil field (Albania). Our purposeful sampling followed four criteria: a) the importance of the project, with all the cases being among the largest inflows of Chinese capital in each state; b) its environmental impact, concentrating on contested cases; c) cross-sectoral representation, to examine whether it matters on the way Chinese companies engage and comply to environmental concerns and standards; d) the host countries’ degree of association with the EU, to assess the latter’s regulatory influence. This allowed us to focus on analyzing *how* Chinese capital poses challenges to sustainability and environmental protection, rather than answering *whether* such projects are damaging or not.

The aforementioned cases have raised serious environmental concerns in different sectors (transport, energy, construction, oil extraction) and in countries that range from full EU membership (Greece), full candidate status under accession negotiations (Serbia), candidate countries with negotiations not yet under way (Albania and North Macedonia), and potential candidate status (Bosnia-Herzegovina).<sup>2</sup> This purposeful sampling enabled us to capture the complexity of the regional picture and accommodate the rich detail pertinent to each case while allowing us to reflect on the ‘big picture’ of the impact of Chinese capital in the region as a whole. Further, concentrating on controversial cases allowed us to best examine the factors behind the downward regulatory effect observed in these projects. By concentrating on substantial<sup>3</sup> and problematic cases, we tried to unpack the complex dynamics involved and test the validity of an often held assumption of an inevitable trade-off between Chinese capital and environmental standards, what we call the “bad investors, weak hosts” approach. The close examination of problematic cases enables us to trace the development of these projects, assign responsibility to the various actors involved, and identify possible courses of action for national and European policy makers.

All of the cases examined were contested to some degree by coalitions of civil society actors. We do not imply these contestations to be apolitical or without specific agenda. Rather, we see in them an important actor that defines the process of localization of Chinese capital, but also argue that the framing of contestation (as a social justice issue, a question of compliance, market liberalization, EU accession etc.) suggests civil society tactics reflect how local conditions define optimal modes of contestation. Given the support of the host state for the projects in question, civil society mobilization is often one of the first barriers Chinese capital had faced.

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<sup>2</sup> Screening on the Accession Chapter on Environment has been completed for Serbia (completion date 21-11-2014), started for Albania (starting date 13-5-2019), and not yet begun for North Macedonia. (European Commission, n.d.)

<sup>3</sup>The Albanian, Bosnian, Greek and North Macedonian cases represent the single largest flow of Chinese capital into each country, while the Serbian case is the second largest. Cumulatively, the projects amount to over €1.8 billion in loans and €750 million in direct investment through acquisitions. For a comparison, the total value of Chinese loans currently active in SE Europe stood at €4.480 billion in January 2019 (data compiled by authors).

Throughout the article we juxtapose the EU as a normative and regulatory entity to incoming Chinese capital originating from a different developmental context. The EU provides civil society with regulatory standards and legal instruments, thus setting the benchmark for them to evaluate the sustainability of these projects. Furthermore, EU accession is a key incentive motivating infrastructural upgrading in the region, featuring in EU Accession reports (European Commission, 2018: 46-47) and seen as an important goal by lending bodies such as the European Investment Bank (EIB, 2018). Yet without ambitious financing support, SEE countries often have no choice but to turn to Chinese loans or investors. But by concentrating on the EU we do not implicitly suggest a binary of “good Europe vs. bad China”. We understand Chinese capital as amenable and adaptable to new contexts and, therefore, as an opportunity to test the ability of national and European mechanisms to enforce compliance, promote best practice and socialize Chinese companies to the more regulated European business context. In addition, as all Balkan countries have either joined or are aspiring to join the EU (European Commission, 2019), they have to meet specific regulatory requirements and conform to policy goals such as the rapid reduction of greenhouse gas emissions (European Commission, 2019). In this regard, the availability of Chinese capital has in some cases delayed transition to cleaner forms of energy by investing in coal factories (Doehler, 2019) and in others has promoted green industries (Pencea, 2017; Spasic, 2018). This variety of outcomes demonstrates both national-level actors and EU frameworks have to be considered when we assess challenges posed by Chinese capital for environmental sustainability.

We argue the challenges Chinese capital poses emanate from a combination of factors: a) a disregard for regulatory standards and related technical and legal know-how by Chinese companies due to their understanding of environmental issues as a matter of bilateral negotiations rather than compliance; b) the complicity of local actors, mainly political and economic elites which, by trying to “lure” investors, undermine the enforcement of regulatory frameworks and sustainability goals; c) the ambivalence of the EU in terms of its developmental priorities and commitment to sustainability that results in regional regulatory gaps and anaemic monitoring mechanisms, but also in terms of enlargement and the future of SEE.

Our findings identify an unfortunate ‘synergy of failures’ by the actors involved as the heart of the problem. On the one hand, Chinese investors tend to disregard the necessity of environmental impact assessments (EIAs), the need for compliance with local regulatory frameworks and the importance of engaging with local communities and civil society. On the other, host governments demonstrate a lack of political will to pursue sustainable development or enforce compliance, especially at the entry point, which renders them primarily responsible for the negative environmental impact of these projects. The closed nature of bilateral negotiations mitigates against effective civil society oversight until many of the environmentally damaging effects are already happening, or at least until the project has taken on an institutional inertia which can be difficult to stop. This is particularly relevant given the high level of host state involvement in many of the Chinese-invested projects in SEE. The reliance of Chinese investors on compliant national governments is, however, also a point of concern for the investors themselves. Public protest, intervention by European or national regulatory authorities, or a change of government can jeopardize such projects.

The third aspect of this synergy of failures is the ambivalence of the EU on key policy areas. Is privatization a prerequisite for sustainability? Do SEE countries have a future in the EU? What challenges does third-country capital bring? While doubtlessly exerting structural power (Pavličević, 2019), the EU is at best ambivalent and its policies can contradict its long term goals, setting up conflicting incentives for host governments and foreign investors and lenders. This synergy of failures results not so much in a ‘race’

to the bottom, but rather a ‘drift’ to the lowest common denominator of compliance with environmental standards.

