



The Independent Accountability Mechanism for IFC & MIGA

CAO ASSESSMENT REPORT

**Regarding Concerns in Relation to
MIGA's Guarantee for the Morava Corridor Motorway in
the Republic of Serbia
(MIGA Project # 14629)**

February 2025

Office of the Compliance Advisor Ombudsman
for
the International Finance Corporation and the
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About the Compliance Advisor Ombudsman (CAO)

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism of the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. We work to facilitate the resolution of complaints from people affected by IFC and MIGA projects in a fair, objective, and constructive manner, enhance environmental and social project outcomes, and foster public accountability and learning at IFC and MIGA.

CAO reports directly to the IFC and MIGA Boards of Executive Directors. For more information, see www.cao-ombudsman.org

About CAO Assessments

Any person who believes they may be harmed by an IFC or MIGA project can lodge a complaint to CAO. We apply three simple eligibility criteria to accept a complaint. For eligible complaints, we assess the concerns with the complainant(s), project sponsor, and other relevant stakeholders.

Once a complaint is determined to be eligible, we review the concerns raised in it. This assessment is conducted in consultation with the complainant, IFC and MIGA client and project teams, and other relevant stakeholders.

Purpose

The objective of the CAO assessment process is to develop a thorough understanding of the issues the complaint raises, work to understand all perspectives, engage with all key stakeholders to the complaint, consult with them to determine the process they choose to address the complaint, and consider the status of other grievance resolution efforts made to resolve the issues raised. The CAO assessment process does not entail a judgment on the merits of the complaint; rather, it seeks to understand the facts and empower those involved to make informed decisions on how to address the issues raised.

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ACRONYMS

CAO	Office of the Compliance Advisor Ombudsman
CoS	Corridors of Serbia Ltd. (Koridori Srbije d.o.o.)
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
PS	MIGA's Environmental and Social Performance Standards

OVERVIEW

On July 15, 2024, a complaint was lodged with CAO by an individual (“the complainant”), who claimed that her land had been impacted by the construction of the Morava Corridor Motorway in Serbia. The complaint raised issues relating to the request for full expropriation of her land and adequacy of the valuation and compensation for poplar trees.

MIGA signed a contract of guarantee with various banks in March 2022 for loans to the Government of Serbia for the development, construction, and operation of an approximately 112-km motorway (Morava Corridor) linking the cities of Preljina and Pojate in central Serbia (“the Project”).

CAO found the complaint eligible on August 16, 2024, and began its assessment process on August 19, 2024. During the assessment, the issue of expropriation was resolved between the complainant and Koridori Srbije d.o.o. Beograd (“CoS” or “the company”). The company, implementing the Project on behalf of the Republic of Serbia, agreed to expropriate the complainant’s remaining land and offered adequate compensation for it. However, the issue of compensation for poplar trees remained unresolved due to a pending court decision. In order to provide the complainant and the company (the “parties”) with more time to decide whether they would like to resolve the remaining issue through a CAO-facilitated dialogue, the assessment period was extended by an additional 30 working days, in accordance with the CAO Policy¹.

As the parties could not agree to participate in a CAO-facilitated dialogue, the case will be transferred to CAO’s Compliance function for appraisal of MIGA’s environmental and social performance related to the Project.

CAO’s compliance appraisal will determine whether further investigation of MIGA is warranted or whether CAO closes the case.

This Assessment Report provides an overview of the assessment process, including a description of the Project, the complaint, the assessment methodology, and next steps.

BACKGROUND

2.1 The Project

On March 15, 2022, the Multilateral Investment Guarantee Agency (MIGA), a member of the World Bank Group, signed a contract of guarantee² for approximately EUR 411.4 million (c. US\$451.8 million),³ providing Non-Honoring of a Sovereign Financial Obligation (NHSFO) coverage to (i) JPMorgan Chase Bank, N.A., London Branch, (ii) CaixaBank, S.A., (iii) Banco Santander, S.A., (iv) UBS Switzerland AG, (v) Credit Agricole Corporate and Investment Bank, and (vi) Raiffeisen Bank International AG (together, “the guarantee holders”), acting through J.P. Morgan SE as the agent, for their non-shareholder loans to the Government of Serbia (GoS) for the Project. On December 15, 2023, MIGA issued a new contract of guarantee for

¹ The CAO Policy is available at <https://www.cao-ombudsman.org/sites/default/files/documents/CAO%20Policy/ifc-miga-independent-accountability-mechanism-cao-policy.pdf>

² Subsequently amended on January 17, 2023, and September 1, 2023, to increase the covered amount.

