

**Report No. 46596-AL**



## **Investigation Report**

**ALBANIA: Integrated  
Coastal Zone Management  
and Clean-Up Project  
(IDA Credit No. 4083-ALB)**

**November 24, 2008**

## About the Panel

The Inspection Panel was created in September 1993 by the Board of Executive Directors of the World Bank to serve as an independent mechanism to ensure accountability in Bank operations with respect to its policies and procedures. The Inspection Panel is an instrument for groups of two or more private citizens who believe that they or their interests have been or could be harmed by Bank-financed activities to present their concerns through a Request for Inspection. In short, the Panel provides a link between the Bank and the people who are likely to be affected by the projects it finances.

Members of the Panel are selected “*on the basis of their ability to deal thoroughly and fairly with the request brought to them, their integrity and their independence from the Bank’s Management, and their exposure to developmental issues and to living conditions in developing countries.*”<sup>2</sup> The three-member Panel is empowered, subject to Board approval, to investigate problems that are alleged to have arisen as a result of the Bank having ignored its own operating policies and procedures.

### Processing Requests

After the Panel receives a Request for Inspection it is processed as follows:

- The Panel decides whether the Request is *prima facie* not barred from Panel consideration.
- The Panel registers the Request—a purely administrative procedure.
- The Panel sends the Request to Bank Management, which has 21 working days to respond to the allegations of the Requesters.
- The Panel then conducts a short 21 working-day assessment to determine the eligibility of the Requesters and the Request.
- If the Panel recommends an investigation, and the Board approves it, the Panel undertakes a full investigation, which is not time-bound.
- If the Panel does not recommend an investigation, the Board of Executive Directors may still instruct the Panel to conduct an investigation if warranted.
- Three days after the Board decides on whether or not an investigation should be carried out, the Panel’s Report (including the Request for Inspection and Management’s Response) is publicly available through the Panel’s website and Secretariat, the Bank’s Info Shop and the respective Bank Country Office.
- When the Panel completes an investigation, it sends its findings and conclusions on the matters alleged in the Request for Inspection to the Board as well as to Bank Management.
- The Bank Management then has six weeks to submit its recommendations to the Board on what actions the Bank would take in response to the Panel’s findings and conclusions.
- The Board then takes the final decision on what should be done based on the Panel’s findings and the Bank Management’s recommendations.
- Three days after the Board’s decision, the Panel’s Report and Management’s Recommendation are publicly available through the Panel’s website and Secretariat, the Bank’s Project website, the Bank’s Info Shop and the respective Bank Country Office.

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<sup>2</sup> IBRD Resolution No. 93-10; IDA Resolution No. 93-6.

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## **Abbreviations and Acronyms**

APL	Adaptable Program Lending
BP	Bank Procedures
BTO	Back to Office Report
CAS	Country Assistance Strategy
CARDS	Community Assistance for Reconstruction, Development and Stabilization
CTO	Association of Tourist Operators
CZMP	Coastal Zone Management Plan
EA	Environmental Assessment
EIB	European Investment Bank
ESSF	Environmental and Social Safeguards Framework
EU	European Union
GIS	Geographic Information System
GoA	Government of Albania
ICZM	Integrated Coastal Zone Management
ICZMCP	Integrated Coastal Zone Management and Clean-up Project
IDA	International Development Association
IPN	Inspection Panel
IPRS	Immovable Property Registration Service
MoTAT	Ministry of Territorial Adjustment and Tourism
MPWTT	Ministry of Public Works, Transport and Telecommunications
NSSED	National Strategy for Social and Economic Development
OMS	Operational Manual Statement
OP	Operational Policy
PAD	Project Appraisal Document
PCU	Project Coordination Unit
PHRD	Policy and Human Resource Development Fund
PPF	Project Preparation Facility
SCDP	Southern Coastal Development Plan
SEA	Strategic Environmental Assessment

## **Executive Summary**

### **Introduction**

The Inspection Panel (the “Panel”) presents this Investigation Report in response to a Request for Inspection, dated July 25, 2007, related to the Albania Integrated Coastal Zone Management and Clean-Up Project (the “Project”). The Request was submitted by local representatives of a number of families who are part of a community situated in the area known as Jale (also referred to as Jal), which is part of the larger village of Vuno, the Municipality of Himare in Albania.<sup>1</sup>

This Investigation Report assesses the Requester’s claim that their homes were demolished in connection with the Bank-financed Project, in violation of Bank Policies and to their great harm. Contrary to Management’s assertions, the Panel determined that the Project was linked to the demolitions and that the Bank failed to ensure that critical safeguards were provided to protect the families in Jale, as required by Bank Policy.

Even as evidence to the contrary accumulated, Bank Management failed to acknowledge initial flaws in Project design and linkages between the Project and the demolitions. In this context, the Panel also encountered misrepresentations relating to key facts in the Investigation and a series of difficulties in obtaining accurate and complete information from Bank staff.

### **The Project**

The objectives of the Project are to establish an integrated approach to coastal zone management along the southern coast of Albania in order to protect coastal resources and promote sustainable development and management. The Project includes components on policy reform, institutional development and investments. The Project is the first phase of an Adaptable Program Lending in Albania. One of the main goals of the Project was the development of a Southern Coastal Development Plan (SCDP), in support of sustainable tourism, improving environmental conditions, enhancing the quality of life, and preserving and revitalizing the cultural and architectural heritage of targeted communities. The Panel notes the importance of the Project objectives and its implementation for Albania’s development.

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<sup>1</sup> The Panel also received a second Request relating to this same Project from tourist operators, claiming that the Project has artificially divided Vlora Bay into two regions in violation of Bank Policy and harm to tourism. The Panel determined that: (a) a Panel investigation, already approved by the Board of Executive Directors, in relation to a previous Request for Inspection on Albania Power Sector Generation and Restructuring Project submitted, *inter alia*, by the same Requesters, would cover the main concerns and allegations of non-compliance contained in the Second Request; and (b) the contention that the Second Requesters will be harmed as a result of the exclusion of the Vlora Bay area from the First Phase of the Adaptable Program Lending Credit financing the Project did not warrant by itself a recommendation to investigate at that time.



The total Project cost is estimated to be about US\$38.56 million. It is financed by a credit from the International Development Association (IDA, hereinafter “the Bank”) of about US\$17.5 million equivalent (SDR 11.7 million). The Credit Closing Date is March 31, 2010. At the time that the Request was received about 13% of the IDA Credit, had been disbursed.

## **The Requesters and the Substance of their Claims**

The Requesters state that between April 17–21, 2007, the Construction Police of the Municipality of Vlora, under the supervision of the Ministry of Public Works and “*in line with the Southern Coastal Development Plan of the World Bank,*” demolished either totally or partially their permanent residences. The Requesters claim that the demolitions were carried out as part of the Project funded by the Bank, in violation of Bank policies, and that the Albanian authorities involved in the demolition process and the press repeatedly emphasized the linkages between the Bank-financed Project and the demolitions.

The Requesters were told that they did not possess building permits. In response, they point out that “*approximately 100% of construction*” in coastal Albania lacks these permits and that a summer resort and other houses were left intact. The Requesters further claim that they requested building permits in the past, but were told that permits are not available in areas lacking an urban plan. In spite of the pending permit applications, the Requesters claim that they received a notice on April 3, 2007, from the Construction Police informing them that their houses were slated for demolition.

The Requesters assert that as a result of the demolitions, members of their community were left without shelter and means to continue their livelihood. They claim that this led to their impoverishment and violated the Bank’s stated policy to reduce poverty. The Requesters note that, upon the loss of their permanent residences, some members of the community had to move elsewhere. They claim that while the Project “*violated our rights to shelter and adequate housing and the right to a fair trial,*” the Bank did not carry on effective supervision to stop or mitigate these violations.

The Requesters claim that the Project implementation has resulted in displacement of a small number of families, “*human rights violations*”, “*inhumane actions*” including violence by the police and a “*complete lack of information and transparency regarding any projects or future plans for the area.*” The Requesters argue that the village of Jale was destroyed as a result of the Bank’s failures and oversights “*to take into consideration legal rights as well as the well being*” of the community. They claim that the Bank also violated the policies requiring supervision of project activities and those mandating that risks of impoverishment for the community be mitigated.

The Requesters state that after the demolitions, World Bank officials visited the site at least twice. The first time they talked with the families and asked about the size of the damage but did not provide any information. The second time they did not talk to the community at all.

The Requesters also state that while there are many similarly situated and built communities along the coastal area, the Construction Police targeted Jale selectively because of the desire of some public officials to clear space for a resort at and around the site of the demolitions and that even some buildings in Jale were spared. Accordingly, the Requesters allege corruption by these public officials who they claim misused the funds provided by the Bank for the furtherance of private gain; and that the Bank did not perform adequate oversight and monitoring activities to stop such corruption and misuse.

## **Management Response**

The Management Response asserts, categorically, that there is no direct or indirect linkage between the Project and the demolitions that are the basis of the Request. Management states that the demolitions were part of an ongoing Government program started in 2001, and that the demolitions could not possibly be linked to the SCDP because the SCDP is not yet in effect. Furthermore, Management claims that because the demolitions are not linked to the Project, *“the Bank cannot comment on the Government’s application of its national laws outside the scope of the Project.”* Management states, however, that the relevant country laws and their application need improvements.

With respect to this Project, the Management Response states that the Bank Policy on Involuntary Resettlement applies only for possible land acquisition for the purpose of enabling specific infrastructure investments following the adoption of the SCDP. The Response contends that the Policy does not apply to ongoing demolitions in the Project area, nor to the demolitions that might result from regional zoning requirements related to the implementation of the SCDP. Management Response states implementation of the SCDP will include social due diligence measures to protect vulnerable people.

In addition, the Management Response notes concerns stated by the Fact Finding Mission regarding the social impact of the demolitions, and includes the recommendations made by the Mission to the Government to mitigate the negative impacts. These recommendations include a) defining transparent criteria for identifying illegal buildings for demolition, b) defining eligibility criteria for assistance, c) defining a package of assistance, and d) public outreach and dissemination efforts. In addition, Management advised the Government to put on hold future plans for demolitions until these criteria are developed and agreed with the Bank.

## **The Investigation Report and Applicable Policies and Procedures**

This Report concludes the Panel’s investigation into the matters alleged in the Request for Inspection. Then Panel Member Tongroj Onchan served initially as the Lead Inspector for the Panel’s investigation. Upon completion of his term as a Panel member, Panel Chairperson Werner Kiene served as the Lead Inspector. To assist in the investigation, the Panel retained Prof. Michael Cernea, anthropologist, who is an internationally recognized expert on social issues, including matters of displacement and involuntary resettlement.

The Panel conducted a two-part investigation. The first part involved detailed research into Bank records related to the Project, interviews with Bank staff in Washington, D.C., and a review of relevant documents. The second part took the form of an in-country fact-finding visit. During the visit, the Panel met with Requesters, Government authorities, Project officials and Bank staff in Tirana. The Panel also visited Jale and Vlora and met with the Requesters and the Project implementation team in Vlora.

In its investigation, the Panel identified and carefully reviewed all documents relevant to the case that the Requesters, Bank staff, and other sources provided to the Panel. The Panel also analyzed other evidence gathered during the field visits or otherwise in its research, including scholarly literature.

With respect to this Project and the issues raised in the Request, the Panel decided to focus its assessment on whether the Bank complied with the following Operational Policies and Procedures:

OP 1.00	Poverty Reduction
OP/BP 4.12	Involuntary Resettlement
OMS 2.20	Project Appraisal
OP/BP 10.00	Investment Lending: Identification to Board Presentation
OP/BP 13.05	Project Supervision

In its analysis of compliance, this Report examines, *inter alia*, the following four main sets of actions and decisions, identified by the Panel during the investigation:

- (a) Management's decision not to apply the provisions of OP/BP 4.12 to the Government's encroachment removal program implemented in the Project area, based on Management's determination that this program is not directly or indirectly linked to the Project.
- (b) Management's decision that OP/BP 4.12 does not apply to the removal of structures in the Project area as a result of regional zoning requirements related to the implementation of the SCDP.
- (c) Management's representation in the Project Appraisal Document that there existed an agreement with the Borrower to provide a safeguard against a critical Project risk (identified in the same document), and information to the Board of Executive Directors regarding this matter.
- (d) Management's approach to Project supervision, including in follow-up to the demolition of houses in Jale.

## **Demolitions in Jale and the Project**

### **The Jale Community and its Demolition**

Jale is one of the most beautiful small bays of Albania's southern coast. Administratively Jale belongs to a larger village named Vuno. Jale has been a residential area for centuries; during several years, it accommodated also a military unit during the past regime. Most of the families living in Jale have a long residence history; some have lived in Jale for almost 300 years, inheriting and owning their lands and house plots from a common family ancestor.

The original family land has been divided among heirs through generations, reducing current plot sizes to between 1/3 and 1/2 acres. The houses that had fallen out of repair during the past regime (through 1990) have since been rebuilt and expanded using the remittances received from the family members that moved abroad as migrant workers. As evidenced by their remains of the structures after their demolition, the buildings were mostly residential buildings with concrete and brick construction.

#### **1. Requester's Attempts to Attain Construction Permits**

According to the Requesters, while most of the families have applied for construction permits, such permits were not available due to the lack of officially approved urban planning for Jale. This situation was prevalent in large parts of the country and accordingly most of the Albanian housing construction continued without building permits. Recognizing the situation, a law was adopted in 2006 for legalization of buildings without permits. Most of the Requesters applied to legalize their buildings under this new law. However, none of them had obtained a conclusive answer to their applications at the time of the demolitions.

#### **2. Project Approval**

The Bank started preparation of the Project in 2004, and in January 2004 the Albanian Government issued a moratorium on issuing construction permits in the coastal area until the formulation and approval of SCDP. The Project financing was approved on June 21, 2005. The new government that came to power in July 3, 2005 elections, however, did not approve the draft SCDP prepared under the Project, changed the team of consultants, leading to further delays in the adoption of the SCDP.

#### **3. Demolitions in Jale**

On April 3, 2007, two years after approval of Project financing and in the absence of any major demolition activity in the Project area, the Requesters received a formal notice from the Construction Police and the Ministry of Public Works, Transport and Telecommunications that a decision was made by authorities to demolish their houses. They appealed the decision within the short period granted for appeals (five days) and were given court dates of April 17, 2007 or later for the review of their appeals.