To put in a nutshell, across all cases we find that although Chinese companies bring an understanding of development that contradicts European norms and regulations on sustainability, their failure to comply with local standards and practices is equally attributable to the laxity of host governments and the absence of adequate supervision by European institutions. In that regard, the next step for the EU is to introduce sustainability as a key aspect of its foreign investment screening mechanism. Such a move would assist host governments and/or local societies in enforcing the compliance of Chinese actors to local standards, managing the latter’s expectations and improving the environmental impact of these projects.

Our examination of the selected cases will begin with the gradual acquisition of the Greek Piraeus Port Authority by COSCO, China’s landmark investment in SEE. We will then continue with the CMEC construction of the Kostolac coal power plant in Serbia and Dongfang Electric’s construction of a plant in Bosnia’s Stanari, the construction of the Kičevo-Ohrid Highway in North Macedonia by Sinohydro, and fracking at Patos-Marinza oil field in Albania by GeoJade/Bankers Petroleum. We will then continue with a comparative analysis of the cases to identify the interplay of Chinese, host state and regional actors.

### **Piraeus Port, Greece**

The first case under investigation is COSCO’s gradual acquisition of the Piraeus Port Authority (PPA). The PPA is the largest port operator in Greece and one of the most important in Europe. Its infrastructure and activities include container handling, coastal shipping, cruises, car handling, and ship repair. The Port spans across Piraeus and four adjacent cities: Drapetsona/Keratsini, Perama, and Salamina. In October 2009, following an international tender, the PPA granted the Piraeus Cargo Terminal SA (PCT), a subsidiary of COSCO<sup>4</sup>, the concession of Container Pier II for 35 years (henceforth ‘Concession deal’). The deal also stipulated the construction of Container Pier III. Six years later, the Greek government agreed to privatize the PPA (under Law 4336/2015) as part of the third bailout agreement signed with the European Commission, the European Central Bank and the International Monetary Fund (commonly referred to as the Troika) in August 2015, which contained austerity measures and privatization obligations<sup>5</sup>. As COSCO was the sole bidder in the 2016 tender, it acquired 51% of PPA and will gain a further 15.7% in 2021 (Law 4404/2016)<sup>6</sup>.

The privatization process of Piraeus Port started in 2005-6 as part of an economic reform programme by the conservative (New Democracy) government of the time. Although the social-democrats

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<sup>4</sup> COSCO Pacific Ltd in 2009, China COSCO Shipping was formally established in February 2016 through the merger of China Ocean Shipping (Group) and China Shipping (Group). COSCO is not only a shipping company, but a conglomerate of companies involved in maritime and other logistics. Its container-shipping activities are managed by a subsidiary called COSCO Container Lines. The company’s subsidiary for port operations, COSCO Shipping Ports, is among the world’s largest container-terminal operators.

<sup>5</sup> The law incorporates into the national legislation of Greece all the provisions of the third bail-out agreement, which was signed by prime minister Tsipras on 13 July 2015. Subsequently, all the privatization projects underway were included in the so-called Hellenic Republic Asset Development Fund S.A.

<sup>6</sup> The Hellenic Republic Asset Development Fund (HRADF), inclose cooperation with the Greek government, HRADF promotes the implementation of privatization projects in the country according to its international obligations under the bail-out agreements. The HRADF will retain 7% of the PPA while the rest is on the stock market.

(PASOK) and the Left (SYRIZA) voted against it when in opposition, they eventually supported the PPA's privatization when they formed governments, in 2009 and 2015 respectively. From 2014 onwards, COSCO's presence in Piraeus has been linked to China's Belt and Road initiative, and has been used by both the Greek and Chinese governments as an example of a win-win project (China Daily, 2016; To Vima, 2018). Conversely, trade unions, local communities, environmental groups and parties of the Left have long opposed the privatization for being unnecessary since the PPA under public ownership was profitable, for diverting profits from the local economy to shareholders, and for facilitating the casualization of employment and an overall decline in labour standards (Limani tis Agoanias, 2011; Federation of Greek Port Workers, 2018; Frantzeskaki, 2016)<sup>7</sup>.

Throughout the privatization process, the various environmental implications of the two deals were given secondary importance. Even before 2008, there were several problems emanating from port activities but have since intensified considerably, including: air pollution from cars, tour buses, container trucks, cargo and passenger ships; water pollution from ships; noise and light pollution from ships and the operation of port machinery; the location of fuel silos within the urban area of Perama; and the future of the vacated fertilizer plant at Lipasmata. (Sakellariadou et al, 2001; Tzannatos, 2010; Maragkogianni and Papaefthimiou, 2015; ) People's grievances have focused mainly on air pollution and traffic, and on the port's expansion that shut off land and blocked access to the seafront. These issues have been raised by grassroots movements and channelled through local MPs and the local government, but bottom-up initiatives were more effective when the PPA was under public ownership.

In the 2008 concession of Cargo Terminals II & III, references to environment protection were vague and stipulated no penalties (Law 3755/2009). In 2009, PCT/Cosco proceeded with the expansion of Pier III, without public consultation and despite opposition by both the authorities and citizens of Perama on environmental grounds. Furthermore, grievances on noise and light pollution, as well as on emissions from ships and cargo terminal machinery, were directed to the publicly-owned PPA, which had no legal right to interfere in the concession part of the port. Since 2016, the point of contention is the COSCO-owned PPA's new Master Plan, which covers all existing port operations and future infrastructure upgrades<sup>8</sup> (Capital.gr, 2019). During this period, COSCO submitted seven different versions of the Master Plan, all of which were rejected on technical, financial and environmental grounds.

According to sources within PPA, the Chinese management lacked the necessary know-how on compliance processes, treating it as a bureaucratic box-ticking exercise. This was partly because the conservative government, under which the 2008 Concession agreement was signed, imposed regulatory standards with laxity. This changed under a new government in 2015, resulting to COSCO being unprepared and unwilling to comply with the existing regulatory framework.

Although most of these investments have a major environmental impact, public consultation never took place, while the required Strategic Environmental Impact Assessments (SEIA) have yet to be completed. The controversial expansion of the cruise terminal, 95% of which will be funded by the EU, is the most characteristic example (PPA, 2017). Without public consultation and an SEIA in place, local citizens have mobilized to oppose the proposed expansion due to air pollution caused by engines in constant operation of cruise ships hoteling close to residential areas. Other investments, including the development

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<sup>7</sup> In 2009-10 because of privatization 500 full time jobs were axed from the PPA. Today around 1,500 jobs have been created in the PCT/Cosco area, yet 90% of them are part time. Trade unions are still not recognized and there is no Collective Bargaining Agreement (Federation of Greek Port Workers, 2018; Frantzeskaki, 2016).

