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**MANAGEMENT REPORT AND RECOMMENDATION
IN RESPONSE TO THE
INSPECTION PANEL INVESTIGATION REPORT**

REPUBLIC OF KOSOVO

**KOSOVO POWER PROJECT (PROPOSED, P118287) AND
SECOND ADDITIONAL FINANCING FOR ENERGY SECTOR CLEAN-UP
AND LAND RECLAMATION PROJECT (P131539)**

OCTOBER 18, 2016

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OF THE
REPUBLIC OF KOSOVO
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Pursuant to paragraph 23 of the Resolution Establishing the Inspection Panel (IBRD Resolution 93-10 and IDA Resolution 93-6), attached for consideration by Executive Directors is Management's Report and Recommendation in response to the findings set out in the Investigation Report No. 106658-XK dated September 12, 2016, of the Inspection Panel on the captioned Project: Republic of Kosovo: Kosovo Power Project (Proposed, P118287) and Second Additional Financing for Energy Sector Clean-Up and Land Reclamation Project (P131539).

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ABBREVIATIONS AND ACRONYMS

BP	Bank Procedures
CCS	Carbon Capture and Sequestration
CLRP	Clean-up and Land Reclamation Project
CLRP-AF	CLRP Additional Financing
CLRP-SAF	CLRP Second Additional Financing
ESIA	Environmental and Social Impact Assessment
EU	European Union
GoK	Government of Kosovo
IDA	International Development Association
IED	Industrial Emissions Directive
IPN	Inspection Panel
KEK	Kosovo Energy Corporation
KPP	Kosovo Power Project
KRPP	Kosova e Re Power Plant
LPTAP	Lignite Power Technical Assistance Project
MESP	Ministry of Environment and Spatial Planning
OP	Operational Policy
PISG	Provisional Institutions and Self Government
PRG	Partial Risk Guarantee
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SDR	Special Drawing Rights
UNMIK	United Nations Mission in Kosovo

EXECUTIVE SUMMARY

i. This Management Report and Recommendation has been prepared in response to the Inspection Panel's Investigation following the Request for Inspection concerning the Republic of Kosovo: Kosovo Power Project (Proposed) and Second Additional Financing for Energy Sector Clean-Up and Land Reclamation Project (CLRP-SAF), financed by the International Development Association (IDA, or "the Bank").

ii. **Management agrees with the Panel's findings that the Bank was not responsible for the harm arising either from the 2004/2005 emergency evacuation carried out by UNMIK, or from the adverse impacts related to the restrictions stemming from the Zone of Special Economic Interest. Management notes that none of the resettlements cited in the Request or the Panel's Report result from a Bank-supported project, but rather from ongoing mining activities in Kosovo.**

iii. **The Panel further found that the Bank's approach to preparation of an RPF and the Shala RAP was in compliance with OP/BP 4.12 on Involuntary Resettlement. It also found that the Bank was in compliance with OP/BP 4.12 regarding monitoring and supervision of the resettlement process under the CLRP-SAF.**

iv. **The Panel found two instances of non-compliance with OP/BP 4.12 pertaining to the preparation of the RPF and the Shala RAP. In Management's view both instances did not have significant impacts, and Management actions are being proposed to address them.**

Background

v. The Request concerns claims of harm resulting from mining-related resettlement in the Zone of Special Economic Interest in Kosovo, as well as from an earlier emergency evacuation from Hade village. The Request also links the alleged harms to activities under the Bank's technical assistance projects and preparation of the proposed Kosovo Power Project (KPP).

vi. The Bank's support included the preparation of a Resettlement Policy Framework (RPF) for the New Mining Field, and a Resettlement Action Plan for the Shala neighborhood of Hade village (Shala RAP). Following a request from the Government of Kosovo, the Bank also supported monitoring and supervision of the Shala resettlement process.

vii. With regard to the proposed Kosovo Power Project (KPP), the Government prepared a draft Environmental and Social Impact Assessment for the proposed KPP, with Bank funding. This draft ESIA is an important part of the Bank's due diligence to inform an eventual decision on the proposed KPP. However, it is not the final ESIA for the proposed project. Moreover, the Government and the private investor are currently discussing significant changes to the configuration of the proposed project, which, if adopted, will require the draft ESIA to be significantly revised and updated. Therefore, the draft ESIA has not yet been publicly disclosed or consulted upon.

viii. Management notes that the Bank has made no decision on whether or not to support the proposed KPP. Should it do so, all potential environmental and social impacts arising from the proposed project would have to be assessed and mitigated in line with Bank Policy. Management also notes that none of the resettlements cited in the Request or the Panel's report result from a Bank-supported project, but rather from ongoing mining activities in Kosovo.

Management's Response

ix. Management welcomes the Panel's thorough review and agrees with its findings that the Bank is not responsible for the impacts resulting from the Zone of Special Economic Interest and from the 2004/2005 Hade emergency evacuation. Management also notes the Panel's findings of compliance with OP/BP 4.12.

x. *RPF*. Management acknowledges that there are some weaknesses in the RPF that need to be addressed for future mining-related resettlement in Kosovo. It is true that the RPF does not contain specific methods for valuation of assets affected by restrictions in the Zone, however, it does require application of the principle of replacement value, as per OP/BP 4.12.

xi. *Shala RAP*. Management also acknowledges shortcomings in the implementation of the Shala RAP, in particular delays in the construction of infrastructure at the resettlement site at New Shkabaj and the outstanding repair of a 200-meter section of the sewer main line at the resettlement site.

Action Plan

xii. *RPF*. The Bank will provide technical advice to the GoK to revise the RPF with the aim of ensuring its full consistency with OP 4.12. The advice will reflect recommendations from the International Resettlement Experts Workshop in May 2014, the Shala RAP Completion Report, and the draft ESIA for the proposed KPP. To provide additional guidance to GoK with regard to revising the RPF, a workshop will be organized with key government stakeholders and KEK to discuss these recommendations in more detail, by February 27, 2017.

xiii. *Shala RAP*. The government has signed a contract to repair a 200-meter section of sewerage at the resettlement site at New Shkabaj and works are expected to be completed by December 31, 2016. The Bank will continue to supervise implementation of this work, even though the CLRP-SAF closed on August 31, 2016.

I. INTRODUCTION

1. On June 30, 2015, the Inspection Panel registered a Request for Inspection, IPN Request RQ15/04 (hereafter referred to as “the Request”), concerning the Republic of Kosovo: Kosovo Power Project (Proposed, P118287) and Second Additional Financing for Energy Sector Clean-Up and Land Reclamation Project (P131539), financed by the International Development Association (IDA, or “the Bank”). The Request was submitted by citizens representing Shkabaj, Hade Village, and Obiliq Municipality and three Civil Society Organizations based in Kosovo – the Initiative for Environment and Local Development, the Forum for Civic Initiatives, and the Kosovo Civil Society Consortium for Sustainable Development (hereafter referred to as the “Requesters”).
2. The Executive Directors and the President of IDA were notified by the Panel of receipt of the Request. Management responded to the claims in the Request on July 27, 2015.
3. In its Report to the Board, the Panel found the Request eligible and recommended that the Executive Directors authorize an investigation. The investigation was authorized by the Executive Directors on September 17, 2015.
4. On September 12, 2016, the Panel issued its report outlining the findings of the investigation. Management appreciates the Panel’s clear and thorough presentation of its findings. This report, responding to the findings of the Panel, is organized in several sections. Sections II and III provide background to the projects and country and sector context, respectively. Section IV presents the findings of the Panel, while Section V provides Management’s Response. Section VI presents responses to observations of the Panel. Section VII contains Management’s Action Plan in response to the Panel’s findings, and Section VIII concludes the Report. The Panel’s findings, along with the Management’s responses, are described in detail in Annex 1.

II. BACKGROUND TO THE PROJECTS

A. Lignite Power Technical Assistance Project (LPTAP)

5. ***While the LPTAP was not the subject of the investigation by the Panel, it financed activities related to the Request for Inspection.*** The LPTAP was approved by the Bank’s Board on October 12, 2006, with a total amount of SDR 5.8 million (US\$8.1 million equivalent). Additional Financing for the LPTAP was approved by the Bank’s Board on June 28, 2007 with a total amount of SDR 1.4 million (US\$2.0 million equivalent). It closed on December 31, 2011.
6. The LPTAP had the following objectives: (i) to help the Government of Kosovo (GoK) strengthen the enabling policy, legal and regulatory frameworks conducive to new investments in the energy sector; and (ii) to assist the GoK in attracting qualified private investors to develop lignite mines and build new capacity for lignite thermal power generation, guided by high standards of environmental and social sustainability.

