

GONZALO CASTRO DE LA MATA
Chairman
The Inspection Panel

IPN REQUEST RQ 15/04

June 30, 2015

NOTICE OF REGISTRATION

Request for Inspection

**REPUBLIC OF KOSOVO: Kosovo Power Project (Proposed, P118287)
And
Second Additional Financing Energy Sector Clean-up and Land Reclamation
Project (P131539)**

Request for Inspection

On June 12, 2015 the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) from residents of Hade and Obiliq municipality (the “Requesters”) in Kosovo.¹ The Request concerns three Bank operations: the Bank’s assistance to the Government of Kosovo for a resettlement-related policy, regulatory and legal framework financed under the closed Lignite Power Technical Assistance Project (LPTAP); the Bank’s monitoring of the resettlement of Hade village under the Second Additional Financing: Energy Sector Clean-up and Land Reclamation Project (2nd AF-CLRP); and the resettlement anticipated under the Kosovo Power Project (proposed, KPP). According to the Request, the resettlement framework and the Hade resettlement are intended to facilitate the development of the proposed Kosovo Power Project (KPP) which the Bank is considering financing. The Requesters submit two attachments to the Request supporting their claims.²

¹ The Request was signed by three citizens: the Head of the Shala community (displaced in 2006 and resettled in 2014 in Shkabaj/New Hade), the Head of the community still residing in Hade, and the Head of a community evicted in 2004 from Shala (UNMIK demolitions). The Request is also signed by three Kosovar CSOs: the Initiative for Environment and Local Development, the Forum for Civic Initiatives (FIQ), and KOSID. The Requesters have designated Ms. Dajana Berisha of FIQ to be their representative with respect to matters related to this Request.

² One attachment is a report titled “*Does the Kosovo Power Project’s Proposed Forced Displacement of Kosovars Comply with International Involuntary Resettlement Standards?*” by Dr. Theodore E. Downing, and the second is a communication between the Bank and a Kosovar civil society consortium with regard to resettlement of citizens from Hade.

The proposed KPP was the subject of an earlier Request for Inspection received by the Panel in March 2012. The Panel registered the Request while noting that the IDA grants for the LPTAP closed on December 31, 2011 and, in accordance with its Resolution (the “Resolution”), the Panel’s registration did not cover LPTAP.³ The Panel did not recommend an investigation of the Request because of the early stage of the project preparation process and the lack of World Bank activities or decisions relevant to the concerns raised in the Request.

The Projects

Overview. The World Bank has supported the Kosovo energy strategy through the Lignite Power Technical Assistance Project (LPTAP) which helped the Government strengthen policy, legal, and regulatory frameworks to attract private investment in the energy sector. The objective of the LPTAP was to help Kosovo establish the enabling framework for qualified investors to invest in future power plants and mines.⁴

The LPTAP built upon other Energy Sector Technical Assistance Projects (ESTAP I, II, and III), and European Commission-funded financial and technical assistance towards rehabilitation of power plants. It was complemented by a grant, the Clean-up and Land Reclamation Project (CLRP), which supported a pilot post-mining reclamation project that would increase the capacity of environmental officials through hands-on experience, and make land available for alternative uses.⁵

LPTAP. The LPTAP supported the preparation of the Kosovo Power Project by financing several activities, including the preparation of a Strategic Environmental and Social Assessment (SESA) for a proposed 2,000 MW power plant referred to as Kosovo C, a Resettlement Policy Framework (RPF) consistent with World Bank OP/BP 4.12 on Involuntary Resettlement, and a Resettlement Action Plan (RAP) for Hade village.⁶ Given that the LPTAP closed on December 31, 2011, in accordance with Paragraph 14 (c) of the Resolution this registration does not cover LPTAP. However, the Panel notes that regardless of the source of financing, studies carried out relevant to the claims of the Requesters could be subject to the Panel process moving forward.

KPP. The Project Information Document (PID) of the proposed Kosovo Power Project states that the Government of Kosovo (GoK) has “*requested that the World Bank provide support in the form of a partial risk guarantee from IDA for a proposed independent power project that would use domestic lignite coal.*”⁷ The proposed KPP is “*envisaged to replace the Kosovo A Power Station with a rehabilitated existing power*

³ Paragraph 14 (c) of the Inspection Panel Resolution states that the Panel shall not consider “*Requests filed after the Closing Date of the loan financing the project with respect to which the request is filed or after the loan financing the project has been substantially disbursed*”. Substantial disbursement is defined as when at least ninety-five percent of the loan proceeds have been disbursed.

