

Tirana, Monday 14 January, 2013  
Prot. No. 52 / 2013

**To: Compliance Advisory Ombudsman**  
**International Finance Corporation**  
**Washington, DC, U.S.A.**

**Subject: COMPLAINT**

**I. Complainant's name, address, contact information**

EDEN Center for Development Education and Networking

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**II. Identity and nature of the Project:** IFC has provided consulting services for the privatization / sale of four hydro power plants, HEC Ulëz Shkopet, SH.A. and HEC Bistrice 1 & Bistrice 2, SH. A., which are all profitable public energy enterprises.

More specifically, IFC has consulted the Government of Albania [GoA] for the sale and privatization of the HPP of Ulëz, Shkopet, Bistrice 1 and Bistrice 2 [Hereinafter "The Service" or "Consulting / Advisory Service"]. Indeed, according to one GoA document, "GoA has hired the International Finance Corporation [IFC] as its financial advisor for the implementation of this transaction."<sup>1</sup> IFC will receive a success fee equal to 420.000 Euros for the sale of Bistrice 1 & 2<sup>2</sup> and 430.000 Euros as a success fee for the sale of Ulëz Shkopet.<sup>3</sup>

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<sup>1</sup> According to press reports, "IFC Advisory, which is assisting the government for the privatization of HPP-s Bistrice 1, Bistrice 2, Ulëz and Shkopet, has completed its report on the ranking of the companies, which most likely will be approved in the government's meeting today", Panorama, 9 January 2013, at [www.panorama.com.al](http://www.panorama.com.al). See also Preliminary Information Notice, Privatization of Ulëz-Shkopet and Bistrice 1 & 2, METE - IFC. An IFC Team has been established to assist: email address: [albaniahpps@ifc.org](mailto:albaniahpps@ifc.org), at [http://www.mete.gov.al/doc/20120110094936\\_goa\\_hpp\\_privatization\\_teaser.pdf](http://www.mete.gov.al/doc/20120110094936_goa_hpp_privatization_teaser.pdf)

<sup>2</sup> Tender Procedures and Criteria for the Selection of the Strategic Investors for the Privatization of the Package of State Owned Shares Constituting 100% of Share Capital of "HEC Bistrice 1 & Bistrice 2" SH.A.", Section 6.1.12.

<sup>3</sup> Tender Procedures and Criteria for the Selection of the Strategic Investors for the Privatization of the 100% of Share Capital of "HEC Ulëz Shkopet", SH.A.", Section 6.1.12 .

### III. IFC's Service violates its Articles of Agreement

1. We believe this IFC consulting/advisory service violates IFC's own Articles of Agreement, more specifically, Article I – Purpose, which states that IFC's purpose is “*to further economic development by encouraging the growth of productive private enterprises in member countries*”. There is nothing in the Articles of Agreement that would enable or authorize IFC to provide any Services towards a public enterprise. An argument could be made that IFC would assist in privatization / sale of derelict, outdated or non-profitable public enterprises. However, this is not the case with the four HPP-s. According to a well-known local expert, all these HPP's bring in to the country's annual budget approximately 30 million Euros, because they are profitable public enterprises.<sup>4</sup> Clearly, in this particular case, IFC is advising outside its mandate as provided for in the Articles of Agreement.

2. IFC Advisory work with respect to this project entails political considerations, which clearly outweigh any economic considerations to this privatization. The sale of a profitable public enterprise, which has been built by the previous generation for the benefit of future generations of the country, will bring in to the budget of the current government of an amount of money right before the election campaign of June 2013 and the potential use of this sale for political purposes cannot be ignored. Therefore, this advisory / consulting service of IFC violates its own Articles of Agreement, more specifically Article 3 – Operations, Section 9 – Political Activity Prohibited, because it constitutes indirect interference in the political affairs of Albania.