7. **Resettlement Policy Framework.** The LPTAP financed the preparation of a Resettlement Policy Framework (RPF) for involuntary resettlement in the New Mining Field (or Zone of Special Economic Interest, as defined with the Government decision in 2009). The New Mining Field is a large lignite mining area that includes the Sibovc South-West Mine. The RPF was developed under the LPTAP as part of the Bank's capacity building support to Kosovo. Development of the RPF included extensive consultations with local communities and key stakeholders. LPTAP itself did not require or result in any resettlement.

8. The RPF establishes the Government's policies concerning the resettlement of populations that will be relocated due to the development of major infrastructure and mining activities that require the acquisition or expropriation of real property. The RPF was adopted by the GoK through Decision 10/22 of the Prime Minister of Kosovo on July 6, 2011.

9. **Shala RAP.** The preparation of the Resettlement Action Plan for the Shala neighborhood of Hade village (Shala RAP) was also financed as a technical assistance output under the LPTAP. The Shala RAP addressed the physical resettlement of 63 families and acquisition of land from 30 non-resident landholders. This resettlement resulted from lignite extraction required for ongoing electricity production at the Kosovo A and B plants. It did not result from any existing Bank-financed project. The GoK is responsible for implementing the Shala RAP. At the request of the GoK, the Bank provided financing through another project (see paragraphs 12 and 13 below) for supervision and monitoring of Shala RAP implementation.

10. Management wishes to underscore once again that the resettlements cited in the Request or noted above result from the Government's ongoing mining activities in Kosovo, and not from Bank-supported operations.

B. Clean-up and Land Reclamation Project and Additional Financing (First and Second)

11. The original **Energy Sector Clean-up and Land Reclamation Project (CLRP)** was approved by the Bank's Board on June 13, 2006 with a total amount of SDR 3.8 million (US\$5.3 million equivalent). **The first Additional Financing (CLRP-AF)** was approved by the Bank's Board on June 28, 2007 with a total amount of SDR 3.3 million (US\$4.6 million equivalent). This project had the following objectives: (i) address environmental legacy issues related to open dumping of ash on land from the Kosovo A thermal power plant belonging to the Kosovo Energy Corporation (KEK); (ii) enable KEK to make land currently covered by overburden materials available for community development purposes and to remediate the Kosovo A ash dump;¹ and (iii) initiate structural changes in KEK for continued clean-up operations and environmental good practices in mining operations. The CLRP and CLRP-AF closed on June 30, 2015.

12. **A Second Additional Financing (CLRP-SAF)** was approved by the Bank's Board on May 10, 2013 with a total amount of SDR 2.8 million (US\$3.9 million equivalent). The CLRP-SAF closed on August 31, 2016.

¹ The Kosovo A Ash dump contains ash from the Kosovo A Power Plant; the dump has been stabilized, reshaped, and covered under the CLRP and its Additional Financings to mitigate its environmental impacts.

13. The CLRP-SAF added capacity building for environmental good practices in the mining and energy sector in the Ministry of Environment and Spatial Planning (MESP) and therefore expanded the third item of the project development objectives to “*support KEK and MESP to implement continued clean-up operations and environmental good practices in the mining and energy sector.*”

14. The CLRP and its two Additional Financings have achieved important environmental results, including elimination of dry ash dumping and almost complete remediation of the Kosovo A ash dump. In addition, 650 hectares of land have been reclaimed for natural habitats, agriculture or other land use purposes in KEK’s overburden areas, and 20,000 tons of hazardous substances from coal gasification have been safely removed and treated. Finally, three stations for continuous air quality monitoring were installed in the area, with air quality information made publicly available.²

C. Proposed Kosovo Power Project (KPP)

15. The proposed KPP would support the construction of a new lignite-fired power plant, the Kosova e Re Power Plant (KRPP), which would use Best Available Techniques³ to meet the rigorous Industrial Emissions Directive (IED) of the European Union (EU).⁴ The Bank is currently considering its support for the proposed KPP through a Partial Risk Guarantee (PRG).

16. The **proposed KPP** aims at securing: (i) reliable energy supply for the Kosovo economy; (ii) energy affordability for citizens and businesses; and (iii) significant reduction of the environmental and social impacts of electricity generation.

17. **Status of KPP preparation.** The Bank has made no decision on whether or not to proceed with a PRG for the proposed KPP. Should the Bank decide to provide a PRG for the proposed KPP, all potential environmental and social impacts arising from the KRPP and the mine that will supply KRPP would have to be assessed and mitigated, in a manner acceptable to the Bank and in line with the Bank’s applicable safeguard policies. The Bank will make its decision only after all relevant environmental, social, and technical analyses have been conducted; and public consultations have been held.

KPP Draft ESIA

18. **KPP draft ESIA (funded under the CLRP-SAF).** As stated in the Management Response to the Request for Inspection of July 27, 2015, the GoK, through the MESP, prepared a draft ESIA for the proposed KPP, with funding from the CLRP-SAF,⁵ with the objective of

² Its results have been documented, amongst others in the following results stories: <http://www.worldbank.org/en/results/2012/10/06/cleaning-ash-and-chemical-waste-in-kosovo>. The World Bank’s Country Director spoke at the inauguration event for the new wet ash transport system that marked an end to the 50-year-old practice of uncontrolled dumping of dry ash:

<http://www.worldbank.org/en/news/feature/2014/03/10/kosovo-open-ash-dumping-practice-ends>

³ “Techniques” include both the technology used and the way in which the installation is designed, built, maintained, operated, and decommissioned; (EU Industrial Emissions Directive).

⁴ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), OJ L 334, 17.12.2010 (IED).

⁵ On page v, the Investigation Report states that the draft ESIA was financed through a PRG; this was not the case, as it was financed through the CLRP-SAF.

informing the decision-making process and increasing the monitoring and management capacity of the MESP. The draft ESIA also analyzed various locations for the mine that could supply the KRPP.

19. ***The draft ESIA identifies environmental and social risks, impacts and opportunities related to the construction and operation of a 2x300 MW KRPP and provides broad recommendations for mitigation measures.*** Recommendations for mitigation measures for the power plant were based on the requirements of the IED and the application of the Reference Document for Best Available Techniques for Large Combustion Plants⁶ as well as the World Bank Group Environmental, Health and Safety Guidelines for Thermal Power Plants. The draft ESIA also considers other infrastructure associated with KRPP, particularly options for the mine that could supply lignite to the power plant and relevant elements of the Iber-Lepenc canal, which supplies water to multiple users and would supply cooling water to the KRPP.

20. ***As part of the draft ESIA preparation, a socio-economic and perception survey was carried out with a total of 2,052 respondents from the direct and indirect areas of influence of the proposed KPP, representing approximately 20 percent of the total number of residents in these areas.*** Adverse social impacts related to associated mining activities were analyzed in the following categories with recommendations to mitigate the impacts: (i) land acquisition and involuntary resettlement; (ii) land use and land-based livelihoods; (iii) management of the Zone of Special Economic Interest; (iv) in-migration; (v) out-migration; and (vi) community health and safety.

21. ***This draft ESIA, while an important part of the Bank's due diligence to inform the eventual decision on the proposed KPP, was not, nor was it intended to be, the final ESIA for the proposed KPP.*** Therefore, it does not include specific management plans, which would need to be developed for the proposed plant and for the related mine (e.g., site-specific environmental and social management plans and RAPs). For this reason, while the draft ESIA for the proposed KPP recommends possible mitigation options, at this stage, absent a specific Bank-supported investment project, the Bank cannot ensure that the GoK, and/or any other party, as appropriate, will implement such recommendations.

22. ***Significant changes in the configuration of the proposed KRPP are now being discussed between GoK and the private investor.*** These changes have rendered parts of the draft ESIA outdated. The draft ESIA is based on a 2x300 MW plant configuration and on the assumption that Kosovo A will be closed down. The draft ESIA would need to be revised and updated in detail by the KRPP private investor to reflect any new KRPP design, specifically regarding the chosen technology and plant capacity and including relevant environmental and social mitigation and monitoring measures. Therefore, the draft ESIA can only be revised, and thereafter disclosed for public consultation,⁷ once a configuration of the KRPP is confirmed.

23. ***As stated in the Management Response, should the Bank decide to support the proposed KPP, the mine supplying the power plant would be considered a related activity.***⁸

⁶ http://eippcb.jrc.ec.europa.eu/reference/BREF/lcp_bref_0706.pdf.

⁷ Public consultations have been organized for the Terms of Reference for the ESIA and the Environmental and Social Scoping Report.