³ Following the amendments, increased to approx. EUR511.5 million (c. US\$543.1 million).

approximately EUR 901.1 million (c. US\$976.7 million) for an additional loan for the same Project.⁴

According to MIGA's Environmental and Social Review Summary, the Project consists of a greenfield 112-km dual-carriageway tolled motorway, within a 900-meter right of way, located approximately 200 km south of Belgrade in a low-level flood plain running east/west along the West Morava River Valley. The Project also includes (i) aboveground structures such as interchanges, bridges, culverts, and over/under passes; (ii) a telecommunications network (digital corridor) supported by power lines and communication cables to connect the telecom stations within the motorway (at rest areas, parking lots, and near traffic loops) and to manage traffic through various traffic control, surveillance, and tolling systems; and (iii) river regulation works intended to protect the Project and its surrounding areas from flooding. Ownership of the Project sits with the Ministry of Construction, Transport, and Infrastructure. CoS, fully owned by GoS, is a limited liability company mandated to oversee the construction of the Project.

The Project was classified as Category A under MIGA's Policy on Environmental and Social Sustainability (2013).

2.2 The Complaint

The complaint was lodged with CAO on July 15, 2024. The complaint raised concerns relating to full expropriation of land, adequate valuation for compensation for poplar trees, and an inefficient complaint handling process in relation to the construction of the Morava Highway in Serbia.

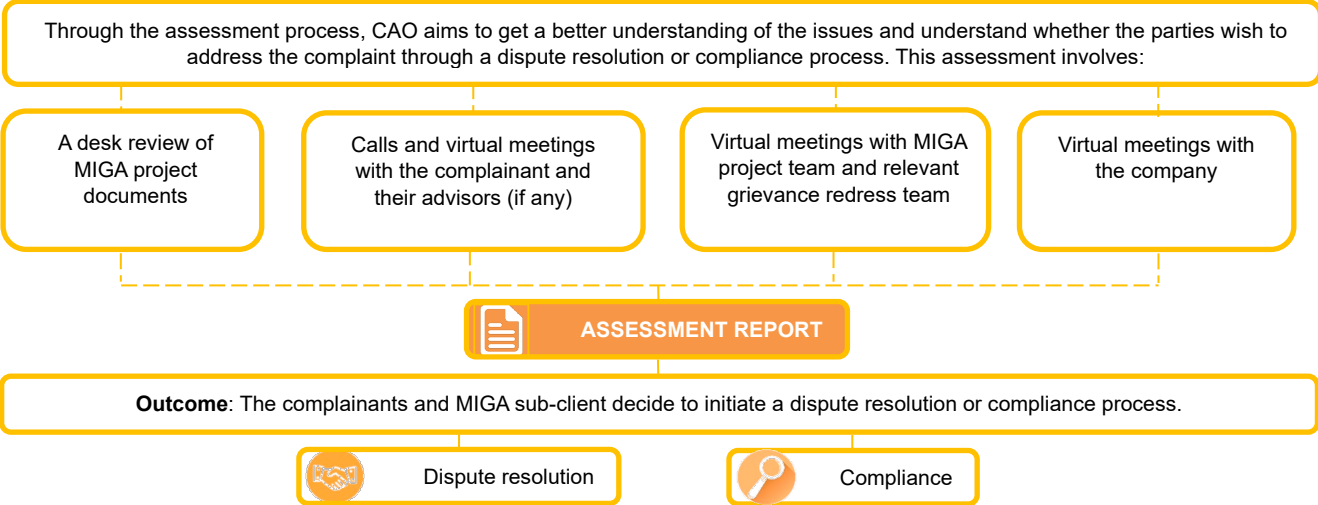
The issues raised in the complaint and during the assessment are described in more detail below.

