

2.08.2018, Kyiv

Oswaldo Gartakos, Vice President of CAO
Compliance Advisor/Ombudsman
International Finance Corporation
2121 Pennsylvania Avenue NW
Washington, DC, US 20433
Fax: (+1) (202) 522-7400
E-mail: cao-compliance@ifc.org

Dear Mr. Gratacos!

We, a Local Initiative against the illegal construction of a petrol gas station at the intersection: Revutskoho st. and Anna Akhmatova st. in Darnytskyi district of Kyiv (hereinafter referred to as the Initiative against petrol gas filling station)¹. We residents of buildings No. 8, 10/2, 19/1, on Revutskoho Street, are afraid of a danger from the facility that is being constructed near to our houses by PJSC Concern Galnaftogaz (hereinafter referred to as "Galnaftogaz") and LLC "Guell Park" (further "Guell Park"). Galnaftogaz and Guell Park systematically and decisively violate our human rights and use violence against activists.

The International Finance Corporation (IFC) provided five individual loans to Galnaftogaz since 2005. The last four loans were issued in 2007, 2011, 2012, and 2013². At least three of them included clear commitments from the company to improve their practices on health and safety, environmental protection, best practices in land acquisition and community involvement.

In 2016, the company Galnaftogaz through the intermediary Guell Park began construction of a 27/7 petrol gas filling station at the intersection of Revutskoho st. and Anna Akhmatova st. in Darnytskyi district of Kyiv. This is an explosive object, which also carries great environmental risks.

Threats to the community

This construction violates the Building Code (BC 360-92 ^{**3}) requirements regarding residential buildings (ca. 3000 people), children's preschool institutions (No. 189, 201 (mini-garden), 809, 800, 290, ca. 1,200 children), secondary schools (No. 303, gymnasium No. 290, ca. 2,500 children) and the recreational zone of the lake "Sunny".

In particular, according to BC 360-92 **, the minimum distance from the petrol gas station to residential building should be at least 50 meters, in this case, to the nearest house - 30 meters. The minimum distance to a public transport stop according to BC 360-92 ** is 100 m, in this case it is 10,5 m.

According to the Town-planning Cadastre of Kyiv, this territory is not allowed for use in the construction of a petrol gas station (Land was allocated to Galnaftogaz for the construction of

¹ Initiative FB profile <https://www.facebook.com/groups/1854077071482028/about/>

² Galnaftogaz 2005 <https://disclosures.ifc.org/#/projectDetail/SPI/22739>
Galnaftogaz Expansion Phase II 2007 <https://disclosures.ifc.org/#/projectDetail/SPI/25694>
GNG Central 2011 <https://disclosures.ifc.org/#/projectDetail/SPI/30477>
JV East 2012 <https://disclosures.ifc.org/#/projectDetail/SII/31723>
GNG Syndicate 2013 <https://disclosures.ifc.org/#/projectDetail/SII/33721>

³ BC 360-92

<https://kga.gov.ua/files/doc/normy-derjavy/dbn/Mistobuduvannja-Planuvannja-i-zabudova-miskyh-i-silskyh-poselen-DBN-360-92.pdf> p. 77

parking lot, and not petrol gas filling station). Objects of that type should be located on the territories that are distant from living houses areas and transport nodes.

On the territory allocated to the project, there are underground communications of the neighborhood: heating main, gas pipeline, water supply and telephone cable. The zones where such objects are located are protected by the Law of Ukraine "On Telecommunications" and the Decree of the Cabinet of Ministers of Ukraine on objects of the energy system.

(Annex No. 1. Abstract from Town-planning Cadastre of Kyiv)

No public consultations were held on project. The community approached the company and has been denied. Galnaftogas outrageously ignores our demands for the termination of construction and considers the community's demands to dismantle OKKO petrol gas filling station in the center of the residential area as misunderstanding.

On December 28, 2016, we collected 1520 signatures from residents of neighboring houses in order to create the Initiative against the construction of petrol gas stations, which was then registered in Kiev City Council.