<sup>8</sup> See article 6.2c of the 2016 Concession Agreement; see timeframe in articles 6.2e, 6.3; ANNEX 7.2 covers future investments

of a 42,000 sqm logistics centre and the upgrade of the ship repairing zone (Ibid) have also raised important environmental concerns as they will increase marine and road traffic in already congested areas (Limani tis Agonias, 2011).

The PPA privatization Law (4404/2016) that ratified the agreement between the Greek government and COSCO, limited the scope and weakened the compulsory character of the consultation process. First, it restricted consultation to the jurisdiction of the Municipality of Piraeus, excluding adjacent municipalities that are more affected by port activities. Secondly, Article 6.6 stipulated that the consultation process will not have the power to stop or delay any project with pre-existing approval, in effect rendering the whole process an empty shell. This partly reflected the weak position of the Greek government that, under the EU bailout agreement, had to rapidly privatize the PPA. To make matters worse, in the first round of consultation, civil society and major NGOs such as the WWF were excluded. The municipality of Piraeus organized its own consultation (Aftodioikisi.gr, 2018), but without a Master Plan to scrutinize, civil society groups were not given the opportunity to discuss the significant environmental, social, and economic impact of COSCO's plans. Although several unused land areas of the PPA were permanently given to local municipalities (Law 4404/2016, Article 19), the Piraeus Municipality, the Regional government of Attica and civil society organizations raised environmental concerns on COSCO's plans for the port and complained about its lack of commitment to meaningful public consultation (Newsit.gr, 2018).

Since the privatization, local communities have mobilized around the expansion of the cruise terminal in Piraeus and the removal of fuel tanks in Perama, organizing public meetings, demonstrations, and petitions to local authorities. In Piraeus, more than 5,000 people have signed against the expansion of the cruise terminal but COSCO, unlike the PPA management under public ownership, has repeatedly refused to meet with civil society representatives (Reportaznet.gr, 2018). In October 2018, residents of Perama protested against COSCO's trespassing of municipal land as part of Cargo Pier III expansion works, causing the immediate intervention of the municipal and regional government authorities that forced COSCO to withdraw (Papastathopoulou, 2018). Despite constant pressure from the Chinese embassy in Athens and Chinese officials, the Master Plan that includes the SEIAs for all agreed and proposed infrastructure upgrades was not approved by the SYRIZA government, which insisted on COSCO complying with the environmental legal framework (To Vima, 2018). However, COSCO's port operations continue uninterrupted, taking advantage of the Port's importance for the national economy at a time of recovery from a decade of crisis.

To sum up, COSCO has brought its own understanding of environmental issues as of secondary importance in its port operations in Piraeus, treating compliance as a matter of bilateral negotiation. Similarly, the combination of lacking know-how on EU and national environmental standards and the experience of their lax enforcement under the 2008 Concession deal, has made the Chinese management unwilling to adapt to demands for a more regulated, responsive and transparent mode of operation post-2016.

### **Kostolac coal power plant, Serbia**

The over-reliance of SEE on lignite coal (Euracoal, 2017; Milatovic and Chung, 2018) is a reality that renders EU requirements for transition to cleaner forms of energy a complex endeavor. In this regard, the involvement of Chinese companies in the regional energy sector appears to pander to the Balkan states' questionable commitment to sustainability by enabling "dirty" energy projects – which Western funders

are not willing to support any longer (Parnell, 2018). The Kostolac coal power plan in Serbia offers a useful case to examine the impact of Chinese capital in delaying transition to cleaner forms of energy by enabling the perpetuation of the host state's political preference to carbon-based energy production.

Serbia's state-owned utility Elektroprivreda Srbije (EPS) is planning a new 350 MW lignite plant at Kostolac in the country's north-east, alongside two already existing units. This is the second phase of a project implemented by the China Machinery Engineering Corporation (CMEC) and financed by the China Export Import Bank (China Exim). The first phase, for which a USD 293 million financing contract was signed between the Government of the Republic of Serbia and China Exim on 29 December 2011, consisted of the modernization of the existing units, the construction of a desulphurization system, a landing dock on the Danube, and associated railway infrastructure.

The Serbian government signed an agreement with CMEC for the construction of the new unit in November 2013. No tender procedure took place because the Chinese and Serbian governments had signed an intergovernmental agreement in 2009 which exempts joint projects from public tender obligations. Following the signing of the commercial agreement with CMEC, a second, USD 608 million loan was agreed between the Serbian government and China Exim in December 2014 for the new unit and the expansion of the Drmno open cast lignite mine, whose annual production would increase from 9 to 12 million tonnes (EPS, 2016: 56).

Preparations on the Kostolac project began in January 2015, when the Serbian parliament ratified – in a fast track procedure designed to minimize opposition scrutiny<sup>9</sup> – the second loan agreement with China Exim. Since then, the project has been dogged by numerous irregularities. First, the Serbian government took the loan on behalf of its state-owned utility EPS, raising issues of compliance with its state aid obligations under the Energy Community Treaty (Staviczky and Nicolaides, 2015). Second, the feasibility study summary left out carbon costs on the assumption that they would be covered by the state. In practice, however, state aid rules that apply to Serbia as a signatory to the Energy Community Treaty forbid this kind of payment. At the same time, the project's sensitivity analysis, which does include carbon costs, leaves no doubt that even a low CO<sub>2</sub> price is enough to render the plant uneconomic. Lastly, with the European Union updating its legislation governing industrial emissions in November 2017, Kostolac B3 would now be obliged to adhere to emissions limits stricter than those set in the EIA decision from October 2017. This means that should Serbia continue towards EU accession, Kostolac would already be saddled with expensive retrofit costs necessary to bring the plant in line with EU standards (Gallop, 2017).