ASSESSMENT SUMMARY

3.1 Methodology

Figure 1 shows the approach and methodology to be applied in CAO's assessment process.

Figure 1. CAO Assessment Process



⁴ This new contract of guarantee has J.P. Morgan SE as the agent and Banco Santander, S.A., Credit Agricole Corporate and Investment Bank, JPMorgan Chase Bank, N.A., London Branch, and ING Bank, a branch of INGDiBa AG., as the guarantee holders.

The CAO assessment process does not entail a judgment on the merits of the complaint; rather, it seeks to understand the facts and empower those involved to make informed decisions on how to address the issues raised. The issues raised in the complaint and during assessment by the complainant and the view of the company are described below.

3.2 Summary of Views

Complainant's perspective

The complainant raised several concerns regarding the impacts of the Morava Corridor highway project on her land and livelihood. These concerns, as articulated by the complainant, are summarized below:

Non-expropriation of portion of land

The complainant reported that, in January 2021 as part of the construction of the Morava Highway, she received a proposal for the expropriation of a significant portion of her land (representing 77% of the total surface), which she accepted. The proposal did not cover her entire property, but rather a substantial segment through the middle of the property. She explained that the expropriation resulted in her land being divided into two disconnected portions, making access between the two parts impossible.

Additionally, the complainant shared that the remaining portions of her land fell within a designated “protection zone,” which imposes restrictions on land use. The complainant asserted that these restrictions effectively amounted to involuntary resettlement under PS 5 (Land Acquisition and Involuntary Resettlement). Despite this, she stated that no compensation was provided for the reduced utility of the remaining parcels of her land.

The complainant also expressed concerns about environmental impacts stemming from the highway's proximity, including noise and air pollution, which she claimed render the land unsuitable for residential or agricultural purposes. She also highlighted safety concerns, citing examples of vehicles veering off the highway into buffer zones and posing risks to land users.

As a result, in February 2021, the complainant submitted a request to have the remaining two portions of her land expropriated but received no response. She also claimed to have filed a complaint with the company's grievance mechanism in May 2024, to no avail. The complainant expressed frustration at these delays and claimed that this contravened PS 1 (Assessment and Management of Environmental and Social Risks and Impact), which requires an efficient grievance process.

However, during the assessment process, the complainant indicated to CAO that she was approached by the company in September 2024 and was offered full expropriation and related compensation, which she accepted. She appreciated that the compensation amount offered by CoS for the remaining portion of the land took into consideration the inflation between 2020 and 2024. The complainant considers the issue of expropriation resolved.

Valuation and compensation for poplar trees

The complainant also raised issues related to the compensation offer for the poplar trees on her expropriated land. She claimed that approximately 150 poplar trees were not accounted for during the valuation process conducted by the municipality in 2020, prior to expropriation. She claimed that the valuer did not accompany her to the land where she could have brought

their attention to the concerned trees. She explained that these trees held significant economic and utility value, and their exclusion from the valuation led to the provided compensation being substantially below what she believes to be the true worth of the trees. The complainant lodged a complaint and hired her own expert to assess the value of the trees. She believes that CoS was obligated to operate an effective grievance mechanism and collaborate with the responsible government agency. However, in her view, CoS permitted the works to begin on the property before the court reached a decision on her complaint. As a result, the complainant believes that neither the court nor MIGA were able to properly determine whether the complaint was justified, as the trees had already been removed by then.

The complainant subsequently filed a court case, seeking a review of the valuation of the trees and compensation for the unaccounted trees. In the context of this court case, the complainant's expert valued the complainant's trees at 646,380 dinars, whereas the expert selected by the municipality had valued them at approximately 137,373.36 dinars. The court process is still pending.

According to the complainant, this improper valuation of her trees, as well as the delay in resolving this issue, which has been pending for more than three years now, contravenes PS 5 and PS 1.