⁴ Project Appraisal Document, Lignite Power Technical Assistance Project (LPTAP), p. 6.

⁵ Ibid, p. 6.

⁶ Integrated Safeguards Data Sheet (ISDS), Concept Stage, Kosovo Power Project, July 27, 2011, World Bank.

⁷ Project Information Document (PID), Concept Stage, Kosovo Power Project, July 27, 2011, World Bank, p.1.

plant (Kosovo B) and a new power plant as well as the development of a mine to meet the fuel needs". The proposed new 600 MW power plant will be developed as an extension of the Kosovo B power plant site and share some common facilities.⁸

Second Additional Financing: Clean-up and Land Reclamation Project (2nd AF-CLRP). As stated earlier, the Clean-up and Land Reclamation Project supported a pilot post-mining reclamation project. Its Second Additional Financing was approved on May 10, 2013 and is scheduled to close on June 30, 2015. The 2nd AF-CLRP is financing, among other things, the KPP Environmental and Social Impact Assessment (ESIA), and monitoring of the resettlement of the Shala neighborhood of Hade village.⁹

Concerns Raised in the Request

The Request alleges several harms which the Requesters believe emanate from the Bank's technical assistance under the LPTAP, which financed the RAP for the ongoing Hade resettlement, and financed the RPF that sets the standard for future resettlement expected as the Sibovc South mine expands. These are:

Loss of Land, Livelihoods and Well-being: The Requesters state that they *"have, are and will suffer loss of our lands, livelihoods, and well-being as a result of the World Bank's non-compliance with its own policies in its technical assistance program to assist the Government of Kosovo to prepare a policy, regulatory and legal framework designed to forcefully resettle us to make way for a Bank financed New Coal Power Plant."* They also state that by *"designing and implementing"* the resettlement of the Shala neighborhood of Hade village, the *"Bank's non-compliance has exacerbated the social risks"* to them and to the proposed KPP, as the latter *"is moving ahead without incorporating full involuntary resettlement planning and financial due diligence that should have accompanied a large scale involuntary resettlement."*

In separate communications with the Inspection Panel, the Requesters clarified that the mention of the technical assistance program is with reference to LPTAP, which financed the RPF for Land Acquisition for the New Mining Field Zone. They also clarified that the Shala resettlement, carried out under the Hade Resettlement Action Plan (financed by the LPTAP), is taking place because Hade is at the periphery of the Sibovc South mine field which is being expanded to extract lignite for the existing Kosovo A and B power plants, and the proposed KPP.

Forced Displacement: The Requesters state *"as a result of the Bank's improper technical assistance,"* parts of their communities have been forcefully displaced under a RAP that is not in compliance with World Bank policy or international standards. This displacement, according to the Requesters, has over the course of a decade caused *"huge uncertainty"* in their communities as they suffered impoverishment, homelessness, food

⁸ Integrated Safeguards Data Sheet (ISDS), Concept Stage, Kosovo Power Project, July 27, 2011, World Bank.

⁹ Financing Agreement, Second Additional Financing for Energy Sector Clean-up and Land Reclamation Project, between Republic of Kosovo and International Development Association, May 2013, Schedule 1, Part F (iii), (iv).

insecurity, landlessness, unemployment, and stress. The Requesters are concerned that they will in the future experience the same harms as the already displaced members of the Shala community.

Restrictions on Economic Development: The Requesters also state that the Bank “*encouraged or assisted*” the Government of Kosovo, under its technical assistance program, to designate a special economic interest zone for purposes of building the proposed KPP. The Requesters state that this zone curtails their rights to land and economic development, and was enacted without carrying out an impact assessment, and without due process (i.e., meaningful and timely notification and participation). They state that this zoning means “*effectively taking of our land, limiting our lives and livelihoods*” without compensation or restoration of livelihoods. According to them, this zoning is causing a “*depopulation*” of their area since they cannot accommodate their families or grow their livelihoods, and is part of the process of forced displacement without compliance with the Bank’s Involuntary Resettlement Policy.

Financial Burden: According to the Requesters, by failing to incorporate the objectives of the Involuntary Resettlement Policy, and by not providing “*sufficient investment resources*” to meet these objectives, the cost of the proposed KPP and the ongoing Hade resettlement, is being passed on to the Requesters, and to Kosovo “*ratepayers.*”¹⁰

The Requesters believe that the above failures are in violation of Bank’s Involuntary Resettlement Policy. They conclude by asking the Inspection Panel to recommend an investigation of these matters.