Although the Serbian Prime Minister announced the completion of works at the Kostolac B1 and B2 desulphurization units in August 2017, news reports mentioned that the issuing of operating permits was still pending (Energetski Portal, 2017). There is no publicly available information to this day regarding the existence of an operating permit, which raises the question of how the Chinese financier and contractor can ensure that all the legal obligations in the host country are adhered to. Also, according to eyewitness reports, the desulphurization system seemed to be inoperative more often than not. Following these accounts, the Serbian Center for Ecology and Sustainable Development (CEKOR) requested the Environmental Inspectorate's intervention. In its response, the inspectorate stated that '*At the time of the previous inspection in November 2017, it was established that the desulphurization unit was in a test phase in March and April 2017, after which it did not work, since the construction of the landfill for the gypsum, which is created in the operation of this plant, has not been completed.*' (Letter from EI to CEKOR, 1

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<sup>9</sup> Interview with opposition MP by Rogelja, 10 June 2017.



March 2018). This raises concerns regarding both the contractor and the investor's ability to manage the project successfully and efficiently.

Apart from the irregularities mentioned above, the project comes with significant environmental costs. If the project is completed, the village of Drmno, where a core group of locals are requesting to be resettled, would become cut off from the rest of the world, having the Kostolac B power plant complex to the north, the huge Drmno opencast mine to north-east, east and south, and to the west, a new dock on the Danube, where equipment for the new unit will be imported. Many locals are experiencing damage to their houses because of the mining operations which drain underground water and cause the soil to sink, but also due to vibrations from heavy machinery transiting through the village or operating too close to their houses (Petovar and Jokić, 2016). Most of the farmland in the village area has already been bought up by EPS to ensure that its mine expansion plans can go ahead without opposition. Ironically, locals have no job opportunities apart from the same company whose mining operations are destroying their houses and polluting the air (Ciuta, 2016). During the tragic floods that hit the Balkans in 2014, the Kostolac B power plant narrowly avoided being flooded thanks to the tireless work of plant workers, firefighters and civilian volunteers. While their efforts were successful – unlike at Kolubara and Nikola Tesla plants, which were seriously affected by the floods – later that year a separate flooding incident saw unit A2 at Kostolac closed for several days, while the Drmno mine was also partially flooded.

Similar to Piraeus, assessing the environmental impact is a key aspect in the Kostolac case. The first EIA for Kostolac B3 was approved in December 2013 but it did not include an analysis of transboundary impacts (the site is just 15 km from the Romanian border) and suffered from numerous other deficiencies. It was therefore challenged in the administrative court in Serbia by CEKOR and at the Espoo Convention Implementation Committee by Bankwatch Romania. In March 2015, the Espoo Convention Implementation Committee noted that the construction of a unit at the Kostolac lignite power plant was an activity listed in Appendix I to the Convention and that the likelihood of a significant adverse transboundary impact could not be excluded. Therefore, the Committee asked Serbia to comply with its obligations under the Convention and to notify Romania about the EIA. This was the first time that the Committee opened an initiative related to cross-border impacts of a coal fired power plant. In June 2016, the Serbian administrative court ruled that CEKOR's arguments were valid and that the decision to approve the environmental assessment should be revoked. By this time, however, the original decision had already expired and a new environmental assessment had to be carried out.

The new EIA process took place in 2017, included transboundary consultations, and was approved in September. However, it still failed to ensure compliance with updated EU pollution standards (Ciuta and Gallop, 2017), the so-called LCP BREF, and didn't address the concerns of residents of Drmno regarding their health and property damage. Therefore, CEKOR again challenged the decision in court. In September 2018, a complaint was submitted to the Energy Community Secretariat by CEE Bankwatch and CEKOR, alleging Serbia's non-compliance with the EIA Directive for the Drmno mine expansion. Consequently, the Espoo Convention Implementation Committee re-opened the investigation into the mine expansion being carried out without a transboundary impact assessment (UN Economic Commission for Europe, 2018).

To sum up, despite economic, environmental and health concerns, the Serbian Government seems adamant to go ahead with this project, signalling a high level of political will that overrides questions about economic feasibility and sustainability. Kostolac B3 is referred to as the country's most important energy infrastructure project in the last 30 years and is listed as a priority in the implementation programme for the country's energy strategy (Government of the Republic of Serbia, 2017). While financing and construction

are done by Chinese actors, the project is chiefly driven by unwavering domestic political commitment. Yet, at the same time, Western institutional lenders have not followed such a blasé approach to satisfying domestic, European and international regulations and norms. They enforce transparent environmental, social and access to information policies, which facilitate timely social scrutiny even in the face of overwhelming host state support, as the cessation of coal financing by the European Investment Bank, the European Bank of Reconstruction and Development and the World Bank clearly demonstrates. In contrast, Chinese infrastructural projects are governed by the 2009 bilateral cooperation treaty, which tasks the host state with providing administrative support. The pre-contract on the project's implementation states that Serbia's national power utility will provide all necessary documentation (EPS, 2010), but there are no provisions beyond this general and vague commitment, no references to the project's environmental sustainability aspect, nor are they present in the financing agreement between the Serbian government and China Exim bank (Official Gazette of the Republic of Serbia, 2012). This lack of compliance and oversight mechanisms means the Chinese investor has to blindly trust the host state to arrange for the legality of the project. Yet without the necessary instruments of transparency, oversight by domestic civil society and regional regulatory frameworks is difficult, leaving such projects vulnerable to intended and accidental malpractice and the breaking of rules and norms.

### **Stanari coal power plant, Bosnia-Herzegovina**

In the case of the Stanari power plant, Chinese capital perpetuated an environmentally damaging operation through cooperation with local actors, undermining compliance with European environmental standards. Dongfang Electric, a Chinese SOE, constructed a 'dirty' power plant for a local private investor that relied on the availability of Chinese financing for coal-related projects, at a time when European funding was directed to decarbonization.