As a result, on April 20, 2017, a local "Initiative on the illegal construction of a petrol gas station at the intersection of the Revutskoho st and Anna Akhmatova st in Darnytskyi district of Kyiv" was delivered to the plenary meeting of the Kyiv City Council. It was supported by 76 deputies of the Kyiv City Council. After that, the Department of Land Resources of the executive body of the Kyiv City Council was instructed to prepare a draft of the corresponding decision.

(Annex No. 2. Decision of the KCC No. 110/110 of 11 January, 2016)

(Annex No. 3. Protocol No. 2 of April 28, 2017).

The main requirements of the local Initiative were:

1. To break the land lease agreement between the Kyiv City Council and the Guell Park (LLC Guell Park) ***
2. To give the specified land area the status of the square

For reference: *** Guell Park LLC – Project sponsor of OKKO petrol gas filling station on Revutskoho Street. Galnaftogas is not directly involved in the construction of OKKO petrol gas filling complexes, for each object the so-called "one-off company" is used. This one-off company sells the petrol gas filling station or leases the whole complex to Galnaftogas once the construction is over. In this way, all negativity during the problematic construction of filling stations falls on such a company, and not on the real project sponsor.

Unfortunately, due to the corruption and self-interest of the local authorities, the draft decision on the break of the lease has not been formed so far.

Local deputies and representatives of various political forces tried several times unsuccessfully to put a decision on terminating of an agreement on lease of a land plot for voting in the Kyiv city council. In September 2018, another attempt is expected to resolve this issue through the Kyiv City Council.

Kyiv Mayor, Head of the Kyiv City State Administration - Klitschko Vitaly Vladimirovich, has submitted the Minutes of orders No. 51 of the register. No. 24942 of 14 July, 2017.

(Annex No. 4. Minutes of assignments No. 51).

(Annex No. 5. Extract No. 8/3015 of 14 September, 2017).

Absence of public participation

We decided to find out the answers to the above questions by inviting representatives of Galnaftogaz to participate in open public discussion, the procedure of which is fixed by the Decision of Kyiv City Council No. 120/2023 of October 8, 2015. Instead the members of the initiative group received the answer on February 17, 2017: "That Concern does not intend to participate in public discussions, because we are not related to the construction of a petrol gas station at the intersection of: Revutskoho and Anna Akhmatova`s streets in Darnytskyi district of Kyiv " (please find Annex No.6). The project sponsor Guell Park was also invited to the public discussion, but ignored the community in general and did not come.

Our Community has found violations in project documentation of Guell Park, such as fake documents, discrepancies and non-compliance with Building Code, namely BC 360-92 ** "Planning and Building Urban and Rural Settlements"; non-compliance with environmental legislation.

Guell Park together with representatives of Galnaftogaz realized that the Community categorically opposed the construction of petrol gas filling station. So they began to use various methods of pressure and reprisals.

Unlawful court prosecution

Apartments of the members of the Initiative Group Against Petrol Gas Filling Station are under unlawful arrest for alleged blocking access to property of the company. On May 26, 2017 the members of Initiative Group, namely, Makhovets S.O, Hudilina I.M., Pereguda Y.V. have received the letter from the Guell Park. The letter stated that:

- ½ shares of apartment #167, located in Kyiv, Revutskoho st, 19/1, owned by Sergei Makhovets;
- ¾ shares of the apartment #220, located in Kyiv, Revutskoho st 8, owned by Yulia Pereguda
- and the apartment #63, located in Kiev, Revutskoho st 8, owned by Irina Hudilina

were arrested by the decision of Svyatoshinsky District Court of Kyiv, by Judge Velychko T.O. (Annex No. 7 Decision of Svyatoshinsky District Court of Kyiv).

This allegation is totally false, the case is faked with the help of the corrupted judge. People can prove that they even haven't been at the place when the blocking happened (they have documented alibi). Moreover it is difficult to understand how the petrol gas filling station has been built all the time without access to it.

The apartments are still under arrest. The actions of the judge Velychko were acknowledged as unlawful ones by High Council of Justice of Ukraine⁴. But the decisions regarding the apartments of activists stay in force. The only punishment for the judge was deprivation of monthly bonuses for three months.