However, the Construction Police began demolitions on April 17, 2007, despite pleas from the Requesters and some local authorities to defer action until after the conclusion of pending court cases.

The demolition process caused wrenching and painful scenes of opposition and resistance to the demolitions. The Construction Police completed the demolitions in five days. According to the people present at the time in Jale, an official of the Construction Police said, *“you are crying now, but don’t worry, you will be eating with a silver spoon soon, as this is a part of a big World Bank project. They will invest here and will take care of you.”*

The demolitions were covered by the national press. As the Panel learned subsequently, email messages and other news about the events reached the Bank’s Tirana office as well. A technical specialist employed by the Project was sent to Jale to determine what was going on. He observed the demolitions, took some pictures, and talked to some of the villagers. According to the Requesters, he also mentioned the Bank-financed Project, indicated to the affected people that they would be compensated, and asked about the approximate value of their damages. The Bank sent a subsequent Fact Finding Mission to Jale on May 3, 2007, but that Mission did not talk to the Requesters or the other members of the affected community and concluded that the demolitions were not related to the Project.

Management has cited *“unauthorized encroachments in public space”* and blocking *“public access to beaches”* as two main justifications for the demolitions. The Panel observed, however, that the demolished houses were within their privately built fences and were not blocking public access to the beaches.

### **Project Design: Application of OP/BP 4.12 on Involuntary Resettlement**

The Requesters allege that the demolitions were linked to a Bank-funded project and that the Bank failed to comply with its own Policy on Involuntary Resettlement. Bank Management, on the other hand, asserts *inter alia* that the Project is not linked to the demolitions, and therefore the families in Jale are not entitled to benefits and rights under the Bank Policy on Involuntary Resettlement.

In making this argument in its Response, Bank Management states that they considered three possible grounds for the application of the Bank’s Policy on Involuntary Resettlement, OP/BP 4.12. These were for: (1) ongoing demolitions in the Project area; (2) regional zoning requirements related to the implementation of the SCDP (land zoning); and (3) specific investments under the SCDP. The Panel examined the applicability of Bank Policy on Involuntary Resettlement to each of these categories, with a focus on the first (of direct relevance to the demolitions in Jale).

## **1. Ongoing Demolitions in the Project Area**

Although identified as a key Project risk in the PAD, Management concluded that OP 4.12 is not applicable to the ongoing Government demolition program on the contention that there is no linkage between the Government's program and the Bank-financed Project.

The Panel found that Management's contention is not justified. The Panel considers that the main causes of the problems under review are largely, although not exclusively: Management's failure to apply the Bank Policy on Involuntary Resettlement to ongoing demolitions in the Project area; incorrect information included in the PAD; and non-compliance with Bank Policy on Supervision during Project implementation in response to demolitions in Jale.

The Panel further found that these failures, and other related problems that arose during Project design and implementation, had major consequences for the Requesters whose homes have been demolished. These issues are addressed in the discussion below.

### **(a) OP/BP 4.12 on Involuntary Resettlement**

Bank Policy on Involuntary Resettlement, OP 4.12, recognizes that displacement resulting from development projects, if unmitigated, leads to impoverishment and a wide range of severe impacts on affected people. It provides that Involuntary Resettlement should either be avoided or conceived and executed, in consultation with displaced people, as an adequately funded sustainable development program that improves or restores the standards of living of displaced people.

Housing demolition -- loss of shelter -- is the epitome of displacement. According to Paragraph 3 of OP 4.12, any involuntary taking of land (including anything permanently affixed to it, such as buildings and crops) resulting in relocation or loss of shelter and the loss of assets or access to assets; or the loss of income sources or means of livelihood is sufficient reason to invoke the Policy. A footnote to this paragraph contains an exception to the application of the Policy, for "*regulations of natural resources. . .*" on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc. This footnote is highlighted in the Management Response and considered below.

Paragraph 4 of OP/BP 4.12 indicates that the Policy applies not only to the specific activities included in the Bank-financed project itself but also to other activities and non-Bank projects that are: (a) directly and significantly related to the Bank project; (b) necessary to achieve objectives of the Bank project; and (c) contemporaneously implemented with the Bank project.

The protections and rights under the Policy are not limited to those having formal legal rights to their lands. In cases of "loss of shelter" affected people with formal legal rights, or who have a claim to land, should be compensated at full replacement cost and in

advance of the actual demolitions to minimize disruptions. Those who have no recognizable legal right or claim to the land that they are occupying should still be provided with resettlement assistance (including land, other assets, cash, and/or employment) if they occupy the project area prior to a cut-off date, established by the borrower and acceptable to the Bank. Only persons who “*encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance.*”

#### **(b) Management Decision Not to Apply the Policy to Ongoing Demolitions in the Project Area**

In explaining Management’s decision not to apply OP/BP 4.12 for demolitions in the Project area, the PAD states that the Government’s encroachment removal program to demolish unauthorized structures started in 2001 and predates the Bank’s involvement in the Project. The PAD further notes that the encroachment removal neither results from the Project nor is such removal tantamount to taking the land. The study commissioned by Management to understand the Government’s demolition program concluded that the program: (i) aims at enforcing existing land-use regulations under Albanian legislation; (ii) does not aim to promote specific investments; (iii) predates the Bank’s involvement in the Project; and (iv) is likely to continue regardless the Project.

On this basis, Management determined that there is “*no linkage*,” as defined in paragraph 4 of OP 4.12 between the ongoing demolitions and the Project. **Management determined that the Government’s program to demolish illegal buildings is neither related to Bank financed investments and/or the SCDP developed under the Project, and thus not subject to the Bank Policy on Involuntary Resettlement.** Management asserts that the Policy would be applicable only for land acquisition required for specific infrastructure investments in the southern coast that follow the SCDP.

#### **(c) Panel’s Analysis of the Management Decision**

As noted in the Project documents, the Bank viewed illegal construction as one of the main problems in the management of southern zone and in promoting high-end tourism development. **The PAD recognizes that the “*key objectives of this campaign – to vacate public lands that may have been illegally occupied – are consistent with the objectives of the land-use planning activities supported under the Project.*”** (emphasis added)

Nevertheless, in stark contrast with the statement above, Management determined that there is “*no linkage*” between Government’s demolition program and the objectives of the Project, as provided in paragraph 4 of OP 4.12. After being confronted by the demolitions in Jale, Management went so far as to state, categorically, that “*the demolitions were not linked to the Project directly or indirectly.*”

**The Panel is surprised about this line of reasoning. The Government’s demolition programs aim to enforce land-use requirements, and the very purpose of the Project**

is to promote sustainable development and management of the coastal zone, including through land-use planning measures and requirements and their enforcement.

Accordingly, the Panel finds that the kind of encroachment removal that the Government intends to carry out in the area covered by the Bank assisted Project clearly falls within the three categories stated in paragraph 4 of the Bank's Policy. To wit: (a) the Government's demolition program aims to achieve objectives which are declared to be the same as the objectives pursued by the Project itself -- the sustainable development and proper use of the coastal zone; (b) as such, the activities are necessarily part of actions to achieve these objectives; and (c) these activities are planned and carried out contemporaneously with the Project, within the meaning of paragraph 4 of OP 4.12.

Moreover, during its investigation, the Panel uncovered specific documentary evidence of direct and substantial linkages between the Project and ongoing demolitions during Project implementation, including correspondence between the Project Coordination Unit and the Construction Police that carried out the demolitions in Jale. This evidence is presented below (Linkages between the Project and the Demolitions in Jale: Documentary Evidence).

Finally, the Panel is surprised to read Management's statement in the PAD that “[w]hile some of the affected people would lose their structures and access to land as a result of encroachment removal, this neither ‘result directly from the Bank-supported project’ **nor is such removal tantamount to ‘taking the land’.**” (emphasis added) The Panel notes that by its clear terms, the Bank Policy states that “**‘land’ includes anything growing on or permanently affixed to land, such as buildings and crops.**”

The Panel notes that Management's decision not to apply the Policy, as stated in the PAD, is in conflict with the provisions of the Policy, and relates to the view that demolitions of houses are not a ‘taking of land.’ This faulty approach seems to be another reason behind Management's decision not to apply OP/BP 4.12 to the Project.

#### **(d) Claimed “Agreement” to Suspend Demolitions**

In the PAD, Management identifies the “[d]emolitions of illegal buildings” as among the “[c]ritical risks and possible controversial aspects” of the Project. The PAD states that “[t]he Government has agreed that further encroachment removal will take place only after the criteria and procedures for identifying and assisting such vulnerable affected people are in place.” In the absence of applying the Bank Policy on Involuntary Resettlement, this claimed “agreement” gave the impression that a safeguard was in place to protect potentially affected people and the Bank against the critical Project risk of demolitions.

During its investigation, it came as a big surprise to the Panel to uncover an unexpected yet very serious finding. **Specifically the Panel learned that the Government had not**



**made such a commitment and had not agreed with what the PAD was stating. The crucial statement quoted above turned out to be unfounded and incorrect.**

It also appeared that during the presentation of the Project for Board approval, Management was aware that the PAD statement quoted above was not correct. **Nevertheless, even during the Board Meeting, Management did not inform the Board about this fact, although Executive Directors indicated that they welcomed the existence of this agreement.** To date, Management has not provided the Panel with an adequate explanation about this matter and how it evolved over time.

The Panel further notes that Management did not agree with the Government on a cut-off date after which encroachments in the Project area would not benefit from compensation or any other form of assistance described under the Policy. Such an approach, which is provided for by the Policy, would have been consistent with the objective of limiting illegal constructions, while safeguarding existing residents in the Project area, as well as the reputation of the Bank.

**The Panel finds that without the alleged agreement with the Government to suspend demolitions in the Project area, without an agreement on a cut-off date, and above all without applying the Bank's Policy on Involuntary Resettlement to ongoing demolitions, Management failed to safeguard people potentially affected by Project related activities. This fails to comply with OP/BP 4.12 on Involuntary Resettlement. In addition Management did not protect the Bank against a significant reputational risk acknowledged in the PAD.**

## **2. Implementation of the Southern Coastal Development Plan (SCDP) - - Land Zoning**

The SCDP, supported under the Project, is likely to result in rezoning and possible removal of buildings in the process of the implementation of the plan. In the Management Response, Management contended that OP 4.12 is not applicable to displacement that might result from any reclassification and zoning of land implemented on the basis of the SCDP based on footnote 8 of the OP 4.12. This footnote states that the Policy “*does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc.*”

The Panel considers, however, that the objectives of the Project, including the SCDP, are well beyond the intended notion of “*regulation of natural resources*” as described in the footnote. The SCDP also intends to evaluate and support various other land use purposes, such as urban, agriculture, forestry, pasture, etc., identify the most appropriate locations for various types of development with an emphasis on tourism, and identify areas where certain developments should be forbidden or discouraged.

The Panel also did not find any documentary evidence and explanation that the provisions of this footnote were relied upon in Management decisions on the applicability

of the Policy. The Panel notes that the footnote seems to be a *post-facto* rationalization and is belatedly cited in both the Management Response to the Request as well as in interviews with Bank staff. **The Panel finds, however, that the objectives and content of the Project, including the SCDP, go well beyond regulation of natural resources and therefore the Policy applies.**

As part of “good project design” in the preparation of the SCDP, Management agreed with the Borrower that it would develop certain criteria and procedures to assist “*affected people who lose their primary residence or main source of livelihood due to encroachment removal.*” **The Panel notes, however, that this promise becomes effective only once the SCDP is prepared. As a result, this Project design has not enabled the provision of assistance to people who lost their homes or sources of livelihood in Jale. As far as the Panel can ascertain, as of the date of this Report, no assistance has been provided to these people.**

### **3. Infrastructure Investments Following the Adoption of the SCDP**

Management states in its Response that OP/BP 4.12 applies to specific investments that will follow the adoption of the SCDP and that the Government has adopted a Resettlement Policy Framework that reflects the “*core principles*” of the Policy and Albanian laws on land expropriation. The Panel did not review the adequacy of this framework, however, **the Panel finds that the provisions of OP/BP 4.12 need to apply to investments that will follow the planning framework of the SCDP.**

### **4. Disparate Treatment for Affected People**

As described above, Management decided to apply OP 4.12 only to specific infrastructure investments that will eventually occur as a result of the implementation of the SCDP, but not to ongoing demolitions in the Project area nor to the rezoning and possible removal of buildings that will likely result from the implementation of the SCDP.

The Panel observes that such a differentiated approach to the application of OP 4.12 could lead to different treatment of the affected people with similar situations under different phases of the Project. **The Panel finds that such outcomes should have been envisaged during Project design and that neglecting the possibility of their occurrence represents a failure of policy interpretation and a substantive non-compliance with the necessary application of the Bank’s Policy on Involuntary Resettlement.**

Taking the above into account, **the Panel is also concerned about what the safeguards framework would be for treatment of affected and vulnerable people who live in areas designated by the SCDP as suitable for tourism development, once private tourism developers seek to develop those lands.**

## **Linkages between the Project and the Demolitions in Jale: Documentary Evidence**

This section focuses on the central issues of “linkages” between the Project and the demolitions in Jale. The Panel carefully examined the evidentiary facts that support or disprove the conflicting allegations summarized in the Request and in the Management Response. The Panel notes that the demolitions in Jale were not specifically included among the activities to be directly financed under the Project. This fact, however, does not in the present case support Management’s assertion that the demolitions in Jale are “*not linked directly or indirectly*” to the Project.

### **1. Project Communications Relating to the Demolitions in Jale**

The Panel investigation revealed an important and direct connection between the Project and the demolitions in Jale. Indeed, Project records indicate an active relationship between the Project and the Construction Police and the fact that aerial photography financed under the Project identified the buildings that were demolished.

On March 26, 2007, the Project Coordination Unit (PCU) sent a letter, **on the official letter head of the Bank-financed Project**, signed by the Project Coordinator, to almost all relevant high level government authorities, including the General Director of the Construction Police, notifying them of what he characterized as illegal constructions along the Ionian Coast. Attached to the letter were two CDs with aerial photos of the coast. **Aerial photographs of the coast were financed by the Project.** The Project Coordinator wrote: “[a]s you may see from these pictures, illegal constructions are still going on in the Ionian coast. Given the importance of sustainable development in this area... kindly make sure to take the necessary measures and as fast as possible.”