⁸ This would be the mine area that would be needed to supply the KRPP during the lifetime of the plant, not the entire area under the Zone.

This means that the Bank would need to satisfy itself that all relevant environmental and social issues of the KRPP and its related activities, which include the mining area that would supply the lignite to the KRPP, are addressed as required under Bank policies, including through appropriate safeguards instruments. As the mine development was removed from the proposed KPP, the institutional responsibility for development of the mine and related resettlement, and preparation of a detailed ESIA for the mine development plan with specific environmental and social mitigation and monitoring measures, would likely remain with the public sector, instead of becoming the responsibility of the private investor as originally foreseen.

24. ***These important changes will have to be taken into account by the Bank⁹ when making a decision whether or not to support the proposed KPP.*** In such case the Bank would require, in addition, that (i) sufficient funds are available to finance potential resettlement under the proposed KPP and any related activities; (ii) an updated RPF is prepared based on lessons from the Shala RAP and the draft ESIA analysis and updated mine planning; (iii) resettlement planning, including the preparation of RAPs for relevant affected villages/neighborhoods in the mining area, is carried out sufficiently in advance of any mining activities affecting such areas, based on an updated mine development plan; and (iv) the economic analysis of the proposed KPP includes the full cost of resettlement activities.

The Zone

25. ***The Zone of Special Economic Interest (Zone)¹⁰ is part of a broader set of Government decisions on phased mining of the lignite deposit in the New Mining Field and not related to the Bank's program in Kosovo.*** The Zone was established through a Government Decision in November 2004, and revised and enlarged in 2009. The total area of the Zone, as declared by GoK, is 143 km². See Map 1.

26. ***The challenge of the Zone is that it designates for mining a large area that is expected to be mined over a long period (estimated 100+ years) while imposing building restrictions for residents living in the Zone.*** This affects residents who are not to be resettled in the foreseeable future, while limiting their ability to build or expand houses. Consequently, the Zone also has an impact on real estate values for landowners in the Zone.

27. ***The draft ESIA estimates that the total area required for a potential mine supplying KRPP for the period up to 2046¹¹ would be between 8 and 10 km².*** This estimate includes an area for removal of overburden, and the safety buffer zone around the mine. This also takes into

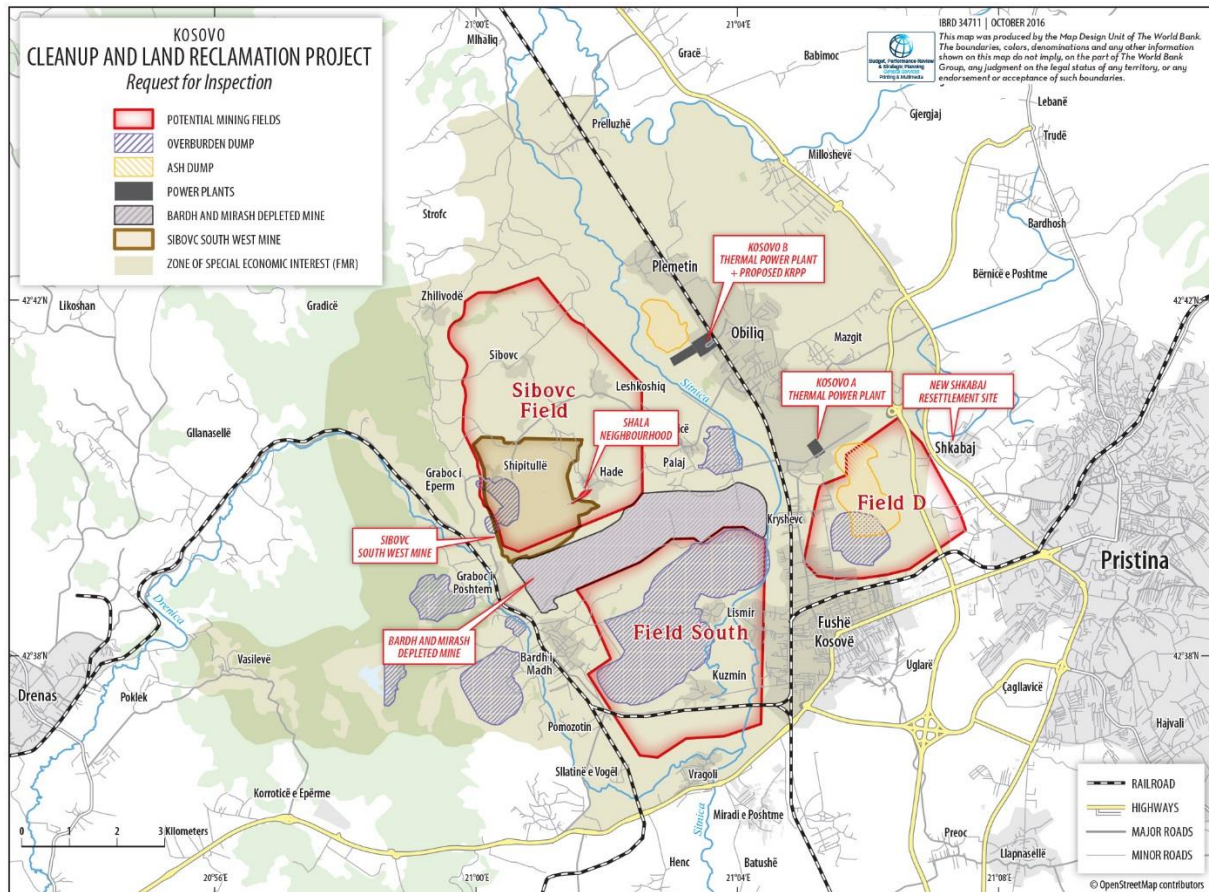
⁹ Discussions on the configuration of the proposed KRPP are ongoing. Additionally, the Energy Strategy for the Republic of Kosovo 2016-2025, which was shared for consultations in September 2016, raises the issue of the status of Kosovo A. The draft ESIA, which is based on a 2x300MW configuration for the KRPP and on the closure of Kosovo A, has therefore not been publicly disclosed to date. However, as noted above, public consultations were conducted for the draft Terms of Reference and Scoping Report of the draft ESIA.

¹⁰ The GoK established the Zone of Special Economic Interest pursuant to Government Decision No 4/119 of November 3, 2004 as part of broader Government decisions on phased mining of the lignite deposit in the New Mining Field. The Zone of Special Economic Interest originally covered the villages of Hade, Sibovc, Leshkoshik and Cerkevna Vodice, and the Municipality of Obiliq/Obilic. The Government revised and enlarged the Zone to cover the entire New Mining Field pursuant to Government Decision No 2/57 dated March 13, 2009, which became effective upon the approval of the Government's Spatial Plan by the Kosovo Assembly in October 2011.

¹¹ KRPP would be expected to be at the end of its lifetime in 2046.

account the lignite needed to supply the current plants, Kosovo B and Kosovo A until their closure.

28. *The draft ESIA sets out key recommendations for the KRPP and associated mine, including improved management of the Zone.* Most of these mining-related recommendations would likely remain valid even if KRPP were not built. Hence, the Bank will discuss these recommendations in more detail with the GoK, specifically recommendations to mitigate social impacts of mining and of the Zone.



Map 1. Location of mining fields, power plants, affected villages and Zone of Special Economic Interest

III. COUNTRY AND SECTOR CONTEXT

29. ***Energy supply is a key constraint to economic and social development in Kosovo.*** Kosovo is Europe's youngest country, having gained independence only in 2008 following prolonged ethnic conflict and international stewardship. Reconstruction and rehabilitation of the power system, restructuring of corporate governance and management of the power utility, KEK, were seen as priority challenges to support the country's development. As a newly-independent country, struggles to empower local institutions and decision makers have affected institutional capacity development, institutions, including in the power sector. In an environment of prolonged uncertainty and post-conflict reconstruction, the Bank sought to assist Kosovo to improve institutional capacity and the legal and policy framework in the energy sector, and to develop investment programs through a series of technical assistance investment projects.

30. ***Bank Engagement in the Energy Sector in Kosovo.*** The Bank has been a strong and steady partner to Kosovo, starting as early as September 1999, immediately after the United Nations Security Council Resolution that brought an end to the conflict and called for a rapid international response to support economic reconstruction and recovery.¹² In the energy sector, an understanding was reached with donors that the Bank would focus on long-term strategy for the development of the sector (complementing donors' assistance¹³ for immediate heating and electricity needs); medium term staffing and management and environmental mitigation of the two power plants and associated coal mines; and rehabilitation of generation and dispatching.¹⁴ The United Nations Mission in Kosovo (UNMIK) asked the Bank to assist in putting the energy sector on a sustainable path.¹⁵ These activities have spanned fifteen years, through operational support, economic and sector work, technical assistance, dialogue, and donor coordination.