Even in the hypothetical scenario that this advisory / consulting service is totally neutral and devoid of any political character, in essence it does not have any genuine and meaningful economic considerations, because simply, no one can reasonably consider selling for a quick buck the cow that produces milk for the family. This is precisely what is happening with this privatization. It is noteworthy that the hydropower plants in question have also been rehabilitated recently through development loans from some other IFI-s<sup>5</sup>, a fact which makes even more economically meaningless IFC-s advisory service.

### IV. IFC's Service violates IFC's Policy on Environmental and Social Sustainability

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<sup>4</sup> Pajtim Bello, Shitja e 4 HEC-eve demi 30 milion Euro në vit, Shekulli, 29 December 2012, at <http://shekulli.com.al/web/p.php?id=12407&kat=100>.

<sup>5</sup> [http://www.kfw-entwicklungsbank.de/ebank/DE\\_Home/I/Download\\_Center/PDF-Dokumente\\_Jahresberichte\\_-\\_KfW\\_Entwicklungsbank/FZ-Bericht\\_2004\\_e.pdf](http://www.kfw-entwicklungsbank.de/ebank/DE_Home/I/Download_Center/PDF-Dokumente_Jahresberichte_-_KfW_Entwicklungsbank/FZ-Bericht_2004_e.pdf) and [http://www.entwicklung.at/uploads/media/Folder\\_Albanien\\_alb2012.pdf](http://www.entwicklung.at/uploads/media/Folder_Albanien_alb2012.pdf)

A simple analysis of this privatization / sale reveals that the advisory / consulting service violates IFC's own Policy on Environmental and Social Sustainability [PESS].

One of the key elements of PESS is IFC's commitment "*to fight poverty with passion and professionalism for lasting results*" [PESS, II.8.]. By advising the Government of Albania to sell four profitable public enterprises for a quick and temporary budgetary need, the IFC is, in fact, enhancing poverty in the country because: (i) it decreases the public energy pool, which would thus obligate the Public Power Corporation to purchase more energy from private operators with funds that the former does not simply have. In this case, the public debt will increase, thus further growing poverty. The only lasting result of this privatization / sale is a bigger hole in the public debt and more poverty.

Similarly, the Service violates PESS's "*do not do harm*" policy – another key IFC Commitment [PESS, II.9], because again this action will most definitely have such a high economic cost in the long term, which will fall disproportionately "on the poor or vulnerable" sections of the populations in Albania. As such, the Service may also negatively affect human rights [PESS, II. 12] and the conditions of women in Albania [PESS, II. 13], because by placing these profitable public enterprises into the hands of private operators, the Government of Albania will minimize her ability to reduce gender inequity in business and economic development.

The only mentioning of IFC guidelines in the IFC advisory / consulting services documents relate to IFC's "general Environmental, Health and Safety guidelines"<sup>6</sup>, which are insufficient and, in this case, remotely relevant.

## V. IFC's Reputational Risk

This entire process has been subject of lively public debates in the press, which most certainly have been noticed by GoA and IFC and which raise the issue of reputational risk for the IFC.<sup>7</sup>

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<sup>6</sup> 6.1.6. Minimal Technical Conditions, of documents referred to at footnotes 2 and 3 above.

<sup>7</sup> <http://www.shqiperia.com/lajme/lajm/nr/11036/Rama-Snjohim-privatizimet.-Ekonomia-ne-krize>

Although the privatization process may seemingly come to an end after GoA's decision to approve the bid offered by Kurum International, the entire process remains unsettled and will linger for a long time if urgent action is not taken by IFC.

## **VI. Desirable Outcome**

The only desirable outcome for this process is for the IFC to withdraw its services and to waive the success fee, and for the GoA to annul the privatization procedure of these well performing and profitable public energy enterprises.

We therefore urge CAO to register the complaint, to declare it eligible, and in addition to the outcome suggested by us, to conduct a full compliance auditing and review of project either through the normal steps of CAO review, or via the discretionary powers of the CAO Vice President.

Tirana, January 14<sup>th</sup>, 2012.