**It is important to note that the PCU issued the letter on the official letter head of the Bank-financed Project and the letter was signed by the head of the PCU, in his capacity as the Project Coordinator and attached to the letter were aerial photographs financed by the Project.** The Project Coordinator is well known in Albania’s administrative circles. He is often described in the country’s press both for his role as the Bank Project’s Coordinator and as a family member of one of the country’s highest leading government officials.

In response to the PCU’s above-noted letter, two weeks later, on April 10, 2007, the Construction Police sent a letter addressed to the Minister of Public Works, Transport and Telecommunications, the PCU Project Coordinator, and the Advisor to the Prime Minister. The response letter noted a number of illegal constructions identified by a working group that had been established by the Construction Police immediately after the receipt of the PCU’s letter. These included 16 alleged illegal constructions in Jale. **In its response letter, the Construction Police stated that it had administered all the necessary procedures and the decisions for the demolition of these constructions had been communicated to the respective parties.**

The demolitions at Jale took place seven days after the date of the letter from the Construction Police to the PCU.

The Panel notes that the PCU did not initially share these communications with the Bank's Tirana office or to the Task Team Leader. It was only during the demolitions in Jale, on April 20, 2007, that the PCU notified the Bank Project team about its communications with the Construction Police attaching copies of the letter sent to the Construction Police and their response. These communications were also sent to the Bank attached to a letter from the PCU dated April 23, 2007, after the demolitions were completed.

The Panel also learned that the PCU continued communications with the Construction Police relating to other constructions on the coast. On May 24, 2007, for example, one month after the Jale demolitions, the PCU Project Coordinator requested the demolition of another structure and urged immediate action citing that ***"[t]he Coastal Zone Management Project has provided necessary equipment to the offices of the Construction Police, in order to control the situation in the fields. Such equipment contains digital camera, GPS, computer etc."*** and warned that ***"[t]he continuation of the illegal constructions on the coastline questions the continuity of the project funding by the World Bank and the donors."*** In a letter dated, May 31, 2007, the Construction Police informed the PCU that the requested demolition was completed. This example shows that the PCU was active in initiating demolitions and the Construction Police was functioning as its executioner. This example and the Jale case show how demolitions in the Project area are regarded as ***"necessary to achieve the objectives of the Project"*** as referred to in Bank Policy on Involuntary Resettlement.

## **2. Demolished Houses Identified by Aerial Photographs Financed Under the Project**

Project records show that the Project provided support, both material and technical, to the Construction Police for the demolitions that were the cause of this Request for Inspection. The most important item was the aerial photographs used to identify the houses to be demolished.

**This assistance had been planned as early as May 2006**, when the PCU wrote to the Project team ***"on the need to take aerial photos of the Coastal Area for accurate information from the ground"*** and noted that ***"[t]hese photographs might be very useful in the course of our project, as well as for the other beneficiaries, e.g. Construction Police who claim they do not have good vehicles and the terrain is not appropriate to perform random checks on the ground..."*** (emphasis added)

The Aide-Memoire of the supervision mission conducted between May 29 and June 3, 2006, indicated that Management knew about the intention of using aerial mapping for the purposes of monitoring ***"illegal construction of the immediate coastal strip of the southern coast of Albania on a quarterly basis."*** The Aide-Memoire of another supervision mission between February 19-24, 2007, provides further evidence that Management knew that the intention was not only monitoring but actively assisting the

demolitions: “[t]he **Project has provided basic equipment to local government units in the southern coast and the Construction Police to assist them in the delivery of their functions.** An aerial mapping survey for the entire southern coast has been commissioned, which will be repeated on a quarterly basis **to inform the Construction Police about illegal activities.**” (emphasis added)

**The foregoing constitutes a direct and material support of the Project to the demolitions in Jale. The Panel notes that this Project activity was not acknowledged or described in the Management Response. To the contrary, the Response states in no uncertain terms that “[t]he demolitions were not linked to the Project directly or indirectly.”**

### **3. Assistance to the Construction Police**

It is important to note that the Project design includes the provision of equipment (e.g. vehicles, digital cameras, GPSs, computers, etc.) and technical assistance to the Construction Police. The PAD states that under sub-component A.2, further assistance to the Construction Police will include building capacity and developing procedures to adequately address disputes arising from the demolition of buildings, including the clarification of criteria and assuring transparency. The procurement plan of the Project includes **equipment for collection and transport of demolition waste** to be used by the Construction police.

The Management Response only vaguely describes such assistance and claims that the Construction Police “**will receive technical assistance but is not an implementing partner of the Project.**” The Management Response also omits any details of the procurement plan. **The Project documentation demonstrates that the Project has provided resources and support for the Construction Police related to demolition activities in the Project area.** This kind of support establishes a crucial link between the Project and the demolitions.

**The analysis and facts established above show that the Bank Policy on Involuntary Resettlement should have been applied to the demolitions related to the Project. This conclusion takes into account the assistance provided by the Project to the Construction Police for the delivery of their functions, aerial photographs identifying the demolished houses also financed by the Project, and the official communications of the PCU calling on the Construction Police to deal with the alleged illegal construction.**

**The Panel finds no merit in Management’s statement that “[t]he demolitions were not linked to the Project directly or indirectly.” Indeed, the Panel finds a direct link between the demolitions in Jale and the Project and its objectives. Consequently, the Panel finds that Management failed to comply with the requirements of OP/BP 4.12 on Involuntary Resettlement with respect to demolitions that took place in Jale. In this sense, the Project also failed to address the poverty reduction objectives set forth in OP 1.00 on Poverty Reduction.**

#### 4. Other Relevant Facts on Linkage of the Demolitions in Jale and the Project

##### (a) Debates in Albania's Parliament

Many government officials and news articles in the Albanian press explicitly linked the demolition to the Bank-financed Project. On April 23, 2007, the staff from Bank's Tirana Office reported that during the plenary session of the Parliament, the demolition in Jale had been discussed and the Minister of Public Works, Transport and Telecommunications said that "*this [the demolition] was a must because of the World Bank project in the area, the Bank has asked for it.*" (emphasis added) The next day the same staff member reported that many of the newspapers included news on the Parliament's session on demolitions in Jale and the fact that the Minister had referred to the Bank activities in the southern coast.

Although informed about the Minister's statement, Management did not challenge the public statement made by the Minister in the Parliament. **The Minister's official statement before Parliament leaves no doubt about the close link between this specific instance of enforcement of laws on demolitions in Jale and the Project.** This rather open and blunt Ministerial statement in the Parliament that the demolitions are "*paving the way*" to the Bank's financing, quoted above, is in direct contrast to the statement made in the Management Response that Jale demolitions were "*not caused by or linked to the Project, and were not done in anticipation of the Project or to achieve the Project objectives.*"

##### (b) Media Coverage on Linkages

Several articles were published in the media after the demolitions, which commented on the connection between the Project and the demolitions that took place in Jale. They indicated that the intention of the demolitions are to clear the way for a tourist resort, and pointing out the links among the Project, the PCU Coordinator and the demolitions.

The Panel learned that the Bank prepared a draft press release to address these swirling allegations and statements about the Bank's involvement in demolitions in Jale, but decided not to issue any press release and, as far as the Panel can ascertain, did not challenge publicly these allegations.

##### A Partial Fact Finding Process in Response to Requester's Complaints

A Bank Fact Finding Mission took place during May 3–5, 2007, to obtain a "*fuller understanding*" of the facts concerning the Jale demolitions. The Back-to-Office (BTO) report of this Mission and associated Aide Memoire provide some accurate information (such as the geographical overlap between the place of demolition and the Bank's Project area; the local perceptions of a link between the Bank Project and demolitions; the fact that demolitions were away from the beach; and that several people were adversely impacted); but omits the role of the Project Coordination Unit in prompting the Construction Police to proceed to demolition and in sending to the Construction Police a

formal letter including aerial photos financed by the Project – despite the fact that the Mission had access to the letters exchanged between the PCU and the Construction Police. The Fact Finding Mission did not interview any of the affected people and its report omits references to the debate in Parliament and articles in the press.

**The omission of key events and relationships surrounding the demolitions in Jale in the Fact Finding Back to Office Report may be regarded as a material misrepresentation of a situation about which the Mission was mandated to provide a “fuller understanding of the facts”. This omission distorts the image of the reality on the ground reported back to Management. This omission fails to convey evidence that would have suggested fundamental flaws in Project design, implementation, and supervision.**

In short, crucial facts did not make their way into the Fact Finding Mission report and Aide-Memoire. **It appears that Management would have been better served by sending in staff who were not directly involved in this Project to undertake a “fact finding” mission in a highly controversial situation.** The Panel finds that Management’s own “fact finding” report, by leaving out essential facts which it had the obligation to report according to the TOR it received, **did not comply with Bank Policy on Supervision, OP/BP 13.05.**

To their credit, however, at the end of the Mission Bank staff indicated the need for defining: (a) transparent criteria for identifying illegal buildings for demolitions; (b) eligibility criteria for compensation; (c) a package of assistance; (d) public outreach and dissemination efforts. In addition, the Mission recommended that the Government suspend future plans for demolitions in the Project area until suitable provisions are in place to ensure transparency and proper compensation.

Management recently informed the Panel that it had received a letter from the Minister of Public Works Transport and Telecommunications dated April 8, 2008, which states that demolition works in the Project area would only focus on constructions that began after November 2007, until the Coastal Regulations for the Southern Coast are approved and revised criteria for identifying occupied buildings for demolition have been agreed. Management added that the Coastal Regulations have been approved and the criteria for identifying occupied buildings for demolition have been completed.

Management also informed the Panel that it expects a confirmation from the Government that no construction undertaken in the Project area prior to November 2007 will be subject to demolitions until an assistance package (including eligibility criteria for assisting poor and vulnerable people who may be affected by demolitions related to local development plans) is agreed with the Bank. Management added that the consultants to carry out this work are expected to be appointed by the end of November 2008 and complete their work within four months.

The Panel notes that the provisions of OP/BP 4.12 do not require that affected people must be poor or vulnerable to receive compensation as a result of taking of land, resulting

in relocation or loss of shelter, loss of assets or access to assets or the loss of income sources or means of livelihood, whether or not the affected persons must move to another location.

Although the Panel welcomes the above referred developments, the Panel notes that it has not received any meaningful information on follow-up actions taken by the Bank with respect to Requesters.

### **Diverging Perceptions Regarding the Role of the Project Coordination Unit**

When asked during a Panel interview to explain the role of the PCU, the PCU described the unit as a kind of “small post office”, which only conveys papers and documents from one source to another without substantive responsibility in the implementation of the Project. The Panel was informed that the PCU makes no decisions because the PCU acts only as a “turning platform”, a conveyor of paper: it receives documents from one supplier and transfers them to another address.

Project records and the discussion above show, however, that the PCU acted decisively in providing information, financed by the Bank, to the Construction Police which was the basis for the launching of the demolitions in Jale. The Panel notes that the Project Coordinator exhibited a significant degree of authority in addressing directly high level Government authorities and requesting specific action from them.

### **Allegations of Corruption**

During the course of this investigation, the Panel team received allegations of corruption from the interviewed people in Albania, consistent with the news report mentioned above that certain people are using the Project and its resources to clear the area around Jale for a tourist resort. While the Panel only informs about, but does not evaluate the allegations of corruption, the selective nature of the demolitions carried out by the Construction Police seems to support the desire to clear a certain area.

## **Project Appraisal, Board Presentation and the Investigation Process**

### **Presentation to the Board**

The PAD rightly identifies the Government’s demolition of illegal buildings as one of the critical risks and possible controversial aspects of the Project. The Bank was aware of the reputational risks involved and, as a mitigation measure for this critical risk, the PAD states that: *“[t]he Government has agreed that further encroachment removal will take place only after the criteria and procedures for identifying and assisting such vulnerable affected people are in place”*.

Prior to the Board meeting for the approval of the Credit supporting the Project, two of the Executive Directors issued written statements welcoming the Government’s agreement stated in the PAD. During the Board discussion, another Executive Director,



in comments verbally made, again reiterated the issue and mentioned the reputational risk the Bank might face as a result of demolitions.

Management responded to issues raised regarding the resettlement and overall social issues but did not refer to the alleged Government commitment to halt demolitions. The Bank's Board of Executive Directors approved the Credit on June 21, 2005.

### **Information given to the Panel during its Eligibility Visit**

During its eligibility visit, the Panel team requested information on the Government's above noted agreement not to continue demolitions in the Project area as set forth in the PAD. The Project team indicated that this was actually a mistake in the PAD and no such agreement exists with the Government. The Project team further indicated to the Panel team that during the Board discussion Management clarified to the Board members that this statement in the PAD was a "*mistake*." The Project team then provided to the Panel team a copy of the statement which was allegedly read by Management to the Board. This alleged statement contained a paragraph that informed the Board that such agreement had not been reached with the Government.

### **Information that emerged during the Investigation**

During its investigation, the Panel found that the Aide-Memoire of the Fact Finding Mission conducted during May 3-5, 2007, by the Project team following the demolitions in Jale indicated that the demolitions in Jale "*raises the concern of lack of conformity with Government commitment that encroachment removal in the southern coast will take place only after criteria and procedures for identifying and assisting vulnerable affected people who lose their primary residence or main source of livelihood due to encroachment removal are in place*".

Contrary to the above finding of the Mission, in the letter transmitting the findings of the Mission to the Government, Management referred only to the commitments made by the Government in the Letter of Development Policy adopted by the Government for the Project. However, the Letter of Development Policy does not contain a commitment by the Government regarding ongoing demolitions in the southern coast but only indicates Government's commitment with respect to adoption of adequate measures to avoid and mitigate negative impacts to individuals and communities resulting from the implementation of the SCDP.

### **Panel's review of Board transcript**

The discrepancy of statements of the Project team with respect to the Government's agreement noted in the PAD and other incidents during this investigation led the Panel team to request and review the transcript of the Board discussion that took place on June 21, 2005.