31. ***The environment within which the Bank has been operating in Kosovo has been very complicated, with long periods of time in which multiple layers of Government functioned simultaneously and with overlapping responsibilities.*** In 1999, Kosovo was placed under the administration of UNMIK. In 2001, a Constitutional Framework was agreed, establishing the Provisional Institutions of Self Government (PISG). Within PISG, a Ministry of Energy and Mining was established in December 2004; however, UNMIK still retained certain powers and final legal authority over the sector. In addition, a number of donor-funded expatriate advisors were put in critical positions, effectively constituting another layer of government within PISG.¹⁶ In 2008, Kosovo unilaterally declared independence; on June 29, 2009 Kosovo joined the World

¹² Transitional Support Strategy for Kosovo, September 16, 1999. Since Kosovo was not a member of the World Bank Group, and since the former Yugoslavia of which Kosovo was a part had ceased to be a member, the Bank used its own net income placed in a Trust Fund for Kosovo administered by IDA to provide emergency rehabilitation assistance for Kosovo.

¹³ Kosovo Second Energy Sector Technical Assistance Project Implementation Completion and Results Report, May 31, 2006.
http://imagebank.worldbank.org/servlet/WDSCContentServer/TW3P/IB/2006/06/15/000090341_20060615093837/Rendered/PDF/35263.pdf

¹⁴ Transitional Support Strategy for Kosovo, September 16, 1999.

¹⁵ Kosovo Second Energy Sector Technical Assistance Project Implementation Completion and Results Report, May 31, 2006.

¹⁶ Kosovo Lignite Power Technical Assistance Project Implementation Completion and Results Report, December 10, 2012.

http://imagebank.worldbank.org/servlet/WDSCContentServer/TW3P/IB/2012/12/20/000386194_20121220012442/Rendered/PDF/NonAsciiFileName0.pdf

Bank Group,¹⁷ and by 2012 the international presence overseeing Kosovo ended its supervisory role.¹⁸

32. Despite these institutional complexities, as noted by the Inspection Panel, “*the Bank has displayed remarkable consistency and continuity,*” and has developed deep knowledge and long-term relationships in the energy sector.

33. ***Between 2001 and 2006, three Bank-financed technical assistance investment projects were undertaken in the energy sector.*** These investment projects supported: (i) a comprehensive study that formed the basis of an energy strategy and long-term investment programs, including possible least cost investment alternatives in the power, coal, district heating, gas and petroleum sectors; (ii) feasibility studies for regional interconnections and a control center to enable power trade with neighboring countries; (iii) a policy, legal, and institutional framework to attract private sector investment in the energy sector; (iv) technical documents to enable the Kosovo energy sector to deepen its integration in the emerging Energy Community of Southeast Europe and comply with its obligations under the EU Energy Community Treaty; (v) analysis of efficiency in the energy sector public utilities,¹⁹ sector reform programs, and a tariff framework including feed-in tariff for renewable energy resources; and (vi) a policy framework, guidelines, and institutional capacity for the utilization of Kosovo’s mineral resources, including a mining sector strategy.²⁰

34. In 2006, the Bank began supporting the PISG through the LPTAP to strengthen the enabling policy, legal, regulatory, environmental and social frameworks to attract world class private sector investors to develop and utilize lignite as Kosovo’s key energy resource for power generation.²¹

35. The Bank is currently supporting the Kosovo Energy Efficiency and Renewable Energy Project, which was approved in 2014. This project is aimed at reducing energy consumption in public buildings and demonstrating the economic viability of energy efficiency investments and strengthening the legal and regulatory framework for development of renewable energy. This project will help reduce energy demand while increasing power generation from renewable energy.

36. In addition to these Bank-financed investment operations, the Bank has supported extensive economic and sector work in the energy sector, including on improving energy tariff subsidy reforms, energy efficiency financing, and through a poverty and social impact analysis.

¹⁷ The World Bank in Kosovo, 2010.

¹⁸ BBC Profile - <http://www.bbc.com/news/world-europe-18328859>

¹⁹ Kosovo Energy Sector Technical Assistance Project Implementation Completion and Results Report, June 11, 2003.

http://imagebank.worldbank.org/servlet/WDSCContentServer/IW3P/IB/2003/06/16/000090341_20030616152021/Rendered/PDF/256451XK1Energy0Sect0TA1ICR.pdf

²⁰ Kosovo Third Energy Sector Technical Assistance Project Implementation Completion and Results Report, February 27, 2009.

http://imagebank.worldbank.org/servlet/WDSCContentServer/IW3P/IB/2009/07/22/000333038_20090722233723/Rendered/PDF/ICR9540P0888651C0Disclosed071211091.pdf

²¹ Kosovo Lignite Power Technical Assistance Project Implementation Completion and Results Report, December 10, 2012.

37. The Bank remains engaged in discussing viable options for a power generation project which delivers reliable power at an affordable price with minimal technical and financial risk and is environmentally and socially sustainable.²²

IV. MANAGEMENT'S RESPONSE

38. ***Management welcomes the Panel's thorough review of the projects.*** Management appreciates the Panel's recognition of the Bank's prominent role in Kosovo's energy sector in an extraordinarily challenging environment with unclear accountabilities and weak institutional capacities over the past 15 years. Management acknowledges the findings expressed in the Panel's Report and presents its response below and, in greater detail, in Annex 1.

39. ***Management agrees with the Panel's finding that the Bank is not responsible for the harm arising from the Zone of Special Economic Interest.*** The Zone was established through a Government Decision in November 2004 and revised in 2009, and it was not related to, or the result of, Bank technical support.

40. ***Management also agrees with the Panel's finding that the Bank is not responsible for the harm resulting from the 2004/2005 Hade emergency evacuation.*** As stated in the Inspection Panel Report, the evacuation decision was taken by UNMIK and resettlement was the responsibility of UNMIK, the PISG, and later the GoK, without intervention by the Bank. This evacuation was not the result of, or supported by, any Bank investment project. Rather, it was due to the imminent threat of land subsidence endangering some inhabitants of Hade village, which had been caused by a long legacy of poor mining and land acquisition practices.

41. ***Management notes the Panel's finding that the LPTAP approach of preparing a RPF and subsequently preparing RAPs for each affected site was appropriate and in compliance with OP/BP 4.12 on Involuntary Resettlement.***

42. ***Management acknowledges the two instances of noncompliance with regard to the RPF and Shala RAP prepared under the LPTAP and subsequently monitored under the CLRP-SAF.*** The two instances of noncompliance raised by the Panel are discussed in more detail below. Section VII below contains Management's proposed Action Plan to address these findings.

A. The Resettlement Policy Framework

43. ***Panel finding.*** The Panel finds Management in noncompliance for failing to apply OP/BP 4.12 on Involuntary Resettlement to the preparation of the RPF, and specifically for not including in the RPF principles and methods for valuing the assets of affected people living under the restrictions of the Zone of Special Economic Interest.

44. Management agrees that the RPF contains no specific methodology for valuation of assets affected by the restrictions of the Special Zone. However, the RPF lays out and

²² The proposed KPP will need to be consistent with the criteria for coal projects set out in the World Bank Group Strategic Framework for Development and Climate Change.

operationalizes the relevant pertinent objectives, criteria, and requirements of OP/BP 4.12 and provides for the application of the principle of replacement value to ensure that affected people receive sufficient compensation to be able to obtain comparable land or housing elsewhere, regardless of the restrictions that result from the Zone. Under the Valuation Principles section, the RPF states that “all buildings, outbuildings, fences and other structures, trees, permanent crops and improvements including pasture and standing crops, shall be valued at the cost needed to replace them, regardless of their condition at the time of valuation” and such valuation can be appealed through an Independent Grievance Commission (RPF p. 17).

45. Management acknowledges that the RPF needs to be updated and that there are shortcomings that need to be addressed for future mining-related resettlement. The RPF was prepared in 2009, during a time when key institutional and legal elements were still in flux and the Expropriation Law and Decree for the expansion of the Zone were each being prepared. These institutional responsibilities need to be updated and reflected in the RPF. Management also notes that the GoK applied the RPF to the preparation of the Shala resettlement, and the deficiencies of the RPF were addressed in the resulting RAP.