Physical violence

On September 27 and 28, 2017, during the "perpetual peaceful protest action against the construction of OKKO filling complexes on Revutskoho Street in Kyiv, registered with the number 2575 on January 25, 2017" police officers broke the hand to the girl, about 12 people turned to ambulance, after applying tear gas to them, 2 men with multiple injuries were sent to the ambulance. Unfortunately, the police, that have to defend peaceful citizens, absolutely ignored all the calls for help. By this time none of the police officers, who had exceeded the official duties, are not punished! The violence was applied to activists. Responsible are not punished. Damage to health and non-pecuniary damage are not reimbursed.

On October 4, 2017 the police has beaten activists and local deputies near the petrol gas filling station, using sticks and tear gas.

(Annex No. 8 Materials of video shooting June 2017 <https://youtu.be/VvHWm30fKrA> (and many more), on national TV <https://youtu.be/6EoYSl1V-sY>, beating of activists Sept 27, 2017 https://youtu.be/_6U1uguOu8A, 04.10.2017 <https://youtu.be/TKscrWSv2D4>)

Other methods of pressure, violence and intimidation used by Guell Park and Galnaftogas

- Bribery of law enforcement agencies, the newly formed Patrol Police in Kyiv, who complied with all orders given by the project sponsor in the person of Chief Engineer of PJSC Concern Galnaftogas – Leonid Barger;
- Opening criminal proceedings against the active Community from the Revutskoho Street
- Hiring of titushky who applied physical force to the elderly, local residents;
- Intimidation of people by calling to mobile and home phones;
- Bribing of local residents to sign a memorandum between the Guell Park and the Community of Revutskoho Street;
- Creation a group of pseudo-activists engaged in provoking local residents for their compromise in the Media;

An extreme limit for Community from the Revutskoho Street and for all indifferent citizens of Kyiv has become beatings with the use of special means (tear gas) and baseball bits against women, girls and the elderly by the patrol police officers.

Practices of Galnaftogas in other locations of Ukraine

In addition, we would like to note that the construction of OKKO filling complexes on Revutskoho Street is not the only case in the city of Kyiv, where the Project sponsor violates the legislation of

⁴ <http://www.vru.gov.ua/>

Ukraine for the expansion of OKKO filling complexes network. There are known at least three cases of Galnaftogas misperformance:

- Since 2011, the city struggles with activists to destroy the forest park area in Golosiivsky Park in Kyiv.
- In Odesa, in 2008, a part of the Park, where the memorial to Hero-submariner Oleksandr Marinesko, participant of the 2nd World War, was destroyed for the construction of the OKKO petrol gas station on the Black Sea coast.
- On the site of the City Hall of Kherson, November 3, 2017, there is a decision, which was made to annul PJSC “Concern Galnaftogaz” in the construction of petrol gas stations due to the threat of felling of green plantations in the zone of special purpose plantings - near the Kherson Botanical Garden.

Unfortunately, project sponsor of this construction has become a model of corruption in the city of Kyiv, forcing the Local Authorities to do everything to suppress ordinary civilians who protect their constitutional right to safe living and health and clean and safe environment!

Corrupt officials of the Kyiv City Council issue a solution for placing the gas station in the residential area, registering a tiny spot of land in the living block as an industrial zone. The Revutskoho Street community understands that they will not be protected from corruption by corrupt police and no less corrupt local authorities, which is why we decided to contact the Compliance Advisor/Ombudsman of the International Finance Corporation.

We appeal to you to intervene in situation with unlawful construction of OKKO gas filling station and to promote the protection of the legitimate rights and interests of the territorial Community of Kyiv.

Our demands:

- **Stop the construction of OKKO petrol gas filling complexes in a residential area of the city of Kyiv on Revutskoho Street, 8-K.**
- **Force PJSC “Concern Galnaftogaz” and Guell Park LLC to stop the persecution of activists, including lifting the charges and lifting arrests from the apartments.**

We hope that the Ombudsman's Office for Compliance of the IFC will pay attention to our case and help us find a constructive solution. Our main goal is to achieve a practical solution to the conflict, but we emphasize that construction of an object of this type in this area is not possible under any circumstances. We don't want electric charging station, technical service station or whatsoever. This spot of land should be used as green zone for public good.

[REDACTED]

Please see all the Annexes in Ukrainian version of the letter.