As a result of the careful review of the transcript, **the Panel found that the paragraph allegedly included in the Board statement given to the Panel by Management, referred to above, was not read to the Board. The Panel found that this statement would have provided to the Board crucial factual information on the status of a critical risk mitigation measure in the PAD, and which was welcomed and relied upon by the Board members while approving the Project. This is not in compliance with OMS 2.20 and Annex D of BP 10.00 on Investment Lending: Identification to Board Presentation.**

To date, the Panel does not know why and when Management decided not to indicate that the statement in the PAD was a mistake and how this issue evolved over time. The Panel is very concerned about Management's misrepresentation of important factual information to the Panel. This is contrary to the process established by the Board Resolution establishing the Panel and the provisions of BP 17.55.

### **Corrigendum of September 2, 2008**

Months after becoming aware of the Panel's discovery regarding this statement in the PAD indicating a Government agreement to suspend demolitions, Management circulated to the Board a Corrigendum on September 2, 2008. The Corrigendum informed the Board that the public version of the PAD, which was approved by the Board more than three years earlier, had been amended by deleting this key statement in the PAD. The Corrigendum states that "[t]his sentence was inadvertently included in the document circulated for Board consideration."

The statement in the PAD was an important representation to the Board of a substantial agreement reached with the Borrower to establish a moratorium on demolitions until criteria and procedures to identify and assist the vulnerable affected people are in place. This agreement provided an important mitigation measure for a possible reputational risk to the Bank identified during Project preparation.

**The use of a Corrigendum to modify such a substantive statement in the PAD, which was relied upon by the Board, without any explanation or consideration by the Board, may set a very serious and disturbing precedent. The Panel notes that this is a fundamental issue of Board-Management relations.**

In addition, the Corrigendum includes a statement which indicates that Management has informed the Panel of the error and will address all related issues in the context of the Management Response to the Panel's Investigation Report at that time. To the contrary, however, the Panel had to make significant efforts, on its own, to learn about this misrepresentation.

## **A Difficult Fact Finding Process**

The Panel finally notes that in the course of this investigation, it encountered a series of difficulties in obtaining accurate and complete information from Bank staff on key Project-related facts. The Panel acknowledges that the Bank works in a technically and politically difficult environment. Decisions often have to be made under conditions of uncertainty, and errors can and will happen. Moreover, risk taking is an important part of development, although the Bank needs to ensure that the risks do not fall on the most vulnerable. The Bank has developed an operational policy framework and established mechanisms to deal with these risks.

The Panel notes that staff cooperation and transparency is essential so that when errors occur, normally unintended, they are acknowledged and corrected. This benefits not only the institution, but also the people the Bank is mandated to serve.

Access to relevant and accurate information is fundamental to the work of the Panel. This principle is clearly set forth in paragraph 21 of the Resolution establishing the Panel. It is well known that candor in information is part and parcel of the letter and spirit of the Bank's staff work rules in general, and this refers to the Panel's work as well, and is specifically provided in BP 17.55 which states, "*[w]hen requested by the Panel, Bank staff cooperate fully with the Panel in the discharge of its functions.*" Staff cooperation is particularly indispensable because the institutional memory exists not only in the form of written documents but also as the informed personal memory of project staff involved day in and day out in a certain project.

The Panel notes and appreciates the significant efforts that Bank Management and staff normally makes to fulfill this responsibility, and this has been explicitly recognized by the Panel in most prior reports to the Board. However, in the present investigation, the Inspection Panel has been confronted with an array of difficulties in its access to relevant information, at times having to sort through misrepresentations, and in obtaining the requisite level of staff cooperation.

## **Concluding Remarks**

**The Panel finds that the initial decision not to apply OP/BP 4.12 at the decisive stage of appraisal was a root cause in Management's mishandling of the Jale demolitions.** This and the failure to effectively safeguard the Project through an agreement with Government to suspend demolitions in the Project area has had dire consequences for the affected population and for the Bank's reputation. Based on the foregoing analysis, **the Panel finds that not only during Project design and appraisal but also during Project implementation the Bank failed to comply with its OP/BP 4.12 Policy on Involuntary Resettlement.**

In the Panel's opinion the initial failure to apply the Policy left the Bank in a vulnerable situation. The Bank should have used the demolitions in Jale for re-examining with the Government of Albania the Project's entire approach to demolitions, and to reconsider

the applicability of the Bank's OP/BP 4.12 in this Project, since this Policy provides a critical basis and shield that the Bank can use with regard to demolitions that harm people living in the Project area.

**This Project, which included components known to be associated with demolitions in the Project area, harbored a critical risk that could have been avoided with an appropriate contractual framework and adequate supervision. The Panel finds that the Bank has failed to supervise the Project, as required under Bank's Policy on Supervision OP/BP 13.05.**

A prime example of inadequate supervision is the partial Fact Finding Mission, which ended up not "finding," **some of the most important facts that explained the events which led to the present inspection**, and may have led to a problematic Management Response. The Panel is struck by Management's lack of response both to the demolitions themselves, and to the surrounding press coverage and Parliamentary discussions directly implicating the Bank in these demolitions.

**The Panel also concludes that the Management Response was particularly unhelpful and non-informative and at times in total conflict with factual information which had been long known to Management.** The omission of known key information in the Management Response distorts the overall picture and further compounds many less than straight forward answers received by the Panel to its questions from some of the staff involved in Project management, and implementation. The Panel notes that, given the seriousness of the situation, it took the unusual step during the investigation of alerting Senior Management to key facts that it has uncovered.

Although this is not a requirement for compensation or assistance according to OP/BP 4.12, some of the people affected seem poor and vulnerable, and they claim that the demolitions took away their life savings and need assistance to rebuild their lives. As established in this Report the Panel found direct links with the Project and the demolitions in Jale. It may be argued that their situation could have been prevented with a better approach by the Bank to this Project, by first conducting a social assessment and developing an approach within the framework of the OP/BP 4.12 to assist people who might be affected by demolitions in the Project area. The demolitions in Jale took place more than one and a half year ago. As far as the Panel can ascertain, **no action has been taken with regard to the situation of the affected people.**

The Panel hopes that this Report will assist the Bank in addressing the issues identified during this investigation.

# Chapter One

## Introduction

### A. Events Leading to the Investigation

1. On July 30, 2007, the Inspection Panel (the “Panel”) received a Request for Inspection, dated July 25, 2007, related to the Albania Integrated Coastal Zone Management and Clean-Up Project (hereinafter referred to as “the Project” or “ICZMCP”) financed by the International Development Association (IDA)<sup>3</sup> (IDA Credit No. 4083-ALB). The Request was submitted by local representatives of a number of families who are part of a community situated in the area known as Jale,<sup>4</sup> which is part of the larger village of Vuno, the Municipality of Himare<sup>5</sup> in Albania. The Panel registered the Request on August 2, 2007.
2. On August 13, 2007, the Panel received a second Request for Inspection, dated August 5, 2007, related to the Project. Mr. Petrit Levendi, on behalf of the Association of Tourist Operators (CTO) of Vlora, Albania, and other affected individuals who reside in Vlora and in the “*area covering the northern part of the Bay of Vlora, known as Treport Beach, Narta Lagoon Coastal Strip and Bisht Poro,*” submitted the Request for Inspection. The Panel registered the Second Request on August 16, 2007.
3. Both Requests claim that the Bank failed to comply with its policies and procedures with respect to the design, appraisal and implementation of the Project leading to harm or potential harm to locally affected people.
4. Management requested authorization from the Board of Executive Directors to prepare a single response that addresses both Requests. The Panel did not object to Management’s request with the understanding that the extension would not be detrimental to the Requesters. The Panel received the Management Response on September 17, 2007 (the “Management Response”).<sup>6</sup>
5. This Investigation Report presents the Inspection Panel’s findings and conclusions in response to the first request. With respect to the second request, the Panel determined in its Eligibility Report that the main concerns of this second request would be covered under a separate investigation and that the

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<sup>3</sup> For the purposes of the report, the IDA is sometimes referred to as “the Bank”.

<sup>4</sup> Jal, Jale, Jali and Jala are used interchangeably in this Report.

<sup>5</sup> Himare and Himara are used interchangeably in this Report.

<sup>6</sup> The full text of both Requests for Inspection and Management Response are included in the Panel’s Report and Recommendation dated October 17, 2007. These are available at the Panel’s website, [www.inspectionpanel.org](http://www.inspectionpanel.org).

underlying claim did not warrant by itself a recommendation to investigate at that time.

## **B. Brief Description of the Integrated Coastal Zone Management and Clean-Up Project**

6. According to the Project Appraisal Document (PAD), the Project's objective is *"to set-up and initiate an integrated coastal zone management approach to reduce coastal degradation through: (i) strengthening regulatory policy and governance of the coastal zone, land-use and regional planning, and institutional capacity at the central, regional and local levels; (ii) initiating targeted municipal and community investments in the southern coast to improve environmental conditions, enhance cultural resources and encourage community support for sustainable coastal zone management; and (iii) reducing soil and groundwater contamination in the former chemical plant at Porto Romano."*<sup>7</sup> The Project is the first phase of an Adaptable Program Lending (APL) in Albania. Project goals include developing sustainable tourism, improving environmental conditions, enhancing the quality of life, and preserving and revitalizing the cultural and architectural heritage of targeted communities.



**Picture 1: Jale Beach, in the southern coast of Albania**

7. Project goals are to be achieved through four Project components: (i) integrated coastal zone management policy and institutional capacity building—enhancing the skills of the Albanian authorities to manage their coastal resources, through

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<sup>7</sup> Project Appraisal Document, on a Proposed Adaptable Program Lending Credit in the Amount of SDR 11.7 million (US\$17.5 million equivalent) to Albania for an Integrated Coastal Zone Management and Clean-Up Project in Support of the First Phase of the Integrated Coastal Zone Management and Clean-Up Program, May 25, 2005 (hereinafter "PAD"), pp. 5-6.

adequate operations policies, legal and regulatory frameworks and financial/economic instruments; (ii) infrastructure building and rehabilitation on the Southern Coast—assisting southern coast municipalities and local communes in the preservation, protection and enhancement of the natural resources of the coast, thereby leading to improved environmental conditions; (iii) Porto Romano clean up—assisting in the containment of soil and groundwater contamination in the former chemical plant of Porto Romano, which is considered as one of the most seriously contaminated areas in the Balkans; and (iv) Project management and monitoring—providing support for Project management, coordination, monitoring and evaluation. The Panel notes the importance of the Project objectives and its implementation for Albania's development.

8. The preparation and implementation of the Southern Coast Development Plan” (SCDP) is among the main Project objectives. According to the Project’s Credit Agreement, the SCDP is *“a land use development and zoning plan to be prepared under Part A.2 (f) of the Project and to be adopted by the National Council of Territorial Adjustment of the Borrower, establishing a framework for sustainable tourism development in line with environmental assessment concepts and social safeguard requirements to guide future investments in the Southern coastal zone.”*<sup>8</sup>
9. Overall institutional coordination, as well as monitoring and evaluation, is the responsibility of the Ministry of Public Works, Transport and Telecommunications (MPWTT), which replaced the Ministry of Territorial Adjustment and Tourism (MoTAT).<sup>9</sup> A Project Coordination Unit (PCU) was set up within the structure of the MPWTT to be responsible for overall Project coordination, procurement, financial management, disbursement, monitoring and evaluation and reporting. The PAD envisages the establishment of a Project Steering Committee to be responsible for providing project oversight, reviewing project progress and resolving obstacles to project implementation.
10. Implementation of the Project is carried out by existing entities in the central, regional and local levels. These include the MPWTT, the Ministry of Environment, the Ministry of Culture, Youth and Sports and the various municipalities and communes.
11. The Project is the first phase of the Integrated Coastal Zone Management and Clean-up Program (the Program) which the Bank is financing through an Adaptable Program Lending (APL) mechanism to be implemented in two phases over 7 years. The total Project cost is estimated to be about US\$38.56

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<sup>8</sup> Development Credit Agreement (Integrated Coastal Zone Management and Clean-Up Project) between Albania and International Development Association (Credit No. 4083 ALB), June 29, 2005, pp. 5,6.

<sup>9</sup> After the 2005 elections and Government restructuring, the Ministry of Public Works, Transport and Telecommunications (MPWTT) assumed the role of the MoTAT for the purposes of Project implementation.

million and is co-financed by the Government of Albania (US\$5.71 million), an IDA Credit (US\$17.5 million equivalent), the European Union CARDS Program (US\$5.20 million), the Government of the Netherlands (US\$3.11 million) for the Porto Romano clean-up activities, the Government of Austria (US\$2.6 million) for solid waste management activities, a Global Environment Facility grant (US\$0.95 million), a Japan PHRD co-financing grant (US\$2.23 million) and local beneficiaries (US\$1.26 million). The IDA Credit Closing Date is March 31, 2010. At the time that the first Request was received about 13% of the IDA Credit had been disbursed.

12. The claims of the first and second Requesters and the Management Response are briefly summarized below, and the first Request<sup>10</sup> and the Management Response<sup>11</sup> is examined in more detail in Chapter 2 of this Report.

### **1. Requests for Inspection**

13. The Requesters believe that the Bank has failed to comply with several of its Operational Policies and Procedures in the design, appraisal and implementation of the Project and has caused or is likely to cause harm to their community. The following paragraphs briefly summarize the first and second Requests for Inspection.

#### **(a) First Request for Inspection**

14. The first Request refers in particular to Part A of the Project which aims at providing technical assistance for developing a legal and policy framework and a financial and economic incentive framework for integrated coastal zone management. The Requesters claim that they have suffered as a result of the World Bank's policy compliance and oversight failures with respect to the SCDP implementation in Jale.
15. The Requesters state that between April 17–21, 2007, the Construction Police of the Municipality of Vlora, under the supervision of the Ministry of Public Works and “*in line with the Southern Coastal Development Plan of the World Bank,*” demolished either totally or partially their permanent residences. The Requesters were told they did not possess building permits.
16. The house demolitions, the Requesters report, were carried out in an “*unexplained urgency*” around 4:00 in the morning of April 17, and one house resident was also “*hit while inside her house in an attempt to take out her cellular phone.*” They “*learned from the media and onsite managers of the project that the demolition was a result of executing the Southern Coastal Development Plan of the World Bank for the area.*”

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<sup>10</sup> Request for Inspection, July 25, 2007 (hereinafter “Request”).