46. ***Management also notes that the restrictions in place in the Zone are not always enforced by the Government.*** There has been, for example, a construction surge in Shipitulle village which is situated inside the Zone, and which – according to KEK’s planning – is the next village to give way to the mining operations. Despite the restrictions imposed by the Zone, the number of buildings in Shipitulle grew by almost by 75 percent between 2010 and 2015, while the number of permanent residents increased by less than 9 percent.²³ Management understands from the GoK that this is an indication of speculative building activities in the Zone which absorb significant amounts of household income.

47. ***The Bank will advise the GoK to update the RPF, taking into consideration the above factors.*** Specifically, the recommendations from the International Resettlement Experts Workshop held in Pristina in 2014, the lessons learned from the July 2016 Shala RAP Completion Report (Completion Report) and the key recommendations regarding possible mitigation measures – including from the draft ESIA – to address the social impacts from the Zone need to be considered. The Bank will organize a workshop with key Government stakeholders to discuss the recommendations listed above. It is important to note once again that the Bank is not in a position to ensure the adoption of such recommendations by the GoK in the absence of a Bank-supported investment operation, which would require the application of the pertinent Bank Policy.

48. ***Should the Bank decide to finance the proposed KPP,*** the Bank would need to satisfy itself that all relevant environmental and social issues are addressed as required under Bank policies, including appropriate safeguards instruments, such as an RPF compliant with Bank policy.

²³ Number of structures in 2010: 173; Number of structures in 2015: 302; Number of residents in 2010: 291; Number of residents in 2015: 317.

B. Shala RAP

49. ***Panel finding.*** *The Panel finds Management in non-compliance for failing to apply OP/BP 4.12 on Involuntary Resettlement to the preparation of the Shala RAP, and for ambiguity in the Shala RAP about institutional arrangements and the absence of a detailed resettlement schedule.*

50. ***The implementation of the Shala RAP was completed in August 31, 2016 and is documented in the Completion Report.*** The Completion Report, dated July 2016, was prepared by an international consultancy firm on behalf of the MESP and financed through the CLRP-SAF. The Completion Report was disclosed in Kosovo through the MESP's website on August 24, 2016 for the English version²⁴ and September 7, 2016 for the Albanian version.²⁵ Additionally, the MESP sent hard copies of the Completion Report to the Municipality of Obiliq, and posted notices about availability of the report at the resettlement site at New Shkabaj. The Completion Report was disclosed in English on the World Bank's Imagebank on September 20, 2016 and in Albanian on September 26, 2016.²⁶ Directly affected people received copies of the Completion Report on October 1, 2016.

51. ***Management acknowledges that there were shortcomings in the Shala RAP that should be avoided in the preparation of future mining-related RAPs in Kosovo.*** The application of an updated and revised RPF by the GoK would help in addressing the above-cited weaknesses.

52. ***Management agrees that there were delays in the construction of basic infrastructure at the resettlement site at New Shkabaj under the Shala RAP.*** In Management's view, these were substantially caused by weak government capacity for construction contract management. Delays persisted despite the Bank raising this issue with the GoK on multiple occasions and urging acceleration of the works. Key examples include: (i) delays in hiring of contractors for the basic infrastructure at the New Shkabaj resettlement site; and (ii) extremely slow progress of the basic infrastructure works and of needed repairs, along with poor supervision of the pace of work.

53. ***Additional delays occurred due to the lack of agreement among affected households on the allocation of plots within New Shkabaj,*** due to protracted negotiations between 2011 and 2013. It is not clear why some families who opted for a plot at New Shkabaj have built homes since the end of 2013 while others have not done so. According to the Completion Report, there is anecdotal evidence that some families opted for a plot at New Shkabaj but later decided to move to other places, such as Pristina (Shala RAP Completion Report p. 11-12).

54. Management agrees that future mining-related RAPs in Kosovo involving collective resettlement should have a detailed schedule setting specific milestones for the process, including milestones for affected people to start and complete replacement houses within a

²⁴ http://mmph-rks.org/repository/docs/Completion_Report_-_final_269781.pdf

²⁵ http://mmph-rks.org/repository/docs/Raporti_Final_i_Monitorimit_te_Zhvendosjes_se_Lagjes_Shala_1555.pdf

²⁶ http://imagebank.worldbank.org/servlet/WDSCContentServer/IW3P/ECA/2016/09/21/090224b08459edcf/2_0/Rendered/PDF/Resettlement0action0plan.pdf

Albanian: <http://documents.worldbank.org/curated/en/520071474901190552/Plani-i-veprimit-për-zhvendosje>

certain agreed and reasonable time-period as well as a mechanism for engaging on any changes to the schedule including delays.

55. ***The Shala RAP included clear livelihood restoration objectives. The socio-economic survey found that most people resettled from Shala derived their income from permanent or temporary employment, remittances and pensions, none of which were affected by resettlement.*** Additionally, no households reported earning income from agricultural activities (Shala RAP, p. 30). Finally, there were no cases identified requiring specific vulnerability assistance (Shala RAP, p. 12). Management notes that the Completion Report found that “*The socio-economic study conducted as part of this report shows that, overall, the resettled population has at least maintained if not improved their living conditions with respect to pre-resettlement conditions.*”

56. ***Challenges that arose with the implementation of the Shala RAP, including issues raised by affected people during multiple meetings with the Bank, have been identified in monitoring reports and Bank supervision, and have been brought to the attention of the GoK for corrective action.*** One remaining concern is the outstanding repair of a 200-meter section of the sewer main line at the resettlement site in New Shkabaj. The Bank will continue its supervision of the CLRP-SAF until this issue is rectified. According to the MESP, it has procured a contractor to repair the parts of the sewage system that are not properly functioning. The contract was signed September 16, 2016, and the repair works are expected to be completed before December 2016.

V. RESPONSES TO PANEL OBSERVATIONS

57. ***Management agrees with the Panel that the issues related to the 2004/2005 emergency evacuation and the Zone are not related to the Bank’s program and/or subject to Bank policy requirements.*** Nonetheless, the Bank has undertaken a range of activities to advise the GoK to address the issues which negatively affected citizens.

58. ***Management would like to respond to the Panel’s observations on the 2004/2005 Hade emergency evacuation and the Zone, and specifically the statement that the Bank had “missed opportunities” to help address the harm. Management is of the view that the Bank has used its dialogue with the GoK to advise on both issues of concern*** and, as the Panel notes, the Bank has undertaken specific interventions for both issues, which are described in more detail below.

Hade Emergency Evacuation

59. The emergency evacuation of 158 families (664 people) from Hade village was carried out by the UNMIK and PISG in 2004 and 2005. The evacuation was necessary due to the imminent threat of land subsidence endangering some inhabitants of Hade village, which had been caused by a long legacy of poor mining and land acquisition practices. This evacuation was not the result of, or supported by, any Bank project, as noted above. In total, 61 families were relocated temporarily to government-provided apartments and received rent, electricity and food allowances. About 30 families who refused to move were evacuated through the exercise of police powers due to the imminent risk of landslides.

60. Following a request from the PISG, the Bank sent a two-person mission to Kosovo in July 2004 to share the Bank's experience in resettlement and provide technical advice to address the situation. This included assisting in preparing terms of reference for resettlement consultants to be recruited by the authorities. This advisory mission constituted an emergency approach in response to the imminent danger of loss of lives and injury.

61. ***Although the Bank was not responsible, it followed up on the status of the 2004/2005 Hade evacuees and encouraged the GoK to engage with the affected households in order to resolve outstanding issues.*** Information about the progress of that process has been requested from the GoK on a regular basis. According to the GoK, the current status is that 98 percent of the affected families have received compensation, while the remaining 2 percent did not accept the compensation and instead chose to challenge it in court, a process which is still ongoing. Out of the 158 families that were affected, 98 opted for a plot at the resettlement site New Shkabaj, and 77 out of these have applied for and received titles for such plots.²⁷ The public infrastructure at the resettlement site of New Shkabaj was provided for both affected people from the Shala neighborhood and the Hade evacuees. Regarding issues related to temporary accommodation or allowances for the people evacuated in 2004/2005, these were considered by the local courts and it would not have been appropriate for the Bank to opine on the pending outcomes.

Zone of Special Economic Interest

62. ***Addressing the concerns related to the Zone (see paragraphs 25–28) is a longer-term issue which will require legislative action and efforts by different levels of government,*** including national, local and cadastral agencies. The Bank therefore has required that the social impact of the Zone be assessed in the draft ESIA.