The Stanari power plant is situated in the northwest of the Serbian entity of Bosnia-Herzegovina, the Republika Srpska. The site is located next to one of the largest lignite fields in the region, which has been mined since 1948, when efforts to electrify the nation led to the introduction of many open pits across former Yugoslavia. In 2004, the mine was taken over by Energy Financing Team (EFT) Group, a major private power trader in the region, headed by Serbian businessperson Vuk Hamović. Because lignite as a fuel is heavy and can spontaneously combust, it is not ideally suited to transportation over large distances. For an energy trading company such as EFT therefore, the construction of a power plant next to the mine must have always been the objective, even though it did not feature in the entity's energy strategy until 2008, when a concession for the exploitation of the mine and the construction of a new power plant was signed between the Srpska government and EFT. That EFT was the subject of an investigation by the UK Serious Fraud Office in 2005 did not seem to matter (Leigh and Evans, 2005). The concession agreed in 2008 was for a 420MW power plant that would supply 3,000GWh annually, which would be more than half of the entity's total production. Quickly however, this commitment was reduced to 2,000GWh with a series of annexes that above all fit EFT's needs (Commission for Concessions of Republika Srpska, 2018; Tešić, 2018). As the project gained momentum, environmental activists became concerned about potential EBRD funding for the project, which however never materialized as the bank moved away from financing coal-related projects in 2013, leaving EFT struggling to find a source of funding for its plant.

It is into this situation that the Chinese team entered, led by the China Development Bank (CDB) as financier and Dongfang Electric as contractor. The plant, which became operational in 2016, cost an

estimated 550m euro, of which 350m was sourced from the CDB loan. Compared with the acquisition of Piraeus Port or the sovereign loans to Serbia and North Macedonia, the Chinese financier ostensibly dealt with a private business and not the state. Yet the role of the host state was crucial in getting the project completed. Throughout the process, the Srpska government supported Stanari with two means, by changing domestic regulations and laws, and by reducing costs for EFT. The possibility of secret guarantees notwithstanding, the Srpska Republic could not act as a guarantor for the CDB loan. Moreover, the entity's laws did not allow for concession rights to be transferred to a new concessionaire in case of default or bankruptcy, which could have had serious repercussions for the Chinese bank. In June 2011, therefore, the government issued new rules which were designed to allay the Chinese bank's fears. By allowing the transfer of concessionary rights '...when the concession holder cannot realize its obligations to the creditor...' (Official Gazette of Republika Srpska, 2011), the state in effect allowed EFT to use its concession rights as collateral for the loan. Should EFT default on its loan, the CDB can demand concession rights be transferred to it or to a nominated third concessionaire.

Apart from regulatory support, the state also reduced costs for the plant operator by reducing concession fees for coal power generation from 3.6% to 0.2% of total revenue, and exempting it from coal mining fees completely with a change to the concessions law that effectively applies only to EFT (Official Gazette of Republika Srpska, 2018; CIN, 2014). One of the biggest changes however took place even before the plant was built. The plant's environmental impact has been a cause of concern among environmental groups and local residents long before the involvement of Dongfang Electric and CDB, yet proponents of the plant cited its efficiency (Cero, 2016). The original plan for a pulverized supercritical boiler with a maximum capacity of 420MW agreed in 2008 was however altered during the negotiation process to a 300MW design based on a subcritical circulating fluidized boiler. While this technology is more appropriate for the burning of sub-standard coals such as lignite, the redesign meant the plant's energy efficiency also dropped and Stanari will not adhere to the EU's Industrial Emissions Directive in the future. More importantly, although the redesign was drastic, involving the installation of less efficient technologies, the Srpska Republic decided that no new environmental impact assessment study was necessary at the time (CEE Bankwatch, n.d.).

The Stanari case shows how Chinese financing may end up funding projects of dubious provenance, sustain non-transparent practices, as well as contribute to delays in decarbonization. But it also demonstrates the agency of local actors such as EFT, which was instrumental in bringing the Chinese finance package to Stanari, and the key role of the host state in weakening environmental protection by waiving the requirement for a new EIA and reducing concession fees for coal power generation. Further, as in the case of Kostolac in Serbia, the construction of a new coal power plant only a few miles away from the EU's borders signifies the emissions regulation gap in the region that is sustained by the unclear accession prospect of Bosnia-Herzegovina, allowing it to delay the implementation of stricter EU norms which took effect in 2017 (European Commission, n.d.). Apart from Stanari, there are a further six coal power plants being planned with Chinese funding, three of which (Banovići, Tuzla 7 and Gacko II) are in advanced stages of negotiation. The EU may be phasing out coal in its member states, but Chinese contractors are building new coal power plants on its doorstep – plants that will export their power into the EU. Once more, a synergy of failures on behalf of local and regional actors actively encourages environmentally unsustainable practices by Chinese investors.

### **Kičevo-Ohrid Highway in North Macedonia**

The Chinese involvement in North Macedonia's highways was part of an effort by the former Prime Minister Nikola Gruevski to attract foreign investment in the country. In July 2013, a Macedonian delegation visited China to showcase investment opportunities to Chinese companies. A few months later, on November 2013 officials from the government of North Macedonia and China Exim signed a loan agreement of 580 million USD for two new motorway segments (Dreher et al., 2017). The agreement was decided without a tender. The construction of the 56.7km long Kičevo-Ohrid highway began in March 2014, and will eventually become part of the Pan-European Corridor 8, linking the country with Bulgaria to the east and Albania to the west. The construction of the 53 km Miladinovci-Štip motorway will provide the city of Štip with access to Pan-European Corridor 10, which connects North Macedonia with Greece and Serbia. The interest rate on that loan is 2 percent with a payback period of 20 years and a grace period of 5 years. The loan agreement further stipulates that the Chinese Sinohydro Corporation Limited, a company suspended from World Bank projects since December 2013 (Bochetti, 2016), will provide oversight and 49% of the construction labour force. According to the contract for the construction of the motorways, Sinohydro Corporation Limited is the main contractor, the Macedonian Granit Construction Stock Co. is the nominated subcontractor, the Consortium GIM, Euroconsulting and Geing Krebs und Kiefer are designated as the engineers of the projects, while the Macedonian public enterprise for state roads is the employer (Granit Construction Stock Co., 2014). As such, the deal is typical of Chinese projects in Southeast Europe that combine Chinese construction and financing without a tender.

A series of environmental and geotechnical issues put the sustainability of the project into question. First, in 2016 UNESCO raised concerns about the environmental impact of the highways on the Natural and Cultural Heritage of the Ohrid region, noting the absence of a strategic environmental assessment (SEA) in relation to the construction plans (UNESCO, 2016). Following an evaluation of the situation on the field in 2017, UNESCO also requested that the government of North Macedonia urgently undertakes 'a comprehensive comparative study of alternative routes for the railway of the Pan European Corridor VIII'. The new government of North Macedonia committed to completing the SEA by October 2018, but a 2019 draft decision places the region on UNESCO's endangered heritage list (UNESCO, 2019).