<sup>11</sup> Bank Management Response to Request for Inspection Panel Review of the Albania: Integrated Coastal Zone and Clean-Up Project, September 17, 2007 (hereinafter “Management Response”).



17. The Requesters claim that the Project implementation has resulted in displacement of a small number of families, “*human rights violations*”, “*inhumane actions*” including violence by the police and a “*complete lack of information and transparency regarding any projects or future plans for the area.*” The Requesters argue that the village of Jale was destroyed as a result of the Bank’s failure “*to take into consideration legal rights as well as the well being*” of the community. They claim that the Bank also violated the policies requiring supervision of project activities and those mandating that risks of impoverishment for the community be mitigated.
18. The Requesters state that after the demolitions, World Bank officials visited the site at least twice. The first time they talked with the families and asked about the size of the damage but did not provide any information. The second time they did not talk to the community at all.

### **(b) Second Request for Inspection**

19. The signatories of the second Request state that they are likely to suffer harm as a result of the World Bank’s failures and omissions in the Project. They claim that “*although the Project covers an area of the Albanian coastline from Butrint region in the South (Ionian Sea) to the Porto Romano in the North (Adriatic Sea), it nevertheless excludes from its scope and implementation the area covering the northern part of the Bay of Vlora up to the mouth of River Vjosa*”, an area which is south of Porto Romano and is the area where the second Requesters reside. According to the second Requesters, the Project’s integrated coastal management and clean up strategy has artificially divided the Vlora Bay into two regions. They believe that this is “*discriminatory, simply unnatural and fundamentally harmful*” to their interests.
20. The second Requesters argue that the Project creates a “*dangerous vacuum*” by excluding the northern part of the Vlora Bay from its scope and, as a result, it will significantly harm tourism development in the Bay and its vicinity. According to the Requesters, the Project’s discriminatory approach “*opens the way for other potentially detrimental development projects with long standing negative consequences*” for the Bay of Vlora and the Albanian Adriatic-Ionian coastline. They also claim that the Project “*ignores the on-going decontamination efforts*” taking place in the Vlora region, thus leaving the area “*to the mercy of oil-storage developers.*” The Requesters further believe that works such as water supply and waste management that the Project provides for the municipalities of Saranda and Himara would also be needed in the municipalities of Orikum and Vlora and the communities of Quender and Radhim.
21. The second Requesters claim that the “*very purpose, goals and importance of the Project are being undermined*” by focusing on the southern part of the

Albanian coast and excluding the north part of the Vlora Bay, which is, according to the second Requesters, “widely accepted” to be the “real gateway to Albania’s tourism and valorization of cultural heritage.” They claim that such exclusion from the Project is harmful for their economic interests.

22. The second Requesters state that they have raised their concerns with Bank staff but have received no satisfactory response. They ask that the Project be extended to include the entire area of Vlora Bay up to the mouth of the River Vjosa.

## **2. Management Response**

23. On September 17, 2007, Management submitted its Response to the Requests for Inspection. Management addresses the issues raised by the two Requests separately. The Response addresses the key issues raised by the Requesters. The Response includes four annexes and one map.

### **(a) Management Response to the First Request for Inspection**

24. Management states that the demolition of the houses was not linked to the Project either directly or indirectly; adding that the demolitions were in accordance with a Government program, pursuant to national law, that had been ongoing since 2001. Management claims that the demolition of the houses in the Request “were not limited to the Project area, not caused by or linked to the Project, and were not done in anticipation of the Project or to achieve the Project objectives”<sup>12</sup> and that the Government confirmed this to the Bank on the Bank Team’s visit to the country. Furthermore, Management states that the demolitions were not carried out as part of or due to the SCDP since that Plan is yet to be prepared. The Government confirmed to the Bank that no development plans for the Jale region exist at this time.
25. Management states that at the design stage of the Project, the Bank considered several instances where OP 4.12 might be triggered including the demolition of illegal buildings under the Government’s program. The Response states that the Bank undertook to investigate and review the potential impact the Government’s demolition program would have on the Project. As a result of this review, Management determined that the demolitions are unrelated to the Bank’s financing of the Project.
26. Management notes however that in the event that land had to be acquired for a project-specific reason, OP 4.12 would be triggered as is the case for the Porto Romano hotspot clean-up component. Management states that five families have been resettled according to this policy.

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<sup>12</sup> Management Response, ¶28.

27. The Response states that the Bank has been working closely with the Government to address the issues related to unauthorized structures and the land-use issues for this and other projects in the country, and is also helping to develop “*sustainable, equitable and humane solutions*”<sup>13</sup> to the problem. Management states that Bank has given the Government its recommendations with respect to the demolitions and has advised the Government to postpone any future demolitions until the recommendations are reviewed and discussed.

### **(b) Management Response to the Second Request for Inspection**

28. Management states that the purpose of the ICZMCP is to “*set up and initiate an ICZM approach to reduce coastal degradation in the area. This is expected to serve as a pilot program, to be extended to other areas of the coast in the future.*”<sup>14</sup>
29. Furthermore, Management states that the Project is a “*new approach in Albania and relatively complex to implement*”<sup>15</sup> which is why the first phase of the Project concentrates only on one section of the coast—the southern coast—in order to maximize the chances of success and also to ensure manageability of the Project. The Response further states that the second phase will expand and build on the results of first. The idea, Management states, is to create something that can be replicated easily rather than to undertake a “*nationwide or even coast-wide*” development project. Management states that the extension to the areas identified in the second request would greatly depend on the outcomes of the pilot project.

### **3. Eligibility of the Requests**

30. To determine the eligibility of the Requests, the Panel reviewed the Requests and Management’s Response. The Panel Chairperson, Werner Kiene, together with the Panel’s Deputy Executive Secretary Dilek Barlas and expert consultant Eduardo Abbott, visited Albania from September 21–25, 2007. During their visit, the Panel Team met with signatories of both Requests for Inspection. The Panel also met with Government officials, and with local authorities in Vlora, with the Project Coordination Unit, and with Bank staff including the Country Manager and Project Task Team Leader in the Bank Country Office of Tirana. The Panel Team visited the Project sites, Jale and the city of Vlora. The Panel visited the Project area and met with Requesters involved in each of the Requests, who reiterated the claims of non-compliance by the Bank with its own operational policies and procedures and related harm.

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<sup>13</sup> Management Response, ¶46.

<sup>14</sup> Management Response, ¶55.

<sup>15</sup> Management Response, ¶57.

31. On October 17, 2007, the Panel submitted its Report and Recommendation<sup>16</sup> to the Executive Directors in which the Panel recommended an investigation of matters raised by the first Request for Inspection, and did not recommend an investigation into the matters alleged in the second Request. The Panel indicated that the first Request and Management Response contain conflicting assertions and interpretations about the issues, the facts, and compliance with Bank policies and procedures and the relationship of the demolitions and the Project financed by the Bank. However, the Panel found that the second Request did not warrant by itself a recommendation to investigate at that time.<sup>17</sup>
32. On November 1, 2007, the Board approved the Panel's recommendation to conduct an investigation into the matters alleged in the first Request for Inspection. The first and second Request, Management Response, and the Panel's Report and Recommendation were made public shortly after the Board approval.

### **C. The Investigation**

33. The purpose of the investigation was to establish whether the Bank complied with its own policies and procedures in the design, appraisal and implementation of the Project, and whether, if instances of non-compliance were found, they caused, or were likely to cause, harm to the first Requesters. Then Panel Member Tongroj Onchan served as the Lead Inspector for the Panel's investigation. Upon completion of his term as a Panel member, Panel Chairperson Werner Kiene served as the Lead Inspector.
34. The Panel conducted a two-part investigation. The first part involved detailed research into Bank records related to the Project, interviews with Bank staff in Washington, D.C., and a review of relevant documents. The second part took the form of an in-country fact finding visit. To assist in the investigation, the Panel retained Prof. Michael Cernea, anthropologist, who is an internationally recognized expert on social issues, including matters of displacement and involuntary resettlement.
35. Then Panel Member Tongroj Onchan, Deputy Executive Secretary Dilek Barlas and the expert consultants Eduardo Abbott and Michael Cernea, visited Albania from January 14-25, 2008. During the visit, the Panel met with the Requesters, Government authorities, Project officials and Bank staff in Tirana. The Panel

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<sup>16</sup> Inspection Panel Request for Inspection, Albania - Integrated Coastal Zone Management and Clean-Up Project, Report and Recommendation, October 17, 2007.

<sup>17</sup> The Panel noted that: (a) a Panel investigation, already approved by the Board of Executive Directors, in relation to a previous Request for Inspection on Albania Power Sector Generation and Restructuring Project submitted, *inter alia*, by the same Requesters, would cover the main concerns and allegations of non-compliance contained in the Second Request; and (b) the contention that the Second Requesters will be harmed as a result of the exclusion of the Vlora Bay area from the First Phase of the Adaptable Program Lending Credit financing the Project did not warrant by itself a recommendation to investigate at that time.

also visited Jale and Vlora and met with the Requesters and the Project implementation team in Vlora.

36. In its investigation, the Panel identified and carefully reviewed all documents relevant to the case that the Requesters, Bank staff, and other sources provided to the Panel. The Panel also analyzed other evidence gathered during the field visits or otherwise in its research, including scholarly literature.
37. This Report presents the results of the Panel's investigation regarding the issues the first Requesters raised in their submission to the Panel.

#### **D. Bank Operational Policies and Procedures Applicable to the Project**

38. With respect to this Project, the Panel assessed whether the Bank complied with the following Operational Policies and Procedures in the first Request:

OP 1.00	Poverty Reduction
OP/BP 4.12	Involuntary Resettlement
OMS 2.20	Project Appraisal
OP/BP 10.00	Investment Lending: Identification to Board Presentation
OP/BP 13.05	Project Supervision

#### **E. Project Context**

39. Albania has made significant progress since transitioning to a market-economy in the 1990s and in dealing with the civil unrest that followed the collapse of economic pyramid schemes in 1997. Still, with almost one fifth of the population falling below the poverty line, economic growth and poverty reduction efforts remain critical for Albania.<sup>18</sup> According to the recent Albania Country Assistance Strategy (CAS) report, challenges to development include high unemployment, regional disparities, weak governance, and maintaining high levels of economic growth.<sup>19</sup>
40. Since adopting a National Strategy for Social and Economic Development (NSSD) in 2001, Albania has made considerable efforts to promote inclusive development initiatives, facilitate private sector investments, and foster economic growth and poverty reduction.<sup>20</sup> With its unique natural and cultural assets, Albania has looked to the development of its tourism sector to achieve these integrated objectives and strengthen the country's governance, land use management, and environmental remediation efforts.

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<sup>18</sup> World Bank, Poverty Reduction and Economic Management Unit, Europe and Central Asia Region, "Albania Urban Growth, Migration and Poverty Reduction: A Poverty Assessment," December 3, 2007. p. 1.

<sup>19</sup> World Bank, "Albania Country Assistance Strategy," 2006 (hereinafter "CAS").

<sup>20</sup> CAS, p. 8.

## **1. History of Property Rights in Albania**

41. Since the fall of the dictatorship in 1990, Albania has been moving rapidly to mature into an economy that is open to the world and with free-market principles as its foundation. One of the activities, intended to propel the country towards a free-market, was the privatization of land and houses.<sup>21</sup> Prior to this, all land had been owned by the state, and enshrined in the 1976 Constitution.<sup>22</sup>
42. New laws were enacted in the early 1990s to enable the transfer of land and immovable property from the state to citizens. Scholars note that these laws had the effect of dividing collective farm lands and transferring these parcels to the families that had been using them, allowing residents to remain in their apartments or individual dwellings that had been their homes prior to the changes, as well as granting the rights to entities and businesses to own or lease urban land parcels.<sup>23</sup> Accordingly, these new laws brought about the legal concepts of ownership, leasehold and rights of use to the Albanian citizens.<sup>24</sup>
43. Analyses of the movement of people and land tenure indicate that some rural inhabitants moved away from their communities due to the lack of significant economic opportunities. The analyses also indicated that the transfer of title to land was done via customary principles, whereby parcels of land were informally subdivided and transferred. Many Albanians also migrated overseas and continue to send back money to improve the existing structures in which their families live.<sup>25</sup>
44. In the late 1990s, a new Constitution was enacted and saw a standardization of the property nomenclature and the granting of property rights. Property was defined as either private or public and the law applied uniformly to both. Provision was also made for the right to property and the proper acquisition thereof.<sup>26</sup>

## **2. Lack of Zoning, Land Use Planning, and Land Titling**

45. From 1991–1997, following the end of the previous regime and state imposed restrictions on migration within the country, Albania's landscape was changed rapidly by the massive internal migration of Albanians from the impoverished rural areas, mostly in the East, to more developed regions. At the time, land development and construction took place without appropriate land use

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<sup>21</sup> Harold Lemel, "Rural Land Privatisation and Distribution in Albania: Evidence from the Field." January 1998 (Europe-Asia Studies, Vol. 50, No. 1).

<sup>22</sup> World Bank, Tirana, "Status of Land Reform and Real Property Markets in Albania," 2006. p. 41.

<sup>23</sup> Harold Lemel, "Rural Land Privatisation and Distribution in Albania: Evidence from the Field." January 1998 (Europe-Asia Studies, Vol. 50, No. 1).

<sup>24</sup> World Bank, Tirana, "Status of Land Reform and Real Property Markets in Albania," 2006.

<sup>25</sup> World Bank, Tirana, "Status of Land Reform and Real Property Markets in Albania," 2006. p. 45.