63. ***The Bank provided capacity building on resettlement, which included specific advice and training relevant to an improved management of future resettlements in the Zone.*** This included the International Resettlement Experts Workshop mentioned earlier, and a training course for 20 staff members from the MESP and KEK provided by internationally recognized consultants. A study tour to mining-related resettlement sites in Germany also took place to expose participants to international best practice in managing mining related resettlement. This was used as a pilot for establishing a two-week, in-depth practical international course, including visits to mines in Germany, titled “Land Acquisition, Resettlement and Social Sustainability”²⁸ in partnership with the University of Groningen (Netherlands), international consultants and other multilateral organizations. This course has been offered twice a year since the summer of 2015 and to date it has benefited dozens of practitioners from all over the world, including 12 from Kosovo.

64. ***Based on the Bank's advice, the Shala RAP explicitly provided for compensation for the assets of adversely affected people, including for the illegal structures that they constructed after 2004 in the Zone.*** As noted above, the draft ESIA for the proposed KPP identifies key environmental and social risks and impacts and recommends broad mitigation options, such as improving planning and management of resettlement in the Zone, which are based on good

²⁷ The remaining 60 have opted for cash compensation instead.

²⁸ http://www.rug.nl/education/summer-winter-schools/winter_schools_2016-2017/land_acquisition/

international practices in the mining industry. However, absent a specific Bank-supported investment project, the Bank cannot ensure that the GoK will implement such recommendations.

VI. MANAGEMENT'S ACTION PLAN IN RESPONSE TO THE FINDINGS

65. Management's Action Plan to address the Panel's findings is presented in the table below.

66. Management met with the Requesters in Kosovo on October 5, 2016, with a video link connecting staff in Washington, to discuss the proposed Management actions (Action Plan). Five Requesters attended the consultation meeting, including the Requesters' representative, who selected the other participants. The terms and locations of the consultation meetings were proposed to the Requesters' representative on September 17, 2016 and agreed upon in subsequent conversations.

67. During the consultation meeting the Bank team explained Management's proposed Action Plan to respond to the findings in the Panel's Report, and sought the Requesters' feedback on the Action Plan. The Requesters acknowledged the draft actions, but also proposed the inclusion of actions that are clearly outside the scope of the projects or the Bank's remit altogether, such as (i) to remedy the impacts of the 2004/2005 emergency evacuation; and (ii) accelerate the resettlement of remaining residents in Hade.

Issue	Proposed Actions
1. Failing to apply OP/BP4.12 on Involuntary Resettlement to the preparation of the RPF and specifically for not including in the RPF principles and methods for valuing the assets of affected people living under the restrictions of the Zone of Special Economic Interest	<p>The LPTAP, which has provided the technical and financial support to the preparation of the RPF, closed in 2011.</p> <p>Management acknowledges that OP 4.12 was not identified in the Integrated Safeguards Data Sheet for the LPTAP, and the RPF for the project did not include a specific methodology for valuing the assets of affected people living under the restrictions of the Zone of Special Economic Interest. However, the RPF was prepared by the GoK taking into account the objectives, criteria and requirements of OP/BP 4.12, and these are explicitly stated in the RPF and operationalized under its various sections.</p> <p>Going forward, the Bank will provide technical advice to the GoK to revise the RPF with the aim of ensuring its full consistency with OP 4.12, and specifically including principles and methods for valuing assets of those living in the Zone, by February 28, 2017. This advice will also include how to address other identified weaknesses and changed conditions, such as:</p> <ul style="list-style-type: none"> (i) Estimate of population possibly affected by resettlement, (ii) More linkage between the RPF and updated mine plans; (iii) More detailed guidelines to ensure proper monitoring and evaluation,

Issue	Proposed Actions
	<p>(iv) Gap analysis between Kosovo's new relevant legal framework and OP 4.12; and</p> <p>(v) Description of resettlement implementation process, including arrangements for civil works, funding arrangements and contingency measures.</p> <p>Moreover, the technical advice will include the recommendations that were discussed with the GoK during the International Resettlement Experts Workshop in May 2014, as well as the recommendations of the Shala RAP Completion Report, and analysis included in the draft ESIA for the proposed KPP.</p> <p>To provide additional guidance to GoK with regard to revising the RPF, a workshop will be organized with key government stakeholders and KEK to discuss these recommendations in more detail, by February 27, 2017. However, the Bank will not be able to ensure that such recommendations are adopted by the GoK in the absence of a linked Bank-financed investment operation.</p>
<p>2. Failing to apply OP/BP4.12 on Involuntary Resettlement to the preparation of the Shala RAP and for the ambiguity in the Shala RAP about institutional arrangements and the absence of a detailed resettlement schedule.</p>	<p>The LPTAP, which has provided the technical and financial support to the preparation of the RAP for the Shala neighborhood of Hade village, closed in 2011.</p> <p>Although OP 4.12 was not identified in the Integrated Safeguards Data Sheet for LPTAP, the Shala RAP which was a supported component under LPTAP was prepared by the GoK taking into account the objectives, criteria and requirements of OP/BP 4.12, which are explicitly stated in the RPF and operationalized under its various sections.</p> <p>The Bank acknowledges the delays in the implementation of the Shala RAP but also notes that the implementation of the Shala RAP has been completed, as documented in the Shala RAP Completion Report –with the exception of the sewage problem.</p> <p>Despite the CLRP-SAF being closed –which financed the monitoring of the implementation of the Shala RAP implementation-, the Bank will continue its supervision of the CLRP-SAF until the problems with a 200-meter section of sewerage at the resettlement site at New Shkabaj have been rectified.</p> <p>The MESP has procured a contractor to repair the parts of the sewage system that are not properly functioning. The contract was signed on September 16, 2016 and the repair works are expected to be completed before December 2016.</p>

VII. CONCLUSION

68. Management believes that the Bank has made every effort to apply its policies and procedures and to pursue its mission statement in the context of the Project. Management believes that the proposed actions described above address the Panel's findings of noncompliance.

**MANAGEMENT REPORT AND RECOMMENDATION
IN RESPONSE TO THE INSPECTION PANEL INVESTIGATION REPORT ON
PROPOSED KOSOVO POWER PROJECT AND SECOND ADDITIONAL FINANCING FOR ENERGY SECTOR
CLEAN-UP AND LAND RECLAMATION PROJECT**

**ANNEX 1
FINDINGS, COMMENTS AND ACTIONS**

No.	Panel Finding	Para refs	Comment/Action
1.	<p>Zone of Special Economic Interest</p> <p>The Panel finds the Bank was not involved in establishing the Zone of Special Economic Interest in 2004 and is therefore not responsible for the harm arising from it.</p> <p>The Panel notes Management's statement that two Bank-financed studies informed the Government's decision to expand the Zone in 2009. The Panel believes the size of the Zone where restrictions were applied far exceeded the recommendations of these studies.</p> <p>The Panel draws attention to the serious harm and difficult conditions experienced by the Requesters and others living in the Zone, and the severe effects such hardships have had on their lives over a prolonged period. Given such harm and the Bank's prominent role as sector advisor to the Government, the Panel considers the failure to recommend solutions – such as a major reduction in the area of the Zone or introduction of asset valuation timing and methods – constitute missed opportunities on the part of the Bank to help address the harm in a timely manner. The Panel understands the Bank will assess the social impact of the Zone in the ESIA for the proposed KPP. Although the ESIA has been significantly delayed, it is expected to suggest appropriate remedies to these serious, longstanding, and still urgent legacy issues.</p>	86-102	<p>Comment: <i>Management agrees with the Panel's findings that the Bank was not involved in the establishment of the Zone of Special Economic Interest and is not responsible for the harm arising from it.</i></p> <p>Management is aware that Kosovo has significant weaknesses in mining-related land acquisition and resettlement practices, including those related to the establishment and management of the Zone.</p> <p>As stated in the Management Response to the Request for Inspection (July 27, 2015), the GoK, through the MESP, prepared the draft ESIA for the proposed KPP project, with funding from the CLRP-SAF. The draft ESIA identifies key environmental and social risks and impacts, including involuntary resettlement generated by related lignite mining activities, and recommends broad mitigation options, such as improving planning and management of resettlement in the Zone, which are based on relevant Bank policies and good international practices in the mining industry.</p> <p>However, while the draft ESIA for the proposed KPP recommends possible mitigation options, at this stage, absent a specific Bank-supported investment project, the Bank cannot ensure that the GoK, or any other party, will implement such recommendations.</p> <p>Should the Bank decide to support the proposed KPP, the Bank would need to satisfy itself that all relevant environmental and social issues of the KRPP, its associated facilities, and the mining area that would supply the lignite to the KRPP, are addressed as required under Bank policies, including appropriate safeguards instruments.</p> <p>Management is of the view that the Bank has used its dialogue with the GoK to advise on issues of concern, such as the Zone, even though – absent a Bank-supported investment project – Bank policy does not apply. Throughout the implementation of CLRP-SAF, the Bank provided general capacity building on resettlement, with elements that are relevant to the management of</p>

