



ASSESSMENT REPORT

Regarding Community concerns in relation to
IFC's enso Hydro Project (#30979)
in Albania

November 2015

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

About the CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. The CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective and constructive and to enhance the social and environmental outcomes of those projects.

For more information, see www.cao-ombudsman.org

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LIST OF ACRONYMS

- CAO Compliance Advisor Ombudsman
- IFC International Finance Corporation
- MIGA Multilateral Investment Guarantee Agency
- NGO Non-governmental Organization

1. OVERVIEW

In June 2015, a representative of a local non-governmental organization (NGO) in Albania filed a complaint on behalf of two individuals raising issues regarding impacts to local business activities and the environment of an IFC-backed project with enso Hydro Energji in Lengarica, Albania. During CAO's assessment, the parties expressed willingness to engage in a collaborative process convened by CAO's Dispute Resolution function. This Assessment Report provides an overview of the assessment process, including a description of the project, the complaint, the assessment methodology, and next steps.

2. BACKGROUND

2.1. The Project

According to IFC, IFC has a EUR6.0 million equity investment in enso Hydro Energji ("enso Albania"). enso Albania is a holding company set up to invest into small and medium-scale hydropower plants in Albania. The majority shareholder of enso Albania is enso Hydro GmbH, an Austrian company specializing in investments in small and medium-scale hydropower plants in South East Europe, Turkey, Alpine Regions, and Scandinavia. IFC's project is classified as Environmental Category B.

The company's original target was to invest around EUR 100 million until 2015 in small hydro projects for a total installed capacity of up to 50 Megawatts (MW) in Albania. One 8.9 MW run-of-the-river type hydropower plant has been identified on the river Lengarica in Permet district and the concession has been signed. The project consists of a regulator ("side intake" type opening for ecological flow), approximately a 4 kilometer (km) tunnel, a forebay (concrete basin to collect the water coming from the tunnel), an approximate 3.7 km penstock (6 river crossings), a power house (8.9MW), and approximately 1.5 km connection to 115kV transmission line.

2.2. The Complaint

In June 2015, a complaint was lodged with CAO by two individuals with the support of the Organic Agriculture Association, an Albanian NGO. The complainants raise issues regarding the impacts of the Lengarica project, alleging that project construction has negative impacts on their eco-tourism livelihood activities in the area, biodiversity, and critical habitats. The complaint also raises issues regarding project due diligence and compliance with national legislation around protected areas and IFC performance standards.

A redacted version of the complaint can be found on CAO's website at the following link:
http://www.cao-ombudsman.org/cases/document-links/documents/LengaricaAlbaniaComplaint_2015.pdf.

3. ASSESSMENT SUMMARY

The purpose of CAO's assessment is to clarify the issues and concerns raised by the complainants, to gather information on how other stakeholders see the situation, particularly enso, and to determine what options are available for the parties to address the complaint issues with CAO's assistance. CAO does not gather information during assessment to make a judgment on the merits of the complaint. CAO's complaint handling process is outlined in detail in the CAO

Operational Guidelines, which are available at www.cao-ombudsman.org/howwework/documents/CAOOperationalGuidelines2013_ENGLISH.pdf

CAO's assessment of this complaint comprised:

- a review of project documents;
- meetings with the NGO representative and complainants;
- meetings with enso representatives; and
- a discussion with the IFC project team.

This section summarizes the complainants' and enso's perspectives regarding the issues raised in the complaint to CAO.

3.1. Complainants' Perspective

In discussions with CAO, the complainants stated that the Lengarica project is located inside a national park that is designated as a protected area, and falls under national legislation that prohibits high-impact activities in those areas. They therefore see the construction of the project as non-compliant with Albanian legislation and are worried about the precedent this may set for future projects in protected areas. They have questions about the permits obtained by enso Albania, and about disclosed social and environmental impact studies, which were financed by the company.