<sup>26</sup> World Bank, Tirana, "Status of Land Reform and Real Property Markets in Albania," 2006. p. 45.

regulations and institutions. Indeed, “*in the absence of laws and regulations, the only way to develop land and build houses was to do it informally.*”<sup>27</sup>

46. While scholars note that this first phase in land development was critical in developing a market economy and a more efficient distribution of the population,<sup>28</sup> the lack of regulation to protect the environment and sites of cultural heritage and the increased strain put on already underfinanced infrastructure has had serious implications for sustainable development. Critical infrastructure cannot keep pace with the increasing demands of the population;<sup>29</sup> water supply and solid waste systems are “*strained beyond capacity.*”<sup>30</sup> In addition, without clear and recognized policies for land titling, many lack the economic and social security and opportunity provided by land tenure.
47. To facilitate sustainable development, efforts have been taken to design and implement zoning and land use management schemes and to provide titles to land. At the national level, the Government has passed legislation regarding city planning, environmental protection, the development of tourism zones, and the use of natural resources. The World Bank and other donor support have also aided land privatization, registration of ownership rights, and urban and coastal land use planning. However, these efforts have mostly been implemented “*in a piece-meal fashion,*” and challenges remain.<sup>31</sup> The preparation and implementation of land use plans and corresponding frameworks seems, inevitably, to lag behind the day-to-day changes to the physical landscape. Further, as the process of restitution and registration of properties is yet incomplete, land ownership remains contentious.
48. The continued lack of appropriate legal and institutional structures to manage land use management and outstanding restitution issues has contributed to the proliferation of informal settlements and illegal development across the country.<sup>32</sup>

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<sup>27</sup> Alain Bertaud, “Urban development in Albania: the success story of the informal sector,” June 28, 2006. p. 2. Available at [http://alain-bertaud.com/AB\\_Files/AB\\_Albania%20Urban%20informal%20Sector%20paper.pdf](http://alain-bertaud.com/AB_Files/AB_Albania%20Urban%20informal%20Sector%20paper.pdf) (last accessed on September 18, 2008), (hereinafter “Bertaud”), p. 2.

<sup>28</sup> Bertaud, p. 2.

<sup>29</sup> Committee on Environmental Policy, United Nations Economic Commission for Europe, “Environmental Performance Review: Albania,” 2002 (hereinafter “UNECE”), p. 136.

<sup>30</sup> UN Environment Programme, “Post-Conflict Environmental Assessment – Albania,” 2000. p. 14.

<sup>31</sup> CAS, p. 14.

<sup>32</sup> UNECE, p. 134.

### 3. Informal Settlements and Illegal Development

49. Studies report that informal settlements and illegal construction,<sup>33</sup> both by the poor and also by speculative land developers, are a challenge to sustainable development in Albania.<sup>34</sup> Lacking zoning, land use planning, and titling mechanisms and, at the same time, drawing the interest of Albanians and developers, coastal areas have been sites for such informal settlements and illegal construction. As explained in Project documents, *“While most of the new illegal buildings along the coast line are intended to provide accommodation for tourists, there is also a broad range of socio-economic profiles of the owners of the illegal structures, ranging from the extremely wealthy tourism developers, squatter landlords in public safety zones deriving rents from illegal areas, to the more legitimate poor and the vulnerable who are squatting on state land.”*<sup>35</sup>
50. To address this issue, the Government enacted the Law on Legalization and Urban Planning of Informal Zones in 2004.<sup>36</sup> The law provides for the procedure by which municipal and state agencies can legalize informal settlements. Though the law took effect in January 2005 and properties have been registered under its provisions, a recent World Bank report on the land reform and real property markets in Albania notes continued challenges to the implementation of this law and the legalization of properties, including outstanding restitution claims, the level and mode of payment for gaining land rights, and the technical work and institutional capacity required for reviewing and approving applications.<sup>37</sup>
51. Similarly, the 2006 Albania Country Assistance Strategy states that *“land and property registration has been particularly slow in valuable urban and coastal areas, resulting in tedious, costly, and time consuming transactions. Legal and administrative procedures for resolving ownership disputes are inadequate, contributing to a lack of secure and unambiguous property rights. The capacity of the Immovable Property Registration Service (IPRS) remains weak despite progress in reforming it since 1990. There also remains a serious problem in urban and coastal areas with illegal construction and dubious zoning practices.”* The report notes that these contribute to *“high transaction costs,*

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<sup>33</sup> According to a legal assessment conducted for the Bank and included in the PAD, “illegality” is defined as:

*when a land owner builds on his or her own land but fails to get building permission;  
when a person illegally occupies state land and constructs without permission; and  
when a person illegally occupies privately owned land and constructs without permission.*

See PAD, p. 27.

<sup>34</sup> UNECE, p. 133.

<sup>35</sup> PAD, pp. 27-28.

<sup>36</sup> Republic of Albania, Law no. 9304 of October 2004. The law took effect in January 2005.

<sup>37</sup> World Bank, Tirana, “Status of Land Reform and Real Property Markets in Albania,” 2006. Appendix 12.



*inefficient resource use, and a preponderance of informal land and property market*” as well as a “*major impediment to access to finance.*”<sup>38</sup>

52. In 2004, the National Council of Territory Adjustment placed a temporary freeze on the issuing of construction permits and the approval of urban planning studies in the southern coast until the completion and approval of the Regional Plan developed under the Project. As examples of the applicable territories, the Government’s Letter of Development Policy for the Project cites residential and tourist development land outside urbanized and serviced areas.<sup>39</sup>
53. Recognizing the pressures on land in the coastal area as well as Government efforts in the area, the PAD notes that the “*Demolition of illegal buildings*” and “*Land restitution and registration issues*” are “*Critical risks and possible controversial aspects*” of the Project.<sup>40</sup> The Government’s Letter of Development Policy for the Project makes reference to the decision to temporarily freeze construction permits,<sup>41</sup> a decision which is actively supported by the Project.

#### **4. Emerging Tourism Industry**

54. The transition to market economy has enabled the development of a tourism industry, which is bolstered by Albania’s rich natural and cultural heritage. The development of the coastal region for tourism has been recognized as an important opportunity for sustainable management of its natural resources and as a means to support economic development and poverty reduction in Albania.
55. The Government has taken steps to support tourism initiatives, particularly along the coast. According to a recent report, the National Strategy for Tourism that was developed and approved by the Albanian Government by the end of 2002 refers to the potential for the development of coastal tourist areas in compliance with internationally recognized sustainable development principles.<sup>42</sup> The southern coast in particular has been recognized as having the potential for “*high-end and carefully managed tourism combined with protection of the unique scenery and natural and cultural heritage of the area, as well as scope for the development of nautical tourism.*”<sup>43</sup>
56. However, despite recent efforts to promote the tourism industry and the increased focus of the Government, the development of potential tourist sites is limited by the lack of infrastructure, the outstanding land use and ownership

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<sup>38</sup> CAS, p. 14.

<sup>39</sup> PAD, Annex 12: Letter of Development Policy, April 21, 2005. p. 76.

<sup>40</sup> PAD, pp. 13-15.

<sup>41</sup> PAD, Annex 12: Letter of Development Policy, April 21, 2005. p. 76.

<sup>42</sup> “National Report on Current Policy, Procedures, Legal Basis and Practice of Marine Spatial Planning in Albania,” June, 2007. p. 13.

<sup>43</sup> PAD, p. 2.

issues, illegal construction, and environmental degradation,<sup>44</sup> including severely polluted “hot spots.”<sup>45</sup>

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<sup>44</sup> UNECE, pp. 133-134.

<sup>45</sup> UN Environment Programme, “Post-Conflict Environmental Assessment – Albania,” 2000.

## **Chapter Two**

### **Demolitions in Jale and the Project**

57. The present Request for Inspection comes from families along the southern Albanian coast whose homes have been demolished. The demolitions occurred on April 17, 2007, when a large force of Albania's Construction Police came from Tirana and Vlora to Jale and demolished about fifteen houses and other structures belonging to local resident families. The demolition process lasted five to six days. According to the families, the Construction Police, engaged in the demolitions, repeatedly indicated that the demolitions were related to the implementation of the Bank-financed Project.
58. This Chapter deals with two important issues: the linkages between the demolitions in Jale and the Project; and the application of the Bank's Involuntary Resettlement Policy to the Project.
59. After a brief description of the background and history of Jale, the Chapter first analyzes the design, preparation and appraisal of the Project, and reviews the question of whether the Bank complied with its Policy on Involuntary Resettlement. Management's decision on the application of this policy for the Project has a critical bearing on the Bank's views and actions relating to the Jale demolitions, which are at the core of the present Request. This Chapter will also include other design features of the Project that are relevant to the Panel's investigation.
60. This Chapter then includes a detailed analysis of the factual documentary evidence on specific linkages between the Project and demolitions in Jale.

#### **A. The Jale Community and its Demolition**

##### **1. Background and History**

61. The history and background of the Jale village community is not unlike those of many other small villages on Albania's coast, except that it has the good luck of being one of the most beautiful small bays of Albania's southern coast. Jale is not unique in its good locational fortune, and other villages have exposure to comparable beautiful bays. Yet there is a wide consensus that the Jale village is among the very best locations in Albania for tourism development.
62. Jale is a small coastal community. Administratively it is in fact a hamlet, "belonging" to a larger village named Vuno. The hamlet has been a residential area for centuries; during the past regime, it also accommodated a military unit for several years. Most of the hamlet's families have a long residence history. Some of the families, who are among the Requesters, claim to have lived in Jale for almost 300 years, inheriting and owning their lands and house plots from a

common family ancestor. The family land, passed on through generations has been divided and re-divided among heirs and through marriages, resulting in several house plots approximating each more or less 1/3 to 1/2 acre. These claims were confirmed to the Panel by other members of the village.

63. According to the Requesters, until 1990, the Jale families lived under conditions of dire poverty in old houses inherited from previous generations, because during the past regime means for house building were not available to rural families. As the Requesters described their family situation, they were “...*barely capable to fulfill basic needs for food*” and that they “*had very few resources left for improving [their] shelter*.”<sup>46</sup> In the 1990s, following the fall of the regime, some of the families’ younger members engaged in seasonal work in neighboring Greece, performing jobs better paid than in Albania. Investing remittances from their migrant workers abroad, almost all of the families became able to reconstruct the old houses and/or build new additional housing space for the grown, adult children within the boundaries of their privately owned lands.

## **2. Requester’s Attempts to Attain Construction Permits**

64. Most of the families applied for construction permits from the relevant authorities. The issuance of such permits has been delayed, however, because the area lacks the studies necessary for planning. The lack of urban planning is not unique to Jale but has characterized a large part of Albania. It is also widely recognized that if all the housing built by Albanian citizens without permits were to be demolished, a very large part of the country’s housing stock would have to be destroyed, which would include about half of the housing stock in the country’s capital.
65. Consequently, a law was adopted in 2006 “*On the legalisation, urbanisation and integration of illegal constructions*.”<sup>47</sup> Most of the Requesters applied to legalize their buildings under this new law. They claim that their applications were verified and registered by local authorities and copies of documents acknowledging submission were given to the applicants. The Requesters attached copies of such documents to the Request. They allege that subsequent phases of the legalization process continued slowly, with procrastinations and repeated delays of permits’ issuance. As a result, the Requesters indicate that they did not yet reach the point of obtaining a resolution on their application for legalization of their buildings before the demolitions took place.
66. The Requesters argue that Law 9482, mentioned above, includes a provision according to which construction without permits in priority areas for development of tourism must be classified as residential areas or informal

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<sup>46</sup>Interviews with Requesters.

<sup>47</sup>Republic of Albania, Law No. 9482, dated April 3, 2006.

territories within three months after the law was passed. The Requesters also cite Project documents, which, they claim, state that the Project will include capacity building for Government institutions and the judiciary, *inter alia*, to “develop criteria and procedures for the classification of illegal buildings and ensure transparency during demolition activities.” According to the Request, the village of Jale, which is in a tourist area, was not yet classified as a residential area or informal territory at the time of the demolitions. The Requesters claim that Government representatives indicated that the demolitions “were based on the law and were part of a bigger plan drafted by the World Bank for the Coastal Region of Albania.” The Requesters also claim that to date they have not received any “sound explanation” of why their village was “targeted” by the Project.

### 3. Project Objectives – Southern Coastal Development Plan (SCDP)

67. In 2004, the Bank started the preparation of a project that focused on the southern coastal zone of Albania, which includes Jale. According to the PAD, the Project aims to protect coastal natural resources and cultural assets and promote sustainable development and management of the Albanian coast. The 1995 Coastal Zone Management Plan was not implemented, but recognized that the southern coast has potential for high-end and carefully managed tourism combined with protection of the unique scenery and natural and cultural heritage of the area, as well as scope for the development of nautical tourism.<sup>48</sup>
68. The PAD cites a number of reasons for the present Project. These include unregulated development, illegal building throughout the coastal areas, and weak capacity to address the issues related to integrated coastal zone management. The PAD also notes that “the Government has been implementing an ongoing program to remove unauthorized encroachments from public spaces in many regions of the country, including the coastal zone.”<sup>49</sup>
69. The formulation of the Southern Coastal Development Plan (SCDP) is one of the main goals of the Project. According to the Management Response, under its original terms of reference, the SCDP intended to evaluate the capacity of land and existing infrastructure to support various land use purposes, such as tourism, urban, agriculture, forestry, pasture etc., forecast growth in each land use category for a period of 10 years, analyze impact on natural resources and infrastructure, identify most appropriate locations for various types of development, with an emphasis on tourism, and identify areas where certain developments should be forbidden or discouraged.<sup>50</sup>
70. According to Bank Management, the Project, which primarily aims to support sustainable coastal zone management, covers an area where illegal construction,

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<sup>48</sup> PAD, p. 2.

<sup>49</sup> PAD, p. 14.

<sup>50</sup> Management Response, ¶31.

by people with different socio-economic profiles ranging from speculative land developers to poor and vulnerable, are being carried out without the benefit of urban planning or adequate infrastructure; where there is an incomplete process of surveying, mapping and legal registration of immovable property; where there is a construction permit freeze (which is also supported by the Project); and where the Construction Police<sup>51</sup> have the powers to demolish illegal buildings, order suspension of civil works and issue fines.