Company's perspective

The company's views of the issues raised in the complaint are expressed below.

Non-Expropriation of portion of land

The company explained that, as a result of the CAO complaint, it undertook a review of the complainant's request for the expropriation of the remaining portions of her land, which she had submitted in 2021. During this review, it was determined that a favorable decision had been made by the municipality in 2022 to fully expropriate the land in question. However, the company indicated that due to administrative mistakes, the decision was not communicated to the complainant and CoS.

Following this review process, during the CAO assessment phase, the company shared with the complainant the decision to fully expropriate the remaining two parcels of land and made a compensation offer, which the complainant duly accepted. The full settlement of expropriation was provided to the complainant in September 2024. As a result, this issue of the complaint has been resolved during the CAO assessment period.

The company also indicated that it takes all complaints very seriously and shared with CAO that the complaint filed by the complainant with the company's grievance mechanism in May 2024 did not reach them, due to a technical issue affecting their server at the time. They regret this technical glitch and the delay it caused in the resolution of that issue.

Valuation and compensation for poplar trees

The company shared that the issue of the number and valuation of poplar trees located on the expropriated lot is currently pending in the Serbian courts, awaiting explanations from the complainant's expert and the municipality's expert regarding their calculations. The company

indicated that it believes the ongoing judicial process is the appropriate forum to address this issue raised by the complainant. Therefore, the issue of the poplar trees remains unresolved.

ASSESSMENT CONCLUSION

During the assessment phase, the parties successfully resolved the first issue regarding the complainant's land, that had been partially expropriated in January 2021. As a result, the company has now fully expropriated all her land and provided appropriate compensation, including adjustments for inflation from 2020 to 2024.

As the parties could not agree to resolve the second issue, related to the valuation of and compensation for poplar trees, through a CAO-facilitated dialogue, the case is being transferred to CAO's Compliance function for appraisal of MIGA's environmental and social performance related to the Project.

CAO's compliance appraisal will determine whether further investigation of MIGA is warranted or whether CAO closes the case.

APPENDIX A. CAO COMPLAINT-HANDLING PROCESS

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO Dispute Resolution specialists. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the complainant(s), (2) gather information on how other stakeholders see the situation, and (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function or whether the case should be reviewed by CAO's Compliance function.

As per the IFC/MIGA Independent Accountability Mechanism (CAO) Policy,⁵ the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgment** of receipt of the complaint.

Step 2: **Eligibility:** Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 business days).

Step 3: **Assessment:** Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 90 business days, with the possibility of extension for a maximum of 30 additional business days if, after the 90-business day period, (1) the parties confirm that resolution of the complaint is likely or (2) either party expresses interest in dispute resolution, and there is potential that the other party will agree.

Step 4: **Facilitating settlement:** If the parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the parties affected.⁶

OR

Compliance Appraisal/Investigation: If the parties opt for an investigative process, the complaint is transferred to CAO's Compliance function. The complaint is also transferred to the Compliance function when a dispute resolution process results in partial or no agreement. At least one complainant must provide explicit consent for the transfer unless CAO is aware of concerns about threats and reprisals. CAO's Compliance function reviews IFC/MIGA's compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate following a three-step process. First, a compliance appraisal determines whether further investigation is warranted. The appraisal can take up to 45 business days, with the possibility of extending by 20 business days in exceptional

⁵ For more details on the role and work of CAO, please refer to the IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://www.cao-ombudsman.org/sites/default/files/documents/CAO%20Policy/ifc-miga-independent-accountability-mechanism-cao-policy.pdf>

⁶ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

circumstances. Second, if an investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC/MIGA's performance. An investigation report will be made public, along with IFC/MIGA's response and an action plan to remediate findings of noncompliance and related harm. Third, in cases where noncompliance and related harm are found, CAO will monitor the effective implementation of the action plan.

Step 5: **Monitoring and Follow-up**

Step 6: **Conclusion/Case Closure**

Figure 2. Compliance Process Flowchart