Second, the Kičevo-Ohrid highway cuts through the natural habitat of the Balkan lynx, a critically endangered species according to the International Union for Conservation of Nature (Melovski et al., 2015). Their tiny population of around 30 animals has been declining due to pressures from infrastructure projects in the area, yet no green corridors were planned for the Kičevo-Ohrid highway. Rather than a choice between development and preservation, this is better understood as a failure to implement already agreed and tested measures to mitigate the undesirable effects of development.

Poor planning affected not only the environmental impact provisions of the deal but the actual construction of the highway as well. The main issue at hand was land erosion, as North Macedonia is one of the most affected countries in the Balkans, with 96.5% of its total area under threat of erosion. In the western part of the country, where the Kičevo-Ohrid highway construction is located, the terrain is steep and rugged, caused by deep erosion (Blinkov and Andonovska, 2008). Although the problem is well known, in July 2018 the current minister of transport Gjorgji Sugareski announced that poor planning has led to landslides on parts of the section, delaying the entire project (Sdk.mk, 2017). The government launched a public inquiry, which discovered that the project lacked minimal geotechnical and geomechanical soil testing, leading to severe problems in certain parts of the highway. As a result of the above, construction work on the Kičevo-Ohrid highway stopped in 2017, as the project faced many unplanned delays which raised its total cost.

The above were just some of the many irregularities involved in this project. The inquiry also revealed unsolved expropriation disputes that increased the cost of the project further. To make matters worse, the 2015 wire-tap scandal (Robinson and Casule, 2015), exposed evidence of extensive corruption by Gruevski himself and other members of his government involving foreign deals. In May 2017 the Special Prosecution (SJO) launched a corruption investigation codenamed ‘Traektorija’ (Marusic, 2017; Public Prosecutor’s Office, Republic of North Macedonia, 2015) which is linked to the construction of the highways. VMRO-DPMNE, North Macedonia’s ruling party at the time of the highway construction agreement, and former PM Nikola Gruevski were accused of money laundering and illegal financing. Following these and other charges of corruption (Akademik.mk, 2017), Gruevski fled the country and has been granted asylum in Hungary (RFE/RL, 2018). Although initially set for a trial *in absentia*, the time limitation on the ‘Traektorija’ case ultimately expired in late 2019 (Akademik.mk, 2019). As for the project itself, after a year of negotiation with Sinohydro Corporation Limited, the newly elected Macedonian government led by prime minister Zoran Zaev signed a third annex to the agreement with the company at the beginning of November 2018 and agreed to add 187 million Euro to the original price so construction work can continue (Government of the Republic of Northern Macedonia, 2018). The government will take out a new loan from the China Exim, increasing the total cost of the Kičevo-Ohrid road from €411 to €598 million.

To sum up, the Kičevo-Ohrid highway case highlights the regulatory weaknesses involved in bilateral loan-to-construct deals that are typical of Chinese construction in the region. Without an international tender, corruption and disregard for environmental impact have undermined the completion of the highway that has since become a controversial project. Responsibility for this situation lies primarily with the two parts involved, Sinohydro and the former Macedonian government, but mainly at the latter’s unwillingness to assess the highway’s sustainability. At the same time, the EU’s ambiguity on North Macedonia’s accession means that the current regulatory weaknesses can only be remedied through domestic changes, not through harmonization with EU standards and laws.

### **Fracking in Patos-Marinza, Albania**

On February 25, 2017, a group of protesters, including hunger strikers carried in wheelbarrows, reached Tirana after a four day march from their home village of Zharrëz in South Albania. The group, supported by civil society organization Nisma Thurje (Hashtag Initiative) and encouraged by people along their route, came to the capital to protest against hydraulic fracturing (commonly known as ‘fracking’) taking place at the Patos-Marinza oil field, next to their village. Just a few days later, the Albanian government issued a nationwide moratorium on fracking and agreed to compensate the villagers for damages to their property (Koleka, 2017).

In this case, the Chinese investor, private company GeoJade, did not negotiate initial entry into the country, nor did it participate in the first three years of mediation handled by the Compliance Advisor Ombudsman (CAO, the compliance mechanism of the World Bank’s private sector arm, the International Finance Corporation or IFC). GeoJade, upon taking over the Canadian company Bankers Petroleum’s operation in Albania, inherited a problematic situation, involving local resistance and an ongoing compliance investigation, which rapidly deteriorated as undesirable incidents related to fracking increased markedly (Tirana Times, 2017). This was perceived by local communities as evidence of intensification in fracking, leading to a confrontation with GeoJade.

The concessionary rights to the oil field were acquired in 2004 by Bankers Petroleum. The company claims to be the ‘largest foreign direct investor, the largest tax payer (...), and one of the largest employers’ in Albania (Bankers Petroleum Albania LTD Website, n.d.). In September 2016, GeoJade acquired Bankers for 575million CAD, and took over extraction and further exploration of the largest onshore oilfield in Europe, Patos-Marinza (McCarthy Tétrault LLP, 2016). Fracking was first used by Bankers in 2008, with consequences being felt shortly thereafter. Villagers reported drinking and agricultural water contamination as well as damage to their homes due to fracking-induced earthquakes (Portali i Energjise, 2017). According to the department of Seismology of the Institute of Geosciences, Energy, Water and Environment (IGJEUM), Polytechnic University of Tirana, during September-November 2016 there were more than 2700 earthquakes in Zharrëz - more than 30 a day (IGJEUM, 2017). The constant tremors caused house walls to crack, roofs to open, and many villagers reported fearing for their lives. The company consistently denied any wrongdoing and was supported in this claim by a 2012 letter from the IGJEUM claiming that Zharrëz is a naturally highly seismic area (Lata, 2012) – the letter however never explained how it’s possible that it became so seismically active only *after* 2008. Villagers engaged in protest many times already before Bankers’ takeover by GeoJade, yet the company co-opted them by hiring the outspoken villagers or members of their family, or by renting their land. Thus, a fragile coexistence between economic needs and environmental concerns continued until 2016. A formal compliance investigation by CAO was instigated in 2013, which also involved the setting up of a dialogue group comprised of local community and Bankers representatives (Compliance Advisor Ombudsman, n.d.).