71. According to Project documents, a moratorium on the issuing of construction permits had been instituted in the coastal area in January 2004 to freeze coastal development. The Project supported the freeze on construction permits and the Government committed to continue the freeze until the formulation and approval of SCDP in the Letter of Development Policy provided for the Project.<sup>52</sup>
72. Following the approval of the Project in June 2005, national elections took place on July 3, 2005, which led to change in Government. Many Government officials responsible for Project implementation, including the Project Coordinator of the PCU were changed by the new Government. The Government did not approve the draft SCDP prepared under the Project, terminated the consultants' contract, hired new consultants and initiated the preparation of a new SCDP.<sup>53</sup> **As a result, contrary to what was anticipated by the Bank Project team during the preparation of the Project, the formulation of SCDP faced considerable delays.**

#### 4. Demolitions in Jale

73. Two years after the approval of the Project and in the absence of any major demolition activity in the Project area, on April 3, 2007, the Requesters families received a formal notice from the Construction Police and the Ministry of

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<sup>51</sup> The Construction Police is the Government unit within the Ministry of Public Works, Transport, and Telecommunications (MPWTT) that is responsible for implementing the Government's ongoing demolition program.

<sup>52</sup> PAD, Annex 12: Letter of Development Policy, April 21, 2005, p. 76.

<sup>53</sup> According to Management Response, the formulation of the SCDP was initiated in the beginning of 2005 shortly after the signing of the Project Preparation Facility (PPF) for the Project. In February 2005 a consortium of consultants was selected to develop the SCDP. In October 2005, the consultants presented a comprehensive study of the southern coast, including recommendations for the draft SCDP. In July 2006, the consultants facilitated public consultations of the draft SCDP. In October 2006, the Government initiated termination of the contract with the consultant consortium due to inadequate content of the draft SCDP and the improper consultation process. In November 2006, the MPWTT initiated procurement process for selection of new consultants to assist in the formulation of the SCDP. According to Project documents from its February 2007 supervision mission, the Bank team noted that continued delays in the preparation of the SCDP *"are partly due to the termination of the contract with the Consortium ... and the lack of clear vision among stakeholders about what should be the content of the Plan."* On August 30, 2007, the contract with the new consultants for the preparation of the SCDP was signed. According to Management, the SCDP was approved by the National Land Use Planning Council on July 18, 2008, and as of the date of this Report it would be *"awaiting signature by the Prime Minister."*

Public Works, Transport and Telecommunications that a decision was made by authorities to demolish their houses and that the decision will be soon implemented. The targeted families were allowed only a very limited time (five days) to file an objection to the decision and to undertake legal action in courts. Only some families were able to do so in this short interval. Some of those who did succeeded in obtaining a preliminary hearing. According to the Requesters, court dates were scheduled for all cases as a result of the preliminary hearings. All court dates were scheduled for after April 17, 2007.

74. The Requesters add that while this was happening in the Jale village, the Construction Police in Tirana and Vlora were preparing to move heavy equipment to Jale and execute the announced demolition. The Construction Police did not wait for the Courts to examine the cases referred to by the Requesters to issue their decision, despite the fact that, according to the Requesters, the Construction Police itself was a party to each one of the cases submitted by Jale families and had to be present in Court and wait for the Courts' decisions before proceeding with any demolitions.
75. According to the Requesters, on April 16, 2007, a large force of the Tirana Construction Police, with support from Construction Police Units from other localities, started to move its heavy equipment to Jale. It traveled overnight and arrived in Jale very early around 4 a.m. on April 17, 2007. The Construction Police force consisted of a large contingent of police (estimates vary from 60 – 100 members in total, some in uniform, and others plain-clothed). Some witnesses indicate that the police force also included some members of the military.



**Picture 2: Picture received by Panel of demolitions in Jale**

76. Once in Jale the force started demolition right away. Very little time was given to the families to take their belongings out of the houses to be demolished. One family presented the Construction Police with its Court invitation and schedule, asking that its house not be demolished and thus create an irreversible *fait accompli* situation, before the Court had a chance to examine the case the

following day, April 18, 2007. The Construction Police refused and proceeded with demolition.

77. Some of the local authorities also opposed the action of the Construction Police. For instance, the Mayor of Himara confirmed to the Construction Police that papers requesting construction legalization had been submitted by the families and were under review. He asserted that any demolition would be therefore not justified. According to information given to the Inspection team, the Construction Police promised the Mayor of Himara to indeed postpone demolition. But immediately after his departure from the site, demolition restarted.

#### **Box 1: Reaction of Local Authorities to the Demolitions in Jale**

On April 26, 2007, Albania Daily News reported that the Head of Vloja Construction Police agreed with the Mayor of Himara to suspend demolitions in Jale.\* The same day, the Bank's Office in Tirana informed Bank Headquarters that they received copy of the letter from the Mayor of Himara Municipality. In his letter addressed to the Prime Minister, the Minister of Public Works, Transport and Telecommunications, and the Minister of Justice, and copied to the World Bank Office in Tirana, the Mayor asked for the *"suspension of violence exercised on the houses and families of Himara."* He noted that these ***"arbitrary actions of the construction police troops are taken because the World Bank will be investing in the area."*** He stated that the demolitions in Jale are in violation of the Law no. 9482, *"On the legalisation, urbanisation and integration of illegal constructions."* **Furthermore, he noted that 80% of the demolished houses and structures *"that have been submitted for legalization are in owner's land."*\*\***

\*Communication dated April 26, 2007, attaching the Albania Daily News, *"Accord Annuls demolition Operation in Himara."*

\*\* Letter dated April 20, 2007, from the Mayor of Himara Municipality addressed to the Prime Minister, the Minister of Public Works, Transport and Telecommunications, and the Minister of Justice, and copied to the Council of Europe, European Union, Ambassadors of United States, Germany and the Republic of Greece in Tirana, and the World Bank Office in Tirana.

78. The demolition process caused wrenching and painful scenes of opposition and resistance to demolition, but to no avail. People screamed and cried. According to the people present at the time in Jale, an official of the Construction Police said, *"you are crying now, but don't worry, you will be eating with a silver spoon soon, as this is a part of a big World Bank project. They will invest here and will take care of you."*<sup>54</sup>
79. The members of the affected families at that time in the village were, in their vast majority, old and frail, while their younger folks were away on jobs in Greece or elsewhere in Albania. The elderly inhabitants were not in a position

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<sup>54</sup> Panel field interview with Requesters.



to organize even the slightest resistance to the heavy demolition equipment. Demolitions continued uninterruptedly for five days.

80. On April 20, 2007, during the fourth day of the demolitions, at the request of the Bank, a technical specialist employed by the Project was sent to Jale to determine what was going on. He observed the demolitions, took some pictures, talked to some of the villagers. According to the Requesters, he also mentioned the Bank-financed Project, indicated to the affected people that they would be compensated, and asked about the approximate value of their damages. The people also urged him to request the Construction Police to stop the destructions. He declined to talk to the Construction Police and left the village,<sup>55</sup> and submitted a report to the PCU, which was shared with the Tirana office of the World Bank.
81. As the Panel learned subsequently, email messages and other news about the events had started to reach the Bank's Tirana office, with protests and requests for the Bank to step in and stop the "massacre of buildings." In the meantime, news about Jale had spread out widely through major Albanian newspapers and other publications, which began to report in detail about the Jale destructions.
82. Nonetheless, the demolitions continued unabated, uninfluenced by the public exposure and protests. The Construction Police completed its job after five days of uninterrupted demolitions.
83. What the Panel found on the ground, in the Jale village, after the intervention of the Construction Police was a totally ruined social community and a physically destroyed village. Several piles of ruins abutted the row of plots on which the buildings existed. The debris still left consisted of big chunks of destroyed concrete and bricks, a clear testimony that destroyed houses were solid buildings and not commercial kiosks or other facilities built overnight for speculative purposes. Virtually all plots were in the possession of, and were claimed to be owned, by their users.
84. The Panel observed that the destroyed houses do not seem to fit the description of what the Bank's PAD defined as "*unauthorized encroachments in public space*".<sup>56</sup> They were mostly located within seemingly privately-built boundaries (fences, pillars, etc.) which are still left standing, while the ruins of the demolished structures are inside these private boundaries. This indicates that, even according to the definition used in the PAD, those buildings could not be treated *prima facie* as "*encroachments in public space*" that are subject to demolition. Furthermore, the Panel observed that the buildings were not blocking "*public access to beaches*" one of the main reasons cited by

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<sup>55</sup>Request, p. 4.

<sup>56</sup>PAD, p. 15.

Management to justify the demolition drive, in view of the “*impending tourist season*”.<sup>57</sup>

85. A couple of weeks later, Management sent a fact finding mission during May 3-5, 2007 (hereinafter the “Fact Finding Mission”), “*to view affected sites along to coast and obtain first-hand impressions...*”<sup>58</sup> The Fact Finding Mission, however, “*chose not to talk with the local community in Jal... at that time*”,<sup>59</sup> in spite of increasing allegations of Bank’s involvement. Section D.5 of this Chapter analyzes in detail the Fact Finding Mission.

## **B. The Request and Management Response**

86. When the demolitions began, one of the families contacted their daughter, a PhD student abroad, to describe the events that were taking place in Jale, noting that authorities had indicated that the demolitions were part of a World Bank project. Beginning on April 23, 2007, their daughter sent a detailed letter in several emails to the World Bank Albania Country office to “*inquire if they were aware of the mass destructions and violations of human rights that were taking place in the village of Jali as well as the allegations that these events were associated with one of their projects*”.<sup>60</sup> She received no response from the Country Office.<sup>61</sup> This letter was also faxed to the Department of Institutional Integrity, and efforts were made to contact the Bank Feedback Office. The Legal Help Desk and the Department of Institutional Integrity redirected her letter to the Inspection Panel. The Request for Inspection was registered on July 30, 2007.<sup>62</sup>

### **1. The Request**

#### **(a) Bank Policies Not Followed**

87. The Requesters’ base their specific complaints on provisions of the following Bank policies, listed in the complaint letter, which they deem that the Bank and the Project have violated:

“OP 1.00    *Poverty Reduction...*  
OP 13.05   *Project Supervision...*  
OP 13.60   *Monitoring and Evaluation*”<sup>63</sup>

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<sup>57</sup> Management Response, ¶28.

<sup>58</sup> Management Response, Annex 1, p. 22.

<sup>59</sup> Management explained its decision not to talk to the people in Jale “*in order to avoid creating any misunderstandings, raising unrealistic expectations... and/or reinforcing perceptions that there was a linkage between the demolitions and the Project.*” Management Response, Annex 1, p. 22.

<sup>60</sup> Request, p. 10.

<sup>61</sup> Management acknowledges that “*a direct response to her was never issued by the Bank.*” Management Response, Annex 1, p. 22.

<sup>62</sup> Request, p. 10.

<sup>63</sup> Request, pp. 9-10.

## Box 2: Families in Jale

### Family A

Family A has lived in Jale for at least 300 years. The father was born in Jale in 1938. He had been a medical doctor for 40 years and had worked as a doctor throughout Albania. His wife had worked as an elementary school teacher for 25 years. His mother and grandmother were living in the house in Jale. The father and his family - his wife and three children – built three small family houses, from 2000 to 2003, in Jale, village of Vuno, in Himara, Albania, following years of hard work in immigration in Greece. These three small houses were built next to the existing house and the old house of his mother. They constructed the houses in a plot of pasture land of 5.7 hectares inherited from his mother. This land\* belonged to the family for generations: his mother inherited it from her own mother. This property was never registered because before 1946 no cadastral registries were in place. However, after the land was bequeathed to the father, upon his request and based on witness testimony of people living in adjacent properties, the Court of the Judicial District of Vlore verified the original owner's ownership rights over the property; verified that his mother, was the only legal heir to the land, and recognized his inherited property rights. Such recognition had also been previously granted by the Council of Elders in the village of Vuno and the Municipal Council of Himara.

The houses were built for three adult children next to the parents' residence, without building permits because no regional urban planning regulations were in force at the time of construction. The house was not under construction at the time of its demolition, it long pre-existed the project, and the demolition. The land owners had requested building permits, but were told that permits were not available in areas lacking an urban plan. The authorities told him that he may build in his land, above or close to existing houses, the only penalty might be a fine for building a house without a permit. The authorities added that if there will eventually be a plan or study for the area, and the house does not conform with the plan, then the house may be removed or reconstructed to adjust to the plan. Though the lack of an urban plan is not unique to the village of Jale but rather is common to much of Albania, the family had lost confidence that an urban plan could be approved for Jale because the village is a small and isolated one, lacking even basic services such as fresh water. Nevertheless, in 2006 the Government finally passed a law (Law 9482 "On the legalisation, urbanisation and integration of illegal constructions") that allowed the family and other families of Jale to apply for building permits. They did so and received confirmation of their applications by local authorities. While waiting for the building permit, on April 3, 2007 the family received the first and only notice ordering them to demolish their buildings by April 8 (for lack of permits), or else the Construction Police would demolish them the day after, on April 9. The family filed a complaint against the demolition with the proper authorities but only a few days later, on April 17, before the scheduled Court hearing could take place, the Construction Police started demolishing their houses: the first ones in Jale to be destroyed.

\*1160 m<sup>2</sup> planted with olive trees, 1125 m<sup>2</sup> unusable land and plus addition 100 m<sup>2</sup>

Source: Statements by Requesters and other residents in Jale.

88. The Requesters criticized both the Bank and Albania's authorities. They primarily insist that the Bank-financed Project made possible the selective Jale demolitions carried out by the Albanian authorities. The central point throughout the complaint is that the Bank has encouraged, and was instrumental, in causing the Jale demolitions to happen and that the demolitions were explained by the Construction Police to the Requesters as being carried out to achieve the same objectives as those pursued by the Bank-financed Project itself. They state that the

demolitions were part of a bigger plan drafted by the World Bank for the Coastal Region of Albania:

*“We later learned from the media and onsite managers of the project that the demolitions was a result of executing the Southern Coastal Development Plan of the World Bank for the area.”<sup>64</sup>*



**Picture 3: Picture provided to Panel of Requesters' property before the demolitions**



**Picture 4: Requesters' property after the demolitions**

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<sup>64</sup> Request, p. 3.