No.	Panel Finding	Para refs	Comment/Action
			<p>future resettlements in the Zone, including: the International Resettlement Experts Workshop (Pristina, May 13, 2014), training for 20 staff from the MESP and KEK by internationally recognized consultants, and a study tour to mining-related resettlement sites in Germany (December 4-9, 2014). The study tour was used as a pilot for establishing a two-week, in-depth practical international course, including visits to mines in Germany, titled "Land Acquisition, Resettlement and Social Sustainability" in partnership with the University of Groningen (Netherlands), international consultants and other multilateral institutions. This course has been offered twice a year since the summer of 2015 and to date it has benefited dozens of practitioners from all over the world, including 12 from Kosovo.</p> <p>Action: No action required.</p>
2.	<p>Hade Emergency Evacuation</p> <p>The Panel finds the Bank was not involved in the 2004/05 emergency evacuation of a part of Hade Village, nor was it involved in the subsequent resettlement process, and thus is not responsible for the harm arising from it.</p> <p>The Panel understands the evacuation decision was taken by UNMIK and resettlement was the responsibility of UNMIK, the PISG, and later the GoK.</p> <p>The Panel observes that since 2005 several Bank supervision missions documented the status of the evacuees and proposed the use of the Bank's good offices, as did the Management Response, to find relief for these households. The Panel notes, however, that despite being aware and concerned the Bank provided no specific, mitigation-related advice.</p> <p>The Panel notes the serious harm households have suffered due to their emergency evacuation and their many years in temporary accommodations. The Panel has learned that most of these households have received – albeit after significant delays – plot deeds in New Shkabaj, thereby offering them the opportunity to join others from the original Hade Village should they have the interest and means to do this. The Panel also draws attention to Management's statement in</p>	115-133	<p>Comment: Management agrees with the Panel's finding that the Bank was not involved in the 2004/2005 emergency evacuation of a part of Hade village, nor in the subsequent resettlement process, and thus is not responsible for the harm arising from it.</p> <p>Should the Bank decide to support the proposed KPP, the Bank would need to satisfy itself that all relevant environmental and social issues of the KRPP and its associated facilities, including the mining area that would supply the lignite to the KRPP, are addressed as required under Bank policies, including appropriate safeguards instruments.</p> <p>In Management's view the Bank has used its dialogue with the GoK to advise the latter on issues of concern related to the emergency evacuation. Although the Bank was not responsible, it followed up on the status of the 2004/2005 Hade evacuees and encouraged the GoK to engage with the affected households in order to resolve outstanding issues. Information about progress has been requested from the GoK on a regular basis. According to the GoK, the current status is that 98 percent of the affected families have received compensation, while the remaining 2 percent did not accept the compensation and instead chose to challenge it in court, a process which is still ongoing. Out of the 158 families that were affected, 98 opted for a plot at the resettlement site New Shkabaj, and 77 out of these have applied for and received titles for such plots. The public infrastructure at the</p>

No.	Panel Finding	Para refs	Comment/Action
	response to the emergency evacuation that the ESIA under preparation for the proposed KPP will treat the mine required for KRPP as a related activity and will examine relevant issues.		<p>resettlement site of New Shkabaj was provided for both affected people from the Shala neighborhood and the Hade evacuees. Regarding issues related to temporary accommodation or allowances for the people evacuated in 2004/2005, these were considered by the local courts and it would not have been appropriate for the Bank to opine on the pending outcomes.</p> <p>Most supervision missions undertaken as part of the CLRP-SAF followed up on infrastructure delays at New Shkabaj and provided recommendations on how to improve both the quality and the speed of infrastructure completion.</p> <p>Action: No action required.</p>
3. (a)	<p>Resettlement Policy Framework</p> <p>The Panel finds the LPTAP approach of preparing a RPF and subsequently preparing RAPs for each affected site are appropriate and in compliance with OP/BP 4.12 on Involuntary Resettlement. This is due to the nature of mining exploration, where exact location and timeframe of future mine expansion cannot always be determined years in advance. The Panel emphasizes the importance of preparing a mining plan which facilitates resettlement planning at least three years prior to any needed relocation.</p>	143-147	<p>Comment: Management agrees with the Panel's findings that the approach of preparing a RPF and subsequently preparing RAPs for each affected site was appropriate and in compliance with OP/BP 4.12 on Involuntary Resettlement.</p> <p>Action: No action required.</p>
3. (b)	<p>The Panel finds Management in non compliance for failing to apply OP/BP 4.12 on Involuntary Resettlement to the preparation of the RPF, and specifically for not including in the RPF principles and methods for valuing the assets of affected people living under the restrictions of the Zone of Special Economic Interest.</p> <p>The Panel notes that the RPF has significant social impacts on the population living in the New Mining Field. Compliance with OP/BP 4.12 was required to ensure proper identification and mitigation of adverse impacts.</p> <p>The Panel recognizes the commitment in the Management Response to update the RPF based on identified shortcomings and changed conditions. The Panel expects the proposed, updated RPF will examine</p>	148-157	<p>Comment:</p> <p>Management acknowledges that OP 4.12 was not triggered for LPTAP as required, however, OP/BP 4.12 was applied nonetheless in developing the RPF. Although OP 4.12 was not identified in the Integrated Safeguards Data Sheet for the LPTAP, the RPF which was a supported component under LPTAP was prepared by the GoK taking into account the objectives, criteria and requirements on OP/BP 4.12, which are explicitly stated in the RPF and operationalized under its various sections.</p> <p>Management further notes that the RPF was applied by the GoK to the Shala RAP and the deficiencies were addressed in the resulting RAP. Going forward, the Bank will advise the</p>

No.	Panel Finding	Para refs	Comment/Action
	resettlement impacts in the context of Zone restrictions.		<p>GoK of the need to revise and update the RPF.</p> <p><i>Management acknowledges that the RPF lacks the description of a specific methods for valuing the assets of affected people living under the restrictions of the Zone. However, the RPF clearly requires application of the principle of “replacement value”, as per OP/BP 4.12.</i></p> <p>With regard to “principles and methods for valuing the assets of affected people living under the restrictions of the Zone of Special Economic Interest” Management notes that while there are no specific methods for valuation of assets affected by restrictions in the Zone, the RPF does require application of the principle of “replacement value”, as per OP/BP 4.12, and states under the “Valuation Principles” section that “<i>all buildings, outbuildings, fences and other structures, trees, permanent crops and improvements including pasture and standing crops, shall be valued at the cost needed to replace them, regardless of their condition at the time of valuation</i>” and such valuation can be appealed through an Independent Grievance Commission (RPF p. 17).</p> <p>This means that affected people, regardless of the impact from the Zone, should receive sufficient compensation to be able to obtain land or housing with similar characteristics elsewhere.</p> <p><i>However, as stated in its Response to the Request for Inspection, the RPF should be updated in any case, to address the weaknesses identified by the Panel, as well as to reflect changes in the country’s legal framework. The updating of the RPF should include methods for valuing the assets of affected people living under the restrictions of the Zone and based on the lessons learned from the implementation of the Shala RAP, identified in its Completion Report, and the recommendations from the draft ESIA for the proposed KPP.</i></p> <p>Some recommendations in this regard were already shared with the GoK during the International Resettlement Experts Workshop organized by the Bank in Pristina in May 2014. Participants concluded that many aspects of the</p>

No.	Panel Finding	Para refs	Comment/Action
			<p>RPF and the Shala RAP are working properly, but some aspects need to be reviewed for future resettlements, including issues related to agriculture-based livelihoods, avoiding temporary relocation, criteria for rental allowances, and responsibilities for infrastructure and services at the resettlement site.</p> <p>Action:</p> <p>The Bank will provide technical advice to the GoK to revise the RPF with the aim to ensure its consistency with OP 4.12, and specifically to include principles and methods for valuing assets of those living in the Zone, by February 28, 2017.</p> <p>This advice will also include how to address the following issues:</p> <ul style="list-style-type: none"> (i) Estimate of population possibly affected by resettlement, (ii) More linkage between the RPF and updated mine plans; (iii) More detailed guidelines to ensure proper monitoring and evaluation, (iv) Gap analysis between Kosovo's new relevant legal framework and OP 4.12; and (v) Description of resettlement implementation process, including arrangements for civil works, funding arrangements and contingency measures. <p>Moreover, the technical advice will include the recommendations that were discussed with the GoK during the International Resettlement Experts Workshop in May 2014, as well as the recommendations of the Shala RAP Completion Report, and analysis included in the draft ESIA for the proposed KPP.</p> <p>To provide additional guidance to GoK with regard to revising the RPF, a workshop will be organized with key government stakeholders and KEK to discuss these recommendations in more detail, by February 27, 2017. However, the Bank will not be able to ensure that such recommendations are adopted by the GoK in the absence of a linked Bank-financed investment operation.</p>
4. (a)	Shala Resettlement	171-184	Comment. Management acknowledges shortcomings in the Shala RAP.