Registration of the Request

As stated above, the proposed KPP was the subject of a Request for Inspection received in March 2012. The Panel did not recommend an investigation for two reasons: (i) The KPP was in an early preparation phase and there were no Bank activities or decisions relevant to the concerns raised in the Request that could be reviewed by the Panel as a matter of policy compliance, and (ii) regarding resettlement issues, the Panel noted that although the RPF and the Hade RAP were prepared with financing from the closed LPTAP, the Bank did not have an active monitoring role with respect to ongoing resettlement activities, as there was no WB project under which resettlement actions were being supervised. The Panel noted at the time that affected people would have recourse through the Panel at a later stage in the KPP project cycle if they so wished.

The present Request relates to an active project (the 2nd AF-CLRP). There is also new evidence and circumstances not known at the time of the earlier Request, including allegations of new and unmitigated harm, and the existence of a draft ESIA. As stated

¹⁰ The Request lists some of the objectives of the Bank’s Involuntary Resettlement Policy, which can be summarized as avoidance, minimization of involuntary resettlement; involuntary resettlement conceived as sustainable development programs; displaced persons sharing in project benefits and participating in the planning and implementation of resettlement programs; and assisting displaced persons to improve their livelihoods, or at least restore them.

earlier, the 2nd AF-CLRP is monitoring the implementation of the Hade RAP, which in the Requesters opinion, is not progressing satisfactorily and is causing the harm. The 2nd AF-CLRP is also financing the development of the KPP ESIA, which is in draft form and will be disclosed for consultations with stakeholders in due course.

Regarding the present Request, the Panel has verified that it meets the basic requirements for Registration: (i) the Request was submitted by at least two people in relation to a project supported by the World Bank, (ii) Bank's financing is neither closed, nor reached 95% disbursement (at the time of receipt of the Request, the 2nd AF-CLRP was about 53% disbursed, and the KPP remains a proposed project), (iii) the Requesters assert that they are affected by activities supported by the World Bank, and the Request raises issues of harm which may plausibly result from Bank supported activities and from alleged actions or omissions by the Bank, (iv) the Request is not related to procurement, and (v) the Request deals with a subject matter on which the Panel has not made a previous recommendation, or there is new evidence or circumstances not known at the time of the prior request (as explained above). The Panel has also verified that these concerns were brought to the Bank's attention on different occasions, prior to filing the Request.

The Panel was briefed by Bank Management on June 25, 2015 on the background of the projects, and Management's efforts *vis-à-vis* the concerns raised by the Requesters. Management informed the Panel about the Bank's involvement in the energy sector in Kosovo and provided an update on the draft ESIA. Management noted several capacity building initiatives for resettlement undertaken under Bank-financed projects, and stated that only the ongoing Hade resettlement was related to Bank activities. Management indicated that the closing date of the 2nd AF-CLRP may be extended to allow for the completion of the KPP ESIA.

As provided in paragraph 17 of the Resolution ("the Resolution") that established the Panel, "*the Chairperson of the Panel shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection.*" With this notice, I am notifying you that I have, on June 30, 2015, which is also the date of this notice, registered this Request in the Inspection Panel Register. The Panel's registration implies no judgment whatsoever concerning the merits of a Request for Inspection. As provided in paragraph 18 of the Resolution, and paragraphs 2 and 8 of the "*Conclusions of the Board's Second Review of the Inspection Panel*" (the 1999 Clarification), Bank Management must provide the Panel, by July 31, 2015, a Response to the issues raised in the Request for Inspection. The subject matter that Management must deal with in the response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarification.

After receiving the Management Response, the Panel will, as outlined in the 1999 Clarification and as provided by paragraph 19 of the Resolution, "*determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.*"

All communications in connection with the Request will be sent to the contact persons appointed by the Requesters.

The Request has been assigned IPN Request Number RQ 15/4.

Yours sincerely,

A handwritten signature in black ink, appearing to read "G. Castro". The signature is fluid and cursive, with a large initial "G" and a long, sweeping underline.

Gonzalo Castro de la Mata
Chairman

Attachments

Mr. Jim Yong Kim, President
International Development Association

The Executive Directors and Alternates
International Development Association

Ms. Dajana Berisha
Executive Director
Forumi për Iniciativa Qytetare (FIQ)/Forum for Civic Initiatives (FCI)
Prishtina,
Kosova