### **(b) Loss of Shelter and Impoverishment**

89. The Requesters further assert that the demolitions have resulted in the loss of livelihood and that the Bank-financed Project should be expected to cause them benefits, not the loss of their houses. The Requesters claim that the Project is aimed at enhancing community-driven tourism development along the coastal areas. However, they state that *“by overnight destroying all of the community assets, the project provides no insights on how it intends to support community-driven tourism activities, or which channels would the community follow to support itself during the project implementation phase.”*
90. The Requesters state that their assets were illegitimately and brutally destroyed, that their right to access and use their own assets and sources of livelihood is unjustly and illegally prohibited and that they are directly impoverished by the Bank’s failures and policy violations:

*“A large part of the village of Jali was fully destroyed as a result of failure and/or oversights of the World Bank project managers and government implementing agencies to take into consideration legal rights as well as the well being of our community. The Bank’s policy to oversee the project and ensure that the government was committed to allowing adequate provisions to mitigate impoverishment risks to the poor was clearly violated.”<sup>65</sup>*

91. The Requesters’ submission describes examples of alleged brutality and physical violence exercised against the villagers, and provides numerous pictures documenting the demolitions and the ruined village and community left behind.
92. According to the Request, the Project also provides for increasing access to basic services and improving the quality of life and attractiveness of the coastal area of Albania. The Requesters claim that the demolitions not only destroyed their houses, but they also destroyed existing sewage structures, roads and other constructions, and centuries-old trees in the area. In addition, following the demolitions, waste covered the valley of Jale for weeks, making the place dangerous, especially for children.

### **(c) Failure of Oversight**

93. The Request also states that the Bank staff failed to protect them from the negative impacts of the Project; in addition, that the Bank’s stated policy to reduce poverty and the risks of impoverishment was violated as well. They state:

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<sup>65</sup> Request, p. 6.

*“We have suffered greatly as a direct consequence of the World Bank’s failures and/or oversights in the Integrated Coastal Zone Management and Clean-up Project (ICZMCP)... in the village of Jale in Albania.”*<sup>66</sup>

*“[The Project] has violated our rights to shelter and adequate housing and the right to a fair trial... Project managers have acted with a lack of transparency with the local community in presenting any kind of planning or any steps necessary to comply with the plan for the area”*<sup>67</sup>

94. According to the Request, the Project Information Document indicates that the Project is to prepare a “SEA [Strategic Environmental Assessment] for the Southern Coastal Area both as a planning tool at local level and as a vehicle for community involvement in decision-making process.” However, the Requesters emphasize that their community was not provided with any information regarding Project works, and was “never consulted, asked or informed about any components of the Project.”

#### **(d) Physical Displacement**

95. The Requesters state that the demolitions caused the physical displacement of some families left without shelter:

*“The implementation of this project resulted in the displacement of a small number of families from their permanent year round residences...”*<sup>68</sup>

#### **(e) Selective, Discriminatory Demolitions**

96. The Requesters also state that the Construction Police targeted the Jale selectively, with no clear justification given for why Jale and not many other localities, equally comprised of buildings awaiting the completion of permit formalities, were not targeted. They also exemplify biased selectivity by that even within Jale some buildings without permit were not touched.
97. Further during the interviews with the Panel team, the Requesters claim that no demolition of this scale has been carried out in many years in the southern coast of Albania. The Requesters claim that while a large percentage of buildings that have been built in Albania are without permit, demolishing them would mean demolishing a very large part of the new urban Albania. They claim that, therefore demolitions are in fact very few and far between despite official accounts and Bank allegations about their number.

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<sup>66</sup> Request, p. 1.

<sup>67</sup> Request, p. 4.

<sup>68</sup> Request, p. 4.

### **Box 3: Some Other Families in Jale**

#### **Family B**

Family B lived in Jale since 1965. Widow of an employee of the army base in Jale, the mother decided to stay in the village and raise there her six children after the death of her husband. She and her family lived in a house that was originally provided by the army. Later in the years she added one floor to the one-story house and filed for the legalization of the second floor with the Municipality of Himara. On April 17, the Construction Police destroyed the second additional floor. The house's first floor was spared, but left in unacceptable conditions; when it rains for example, water seeps through the place where she lives.

In the front yard of her house, where her son was born, her son built a two-story extension to his mother's house, inside the boundaries of the family's own private plot. He completed the first floor but postponed the completion of the second floor, and also applied for the house legalization at the Municipality of Himara. On April 17, the Construction Policy demolished his house as well.

#### **Family C**

The head of Family C inherited his one-story house in Jale from his mother. Returning to his village in Albania ten years after emigrating to find work, he reconstructed the house he inherited, which is registered in the proper city registry, and built two additional floors. Like many others who made improvements to their houses, he could not ask for a building permit because of lack of urban planning regulations and procedures. In 2006, he applied for legalization of his house to the Municipality of Himara, following the approval of legislation for the legalization of constructions built without permit. His application was verified and registered. However, halfway in the legalization process, on April 17, 2007, his house was demolished by the Construction Police. He never received any notification of demolition, prior or after his house was torn down.

#### **Family D**

After ten years working in Greece, the son of Family D returned to Albania to his original town Jale. He and his parents built a restaurant-hotel in Jale. Started in 1998, the construction of the hotel finished in 2000. Unlike others, Family D was later able to obtain a building permit from the Council of Territorial Adjustment, understood to be the competent authority. In 2004 the Construction Police ordered the demolition of the building, but the order was reversed upon presentation of the permit documents. Nevertheless, on April 17, 2007, like all other buildings, their structure was without explanation demolished by the Police, along with everything surrounding the building.

Source: Statements by Requesters and other residents in Jale.

98. During the field inspection the Requesters pointed out that this discriminatory, selective demolition was guided by ulterior motives. They elaborated on their complaint by alleging misconduct among the interested officials who are behind the selection of Jale for demolition, in order to prepare space for a tourist company interested in developing a tourist village at the Jale site.



## **(f) Allegations of Corruption and Misuse of Bank Funds**

99. The Requesters' written complaint also alleges corruption, as well as misuse of Bank funds. They state that their demolition is caused by "*corrupt government officials*."<sup>69</sup> The Request urges the Bank to monitor these violations by such corrupt officials, as well as the "misuse" of Bank funds, and state that it is "imperative" for the Bank to "investigate" the misuse of Project finances:

*"It is our understanding that World Bank projects ought to be monitored and not allow violations of this magnitude from corrupt government officials. We expect the World Bank to take responsibility and recognize that recommendations for the demolition of our village were inconsiderate, extreme, and inhumane. We also feel it is imperative that the World Bank investigate this initiative and the misuse of World Bank and other donor funds (which are being used for the exact opposite of their initial intention) in order to remedy these injustices and stop any further rights violations"*<sup>70</sup>



**Picture 5: Panel team meeting with Requesters**

## **2. Management's Response**

### **(a) Project Background**

100. The Response states that Albania's coastal zone is one of the country's most valuable assets due to its natural beauty, high biodiversity and rich cultural heritage. It further states that, given the significant amount of untouched coastal

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<sup>69</sup> Request, pp. 7-8.

<sup>70</sup> Request, p. 7.



areas, Albania has a unique opportunity to conserve and develop its coastline in a sustainable manner. Furthermore, the Response states that integrated coastal zone management (ICZM) is “*key to the sustainable development of both tourism and trade, promising pillars to support the country’s long-term economic growth.*”<sup>71</sup>

101. Management acknowledges that the illegal construction and settlements along the coastline by the urban poor and land developers are a serious problem in Albania.<sup>72</sup> The transition to a market economy has seen the widespread increase in the movement of the population with significant changes in the land-use patterns along the coast.
102. The Response also acknowledges that the unregulated development and inadequate infrastructure, as well as poor governance, lack of planning and enforcement of zoning and building permits, can pose a serious threat to the environment, while seriously endangering the sustainable development of Albania’s coastline.
103. The Response indicates that Government of Albania began an ICZM planning initiative with the aid of, *inter alia*, the World Bank in the 1990s. The resulting 1995 Coastal Zone Management Plan (CZMP) provided a useful conservation and development framework for the coastal zones. However, Management acknowledges that the zoning of the CZMP was too broad for the authorities to use and the political instability was a contributing factor for its difficulty in implementation. Management states that the Government has realized that the protection of the coastal zones is important for the future of Albania, and they realize the urgency of strengthening their regulatory framework for coastal zone management.
104. Management states that the overall implementation of the Project is “*moderately satisfactory.*”<sup>73</sup> While some parts of the Project are showing good progress, the preparation of the SCDP has been delayed substantially, and the Coastal Village Conservation and Development Program is showing less progress than is required.

#### **(b) Linkages to the Bank Project**

105. Contrary to the Requesters’ complaint, Management categorically asserts the absence of any linkage between the Project and the demolitions. Management states that the demolitions were not linked to the Project either “*directly or indirectly.*” Management adds that the demolitions were in accordance with a Government program, pursuant to national law, that had been ongoing since

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<sup>71</sup> Management Response, ¶8.

<sup>72</sup> Management Response, ¶11.

<sup>73</sup> Management Response, ¶25.

2001. Furthermore, Management states that the demolitions were not carried out as part of or due to the SCDP since that Plan is yet to be prepared.

### **(b) Application of the Bank's Policy on Involuntary Resettlement**

106. Management Response states that the Policy applies only for possible land acquisition for the purpose of enabling specific infrastructure investments following the adoption of the SCDP. Management notes that an Environmental and Social Safeguards Framework (ESSF) was prepared for this purpose. Management Response indicates that the Policy does not apply to ongoing demolitions in the Project area or to the demolitions that might result from regional zoning requirements with the implementation of the SCDP.
107. The Response states that the Bank undertook a review of the Government's demolition program. The Response states that the review indicated that: *“(i) the Government's program is aimed at enforcing existing land-use regulations in the country and follows the due process established under Albanian laws and regulations; (ii) the process does not target removing encroachments from specific locations for the purpose of promoting investments; (iii) the process predates the Bank's involvement in the Project; and (iv) the process is likely to continue regardless of the Bank's involvement in the Project.”*<sup>74</sup> As a consequence, Management states that the findings indicate that there is no violation of paragraph 4 of OP 4.12 and therefore the demolitions are unrelated to the Bank's financing of the Project.

### **(c) The Bank's Response to Demolitions in Jale**

108. In addition, the Management Response states that,

*“Concerned by the allegation made regarding the demolitions, a Bank fact-finding mission went to the Project area in early May 2007... The team subsequently determined that there was no link between the Project and the demolitions...Demolitions were not... caused by or linked to the Project...”*<sup>75</sup>

109. In addition, the Management Response acknowledges the Fact Finding Mission's concern with the social impact of the demolitions and includes the recommendations made by the Mission to the Government to mitigate the negative impacts. These include a) defining transparent criteria for identifying illegal buildings for demolition, b) defining eligibility criteria for assistance, c) defining a package of assistance, and d) public outreach and dissemination efforts.<sup>76</sup> In addition, Management advised the Government to put on hold

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<sup>74</sup> Management Response, ¶40.

<sup>75</sup> Management Response, Annex 1, p. 17.

<sup>76</sup> Management Response, ¶50.

future plans for demolitions until these criteria are developed and agreed with the Bank.

110. The Management Response does not accept the allegation of misuse of Bank funds for the demolition. It states, *“Bank funds were not utilized for the demolitions.”*<sup>77</sup>

#### **(d) Legal Issues**

111. Management declined to comment on the violations of Requesters legal rights because in its view, they are not related to application of Bank policies. It states:

*“The legal issues raised by the Requesters do not pertain to the application of the Bank’s policies and the Bank cannot comment on the Government’s application of its national laws outside the scope of the Project.”*<sup>78</sup>

112. Nevertheless, further in its Response, Management acknowledges that the relevant country laws and their application need improvements:

*“The Bank made suggestions and offered technical assistance to improve the legal and regulatory framework and offered capacity building to the responsible institutions, including the Construction Police.”*<sup>79</sup>

113. The Management Response does not explicitly respond to the other complaints, such as those regarding corruption, the physical displacement of families, and the Bank’s failure of oversight.

#### **C. Project Design: Application of OP/BP 4.12 on Involuntary Resettlement**

114. In its Response to the Request, Bank Management indicates that during the design stage of the Project, Management considered three possible grounds for the application of the Bank’s Policy on Involuntary Resettlement, OP/BP 4.12. These were for: (1) ongoing demolitions in the Project area; (2) regional zoning requirements related to the implementation of the SCDP; and (3) infrastructure investments following the adoption of the SCDP.<sup>80</sup>

115. Management determined that OP 4.12 applies only to the third of the above noted possible grounds, i.e., possible land acquisition for the purpose of enabling infrastructure investments in the Project area, following the adoption of the SCDP. With respect to ongoing demolitions (item (1) above), Management contended that there is no linkage between the demolitions

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<sup>77</sup> Management Response, Annex 1, p. 17.

<sup>78</sup> Management Response, Annex 1, p. 20.

<sup>79</sup> Management Response, Annex 1, p. 20.

<sup>80</sup> Management Response, ¶39.

conducted under the Government's ongoing program of encroachment removal and the Bank-financed Project. With respect to the displacement that might result from the regional zoning requirements related to the implementation of the SCDP (item (2) above), Management concluded that the OP 4.12 is not applicable, but criteria and procedures would be developed for the affected vulnerable people.

116. In this section the Panel analyzes Management decisions on the application of the Bank's Policy on Involuntary Resettlement to the Project. The analysis identifies not only significant shortcomings in safeguarding the Project against the critical risk of demolitions in the Project area, but also factual misrepresentation regarding the measures reported to be in place to protect against this risk.

### **1. Ongoing Demolitions in the Project Area**

117. Although identified as a key Project risk in the PAD, Management concluded that OP 4.12 is not applicable to the ongoing Government demolition program on the contention that there is no linkage between the Government's program and the Bank-financed Project.
118. The Panel found that Management's contention is not justified. The Panel considers that the main causes of the problems under review are largely, although not exclusively: Management's failure to apply the Bank Policy on Involuntary Resettlement to ongoing demolitions in the Project area; incorrect information included in the PAD; and non-compliance with Bank Policy on Supervision during Project implementation in response to demolitions in Jale.
119. The Panel further found that these failures, and other related problems that arose during Project design and implementation, had major consequences for the Requesters whose homes have been demolished. These issues are addressed in the discussion below

#### **(a) OP/BP 4.12 on Involuntary Resettlement**

120. **Basic Objectives.** OP 4.12 highlights that involuntary resettlement under development projects, if unmitigated, leads to impoverishment, loss of sources of income, and a wide range of other severe economic, social, and environmental impacts. To avoid displacement-induced impoverishment, the Policy sets three major objectives:

*“(a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs. [footnote