No.	Panel Finding	Para refs	Comment/Action
	<p>The Panel finds Management in non-compliance for failing to apply OP/BP 4.12 on Involuntary Resettlement to the preparation of the Shala RAP, and for ambiguity in the Shala RAP about institutional arrangements and the absence of a detailed resettlement schedule. The Panel believes this contributed to the significant delays experienced during resettlement. Community members remained in temporary status for a prolonged period which caused harm by perpetuating uncertainty about their future and disruption to their lives.</p> <p>The Panel also notes as a shortcoming the Shala RAP's inattention to livelihood strategies for all affected households, including the most vulnerable and poorest households, especially given that this RAP is intended as a model for future resettlement in the New Mining Field. The Panel observes that the Livelihood Restoration and Community Development Program foreseen in the RAP was not developed, and notes the importance of the recommendation of the Final Completion Report that employment opportunities be complemented with other livelihood support activities in future resettlement events.</p>		<p>As with the discussion regarding the RPF under item 3b above, Management wishes to reiterate that, although OP 4.12 was not identified in the Integrated Safeguards Data Sheet for LPTAP, as stated in the Management Response, the Shala RAP was prepared based on the objectives, criteria and requirements on OP/BP 4.12, which are explicitly stated in the RAP and operationalized under its various sections.</p> <p>Management agrees that there delays in the construction of basic infrastructure at the resettlement site at New Shkabaj under the Shala RAP. In Management's view, these were substantially caused by weak government capacity for construction contract management. Moreover, more than a year was required for the community members to agree among themselves on the allocation of plots within the resettlement site at New Shkabaj.</p> <p>Management would also like to note that the 52 households that opted for a plot at New Shkabaj have received title and 48 have requested and received construction permits. The basic infrastructure was verified to be complete for construction of the houses in December 2013, and some households had already begun construction by then. The connection of the sewage pipes to the main sewage system was ready by April 2014²⁹. However, as of July 2016, only 15 houses are ready for occupation at the resettlement site at New Shkabaj, of which 12 are occupied.</p> <p>Management agrees that future mining-related RAPs in Kosovo involving collective resettlements should have a detailed schedule setting specific milestones for the process, including milestones for affected people to start and complete replacement houses within a certain agreed and reasonable time-period.</p> <p>Regarding livelihood restoration, the Shala RAP contains clear livelihood restoration objectives. It also included a socio-economic survey that found that people resettled from Shala derived their income from permanent or temporary employment, remittances and pensions, none of which were affected by resettlement.</p> <p>In the case of the Shala RAP, no households reported earning income from agricultural</p>

²⁹ Subsequently, clogged drainage of sewage pipes occurred affecting three homes which was repaired and one more stretch of 200 meters of sewage pipes is currently being repaired.

No.	Panel Finding	Para refs	Comment/Action
			<p>activities (Shala RAP, p. 30). Given that livelihoods were not land-based, no additional livelihood restoration activities were required. Finally, there were no cases identified requiring specific vulnerability assistance (Shala RAP, p. 12). In any case, as part of a livelihood restoration measure agreed with the affected households, KEK provided 20 full time jobs to people.</p> <p>More recently, the Shala RAP Completion Report (July 27, 2016), conducted by an international resettlement consultancy firm on behalf of the MESP and financed under the CLRP-SAF, found that cash compensation and land plots were provided as per the RAP and that <i>“The socio-economic study conducted as part of this report shows that, overall, the resettled population has at least maintained if not improved their living conditions with respect to pre-resettlement conditions.”</i>³⁰ <i>Particularly with respect to households that have been physically displaced and that have already moved to New Shkabaj, there is clear evidence of improved access to public services and better infrastructure which has a direct bearing in improved quality of life. Furthermore, the overall population, physically and economically displaced, shows higher rates of employment and improved livelihood conditions than in 2011.</i></p> <p><i>Survey information shows that a higher portion of the population now has larger plots of residential land where they can conduct complementary agriculture for their consumption (e.g., vegetable gardens) than in 2011. Site visits have also confirmed that households now living in New Shkabaj are planting crops in their residential land plots. (...) In conclusion, we find that livelihoods and living conditions have been at least restored and in some instances improved for the AP [Affected People]”.</i> (p. 36-37).</p> <p>No further actions regarding livelihood restoration were identified in the Completion Report for those covered under the Shala RAP.</p> <p>Management notes that the recommendation from the Shala RAP Completion Report cited in the Panel’s Report that “employment opportunities be complemented with other livelihood support activities,” refers to future resettlements, not to the Shala resettlement itself and is one of the many recommendations for</p>

³⁰ The findings of the Completion Report are based on a survey of ca. 40 % of affected households.

No.	Panel Finding	Para refs	Comment/Action
			<p>future resettlements extracted from the experience with the Shala RAP that are included in the Completion Report.</p> <p>Actions:</p> <p>The Shala RAP Completion Report of July 27, 2016 indicates that there continue to be problems with the functioning of a 200-meter section of the sewage system at the resettlement site at New Shkabaj.</p> <p>The Bank will continue its supervision of CLRP-SAF until the problems with this section of sewerage at the resettlement site at New Shkabaj have been rectified.</p> <p>The MESP has procured a contractor to repair the parts of the sewage system that are not properly functioning. The contract was signed on September 16, 2016 and the repair works are expected to be completed before December 2016.</p>
4. (b)	<p>The Panel finds monitoring and supervision after the Bank's re-engagement with the resettlement process under CLRP-SAF to be in compliance with OP/BP 4.12 on Involuntary Resettlement.</p> <p>The Panel notes the significant delays in preparing the resettlement site and the harm this caused the affected community, including their prolonged stay in temporary accommodations. Bearing in mind the capacity constraints of the implementing agency and the Borrower, the lengthy delay in contracting a firm to monitor the Shala RAP implementation may have compromised the Bank's ability to recommend solutions to the Government at a critical stage. Earlier monitoring could have reduced delays and supported essential work on livelihood enhancement programs, community development, and grievance redress at the onset of the resettlement process.</p>	185-195	<p>Comment: Management agrees that the CLRP-SAF supervision of the resettlement process was in compliance with OP/BP4.12.</p> <p>Management agrees that: (i) there were significant delays preparing the resettlement site, but they were not caused by the Shala RAP or Bank inaction; (ii) the financing which became available under the CLRP-SAF to monitor the Shala RAP implementation and the accompanying Bank supervision improved the resettlement process; and (iii) earlier monitoring could have been beneficial to reduce the delays in the preparation of the resettlement site.</p> <p>Action: No action required.</p>

**ANNEX 2
FINDINGS OF THE PANEL**

Issue	Panel Findings
1: Zone of Special Economic Interest	The Panel finds the Bank was not involved in establishing the Zone of Special Economic Interest in 2004 and is therefore not responsible for the harm arising from it.
2: Hade Emergency Evacuation	The Panel finds the Bank was not involved in the 2004/2005 emergency evacuation of a part of Hade Village, nor was it involved in the subsequent resettlement process, and thus is not responsible for the harm arising from it. The Panel understands the evacuation decision was taken by UNMIK and resettlement was the responsibility of UNMIK, the PISG, and later the GoK.
3: Resettlement Policy Framework	The Panel finds the LPTAP approach of preparing a RPF and subsequently preparing RAPs for each affected site is appropriate and in compliance with OP/BP 4.12 on Involuntary Resettlement.
	The Panel finds Management in non-compliance for failing to apply OP/BP 4.12 on Involuntary Resettlement to the preparation of the RPF, and specifically for not including in the RPF principles and methods for valuing the assets of affected people living under the restrictions of the Zone of Special Economic Interest.
4. Shala Resettlement	The Panel finds Management in non-compliance for failing to apply OP/BP 4.12 on Involuntary Resettlement to the preparation of the Shala RAP, and for ambiguity in the Shala RAP about institutional arrangements and the absence of a detailed resettlement schedule.
	The Panel finds monitoring and supervision after the Bank's re-engagement with the resettlement process under CLRP-SAF to be in compliance with OP/BP 4.12 on Involuntary Resettlement.