The situation however deteriorated after GeoJade acquired Bankers Petroleum, with intensified fracking operations causing major earthquakes on a daily basis. Shortly after the takeover, in 2017, a big explosion occurred in the area due to fracking, causing several earthquakes and provoking the anger of inhabitants (Faxweb.al, 2017). In addition, communication between the local community and Bankers Petroleum ceased. GeoJade paid off a 55m USD loan provided to Bankers by the IFC, so it was no longer obliged to participate in the CAO mediation process. Following months of inaction, GeoJade eventually agreed to re-engage with the CAO formal compliance process, which had by then lost momentum and the faith of local community (Compliance Advisor Ombudsman, 2018: 8). The villagers however continued to mobilize, asking for Hashtag Initiative’s assistance in December 2016. Their aim was to organize against the company and demand an end to fracking, as well as seek compensation for the damage already caused. Their action started with a week-long hunger strike, which was soon followed by a second one, as the government failed to intervene as promised. In the meantime, related videos and news became viral on Albanian social media.

On the 17th day of the hunger strike, the villagers decided to escalate their protest. Their aim was to raise awareness and squat in front of the Ministry of Energy until three requests were met by the government: 1. fracking to be banned as a method with an executive order; 2. full compensation for the physical damages of the houses; and 3. full rehabilitation of the environment (Exit News, 2017). More than 40 people from Zharrëz set off on foot towards Tirana, some 130 km to the north. As the group proceeded towards the capital, their plight was taken up by activists, public figures and academics who joined the march and raised awareness on social media. When the group reached Tirana, thousands of people joined them to show support. Following a four-day sit-in at the Ministry of Infrastructure and Energy, the government offered a moratorium on fracking, full compensation for damaged property and opened a process of arbitration with Bankers Petroleum (Council of Ministers, Republic of Albania, 2017).

In summary, the Albanian case stands out in that the Chinese investor was a private entity rather than a state-owned one and its mode of entry was not through a bilateral negotiation with the Albanian

government, during which the investor could shape the terms of the deal in its favour with the help of the Chinese state. In practice, this meant that the Chinese management of Bankers Petroleum after September 2016 had to comply with the terms of operation in which it had no say in shaping. As the stalling of the mediation process following the acquisition of Bankers shows, the Chinese investor initially had neither the know-how nor the desire to address the controversies surrounding fracking on the site. When it increased fracking activity in the midst of mediation, it instantly undermined the World Bank-backed process, radicalizing local protesters and civil society who managed to bring in the host state's intervention on their favour in a relatively short period of time. This action showed a poor reading of the local political climate which ultimately led to a moratorium on fracking in the country. In other words, the Chinese private investor took over an already controversial project, intensified the conflict, and failed to successfully lobby the Albanian government. Once public protest intensified and made support for Bankers politically unpalatable, the host state was quick to turn its back on the Chinese investor's priorities. Ultimately, this case demonstrates the crucial importance of the point of entry. Geojade missed the key advantage Chinese SOEs enjoyed in other countries: the Chinese state's political leverage in the initial stages of negotiation and agreement. As GeoJade's increased fracking challenged the context of operation agreed between the Albanian state and Bankers under the auspices of the IFC, it was confronted with significant resistance by local communities and the host state.

### **Bad investors, weak hosts?**

Conventional wisdom on Chinese capital in SEE presents investment-hungry host countries falling prey at the hands of inconsiderate and profit-maximizing Chinese actors (Lagazzi and Vit, 2017). This view ignores the fact that all of the 12 cases originally considered in our sample were initiated by the host states and enjoyed the support of a dominant political group when they were approved. Yet it would be equally simplistic to say host state agency is all that matters. Going beyond the stage of inception, we have identified a more nuanced picture, which allows us to identify the factors explaining the poor performance of Chinese projects in terms of environmental protection. First, the cases point to three key characteristics on the Chinese side that drive unsustainable practices in SEE projects: a lack of know-how, a financialized understanding of sustainability, and a hands-off approach to ensuring compliance. Second, the role of host states in mediating these characteristics is problematic due to a lack of commitment in enforcing compliance with local and supranational regulatory frameworks, largely due to conflicting political priorities or insufficient state capacity. Third, the role of regional frameworks is, at best, ambivalent, as although they provide a set of regulatory standards, they fail to promote compliance through enforcement or incentivization of host states. This synergy of failures is crucial in the initial stages of negotiation and agreement, when the rules of interaction and the set of agreed expectations from each side emerges. At this phase, the socialization of Chinese investors into environmental protection regulations, norms and best practices is ineffective, rendering subsequent governmental and/or societal efforts to enforce compliance a posteriori more difficult. A lack of sustainability can therefore appear to be "baked-in".

The five Chinese companies exhibited little concern over the environmental impact of their operations from the outset of their involvement. Both in cases where an international tender took place (Greece) and those involving a bilateral agreement (Serbia, Bosnia, North Macedonia, Albania), the companies understood environmental impact as, primarily, a bureaucratic requirement to be satisfied with the active support of 'friendly' governments. This took the form of anemic provisions on compliance in the

agreements signed and the expectation that potential issues will be dealt with through coordination with host governments. As environmental protection became an issue of negotiation rather than compliance, all companies disregarded the necessity for comprehensive EIAs and proceeded with their operations largely uninterrupted from national authorities. In the cases where, following elections, new governments attempted to enforce compliance, this initial indifference resulted in significant delays and additional costs. COSCO, for instance, had to submit the Master Plan seven times since 2015 and its approval is still pending. In a similar vein, a second EIA for Kostolac had to be resubmitted in 2017 after the first one expired and was struck down in court, while the desulphurization unit was declared operational despite never having received operating permits. In addition, Chinese investors exhibited the same indifferent attitude towards public consultation and in their communication with local communities both before and after environmental concerns were collectively raised by civil society. The mobilization of local residents in Zharrëz and Piraeus, and of civil society regarding the Kostolac Power Plant and the Kičevo-Ohrid highway, was partly a response to the absence of engagement by the new investors.