The complainants perceive the Lengarica river basin, where the project is located, as a unique area, rich in biodiversity which supports several communities, their culture, and livelihood activities. The complainants believe their eco-tourism livelihood activities will be affected by the construction of the project. They are specifically concerned about the diversion of river waters which they contend will affect biodiversity, communities' access to and use of water, as well as the natural landscape (the river itself, the thermal springs, Banja's canyon and cave, the Petran Stone, and other natural monuments, which have cultural and touristic appeal). They state that the project will only allow 2.5 percent of the river to run naturally.

Although the company conducted meetings with communities, the complainants contend they did not adequately address local concerns or opposition to the project that was expressed by community members. The complainants also believe the project has brought little in the way of jobs, infrastructure improvements, or other local benefits.

3.2. Company's Perspective

In discussions with CAO, the company said they believe they have undertaken proper due diligence around the Lengarica project. They stated that the concession was granted before the area was designated as a national park and the protected area (core zone) of the park is approximately 9 km away from the project area. They contend that the project is designed to be small-scale and highly invisible, with 95 percent of the construction underground, and with limited environmental impacts. The company stated that it has addressed issues raised by local stakeholders, such as impacts to the thermal springs, water access, impacts to tourism, by undertaking studies or putting works in place to address these issues, for example through a rehabilitation plan to restore the area, building a fish pass, and rehabilitation of cultural monuments. They report that the studies that have been carried out, from the Environmental

Impact Assessment to an investigation by the Ministry of Environment, have concluded there are limited or no environmental impacts from the project.

In terms of national legislation, the company stated that parts of the project indeed fall within the national park, but that the latter has designated zones where certain activities are permitted, and they believe the project falls within such designated zones.

With regard to community consultation, the company contends that they have held public meetings and information sessions, and have invited NGOs, affected people, and others to visit the project site and share their concerns. They report limited uptake of these opportunities. Their understanding is that there is local support for the project and the economic activity it has brought to the area. The company expressed its continued willingness and openness to engaging with interested parties to share information and address issues of concern.

4. NEXT STEPS

Both parties—the complainants and enso—expressed their willingness to engage in a voluntary dialogue process convened by CAO. CAO will facilitate this process and, as a preliminary step, will engage with the parties to establish how the process will be structured. This will include an agreement regarding the issues to be discussed, structure of meetings, and ground rules, if relevant.

Annex A: CAO Complaint Handling Process

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective, and constructive and to enhance the social and environmental outcomes of those projects.

The initial assessment is conducted by CAO's Dispute Resolution function. 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.

This document is a preliminary record of the views heard by the CAO team, and explanations of next steps depending on whether the parties choose to pursue a Dispute Resolution process or prefer a CAO Compliance process. *This report does not make any judgment on the merits of the complaint.*

As per CAO's Operational Guidelines,¹ the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgement** of receipt of the complaint

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

Step 3: **CAO assessment:** CAO conducts an assessment of the issues and provides 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 120 working days.

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 or initiated by a Memorandum of Understanding and/or a 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 goal. 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 affected².

¹ For more details on the role and work of CAO, please refer to the full Operational Guidelines: http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines2013_ENGLISH.pdf

² 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

or

Compliance Appraisal/Investigation: If the parties opt for a Compliance process, CAO's Compliance function will initiate an appraisal of IFC's/MIGA's environmental and social due diligence of the project in question to determine whether a compliance investigation of IFC's/MIGA's performance related to the project is merited. The appraisal time can take up to a maximum of 45 working days. If an investigation is found to be merited, CAO Compliance will conduct an in-depth investigation into IFC's/MIGA's performance. An investigation report with any identified non-compliances will be made public, along with IFC's/MIGA's response.

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

Step 6: **Conclusion/Case closure**

World Bank Group, and the public, that CAO Dispute Resolution has closed the complaint and transferred it to CAO Compliance for appraisal of IFC/MIGA project performance.