The failure of host governments to provide a clear and stable regulatory environment that promotes compliance is the outcome of political expediency, rather than state capacity. In most cases examined, host governments welcomed Chinese investors and actively took measures to create an ‘investment-friendly’ environment through favourable terms in contracts and laxity in compliance requirements. With motives ranging from attracting investment to outright corruption, host governments failed to socialize Chinese companies with their domestic regulatory environments and created a distorted set of expectations on ‘how things work’ in their respective countries. Ultimately, this jeopardized the financial viability of projects and soured relations with local communities and civil society. The Greek government from 2008 to 2014 failed to engage COSCO in a way that promoted compliance, turning a blind eye on the problems created on the ground. As a result, after 2015, COSCO had neither the commitment nor the required expertise to address the requirements of an EIA. In the Kičevo-Ohrid highway, the EIA that the government of North Macedonia put in place had many irregularities which caused delays and increased costs. In Stanari, the Srpska government waived the requirement for an EIA despite the investor constructing a less efficient power plant originally agreed. In Kostolac, the Serbian side had to defend its involvement in the project with the Energy Community, which flagged it as a case of undesirable state aid, yet without these sovereign loan guarantees, the project would not have been financed at all. Here too, the host state had assured the Chinese side that it was able to provide such guarantees.

Overall, the role of host states in shaping the environmental impact of a certain project is crucial. A common trend we identified in the case of Greece, Serbia, Bosnia-Herzegovina and North Macedonia, was that host governments attempted to lure Chinese companies by undermining compliance with *existing* regulatory frameworks instead of managing their expectations by being transparent on what compliance entails. In contrast, GeoJade did not negotiate with the Albanian state as part of the Bankers Petroleum takeover and, as a result, did not influence the business context of its investment. Instead, it inherited an already problematic situation involving tensions on the ground and an international investigation by CAO. As this pressure rendered support for the Chinese investor politically unattainable, the host state was more quick in intervening to protect local communities.

Considering the deficiencies in both investor and host state actors, regional regulatory frameworks are often the first port of call for civil society actors eager to contest environmentally problematic projects. Yet the same frameworks also suffer from two crucial flaws. First, they often answer to conflicting normative priorities. Characteristically, in the case of Piraeus, EU pressure for the rapid privatization of the port under the 2015 bail-out agreement has curtailed the commitment of Greek authorities to enforce



compliance. It has also created a peculiar situation where EU funding for the controversial Piraeus cruise terminal expansion approved before the privatization is now in the hands of COSCO to the dismay of local residents. Second, among EU accession states, infrastructure upgrading is cited by local officials<sup>10</sup> as a key prerequisite of their countries' entry into the EU, yet with European institutional lenders disbursing insufficient amounts, the promise of Chinese financing fits well into national developmental plans despite the potential frictions over the projects' environmental repercussions. Regional institutions such as the Energy Community have proved powerless to prevent the adoption of projects with strong national backing and Chinese financing. Ultimately, such conflicting normative priorities have the effect of undermining state capacity for intervention without building lasting tools for oversight and compliance.

Kostolac is a case in point, seeing how the coal power plant was challenged before the Energy Community on state aid rules, rather than environmental impact. Supporting energy market integration and competition rules, rather than opposing coal-power, was the more effective tactic for the ENGOs involved. But transnational regulatory frameworks are of limited effect when an enthusiastic host state is willing to provide the minimum required documentation post festum, as our cases demonstrated with varying degrees of administrative irregularities. Ensuring compliance at the entry point is therefore a key method of promoting environmentally sustainable investment and financing by Chinese actors in SE Europe. Yet, given the lack of transparency in early negotiations, the lack of know-how by investors and the unwillingness of host states to jeopardize politically important projects, societal contestation is often the very first hurdle some of the Chinese-financed projects face. The contested nature of the projects could indeed be taken as an indictment of the ineffective regulatory regimes present in the region – be they domestic or international.

## **Conclusion**

This paper has analysed five cases of large-scale projects across SEE by Chinese companies that have raised environmental concerns. The aim of the research was to give a comparative account of how the specifics of incoming Chinese capital (state involvement, lack of transparency, lack of societal engagement, lack of know-how on environmental regulation, reliance on bilateral agreements in the place of compliance frameworks) intersect with the demands of sustainable development. To the wider question whether Chinese capital brings practices that disregard environmental sustainability concerns, we offer a qualified yes. Qualified, because the problematic practices identified in our cases are only possible through the intentional or unintentional synergy of Chinese, local and regional actors. Our investigation leads us as far as to say that local state commitment to upholding sustainable practices is the key variable determining the extent to which Chinese capital creates downward pressures on environmental regulations and norms. In relation to this, the role of regional organizations and regimes is crucial in strengthening the host governments' often anaemic commitment to sustainability. The EU accession process and the new foreign investment screening mechanism are instruments of particular importance in this regard and could be used to apply pressure on candidate and member states respectively, provided they are deployed at the right time and consistently. Due to the nature of Chinese financed projects and investments however, regional frameworks have been ineffectual either in shaping the deals or enforcing compliance at a later stage, highlighting the complicity of European institutions in the resulting environmental degradation.

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<sup>10</sup> Interview with Tatjana Jovanović, Assistant Minister for International Cooperation and European Integration of the Republic of Serbia. Belgrade, 24 July 2017.

The lessons of this study have a comparative value that exceeds the context of Chinese capital in SEE. Much of the literature on transnational state-owned enterprises emphasizes their relations with the state of origin to explain the form and impact of a project (Hall and Soskice, 2001; McNally, 2012; Nölke, 2014). The present paper emphasizes the role of the host state as regulator and its commitment to sustainability as the key variable determining outcomes on the ground. Regional actors and frameworks need to concentrate on the direction of sustaining host states' willingness and capacity to enforce compliance when faced with powerful state-backed investors, Chinese or otherwise. Regional environmental protection regimes and instruments can fill the void of regulatory gaps and can be used to prevent environmental damage (in the case of investment screening) or enforce compliance at a later stage. However, in order to understand the relationship between incoming capital and sustainability we need to bring the host state back in the equation. Explanations that portray states at the mercy of international investors, tend to deflect responsibility from host governments. Our findings point in the exact opposite direction, the existence of a synergy of actors that shape the sustainability of a project, whose failures can be unintentional as well as intended, but not inevitable.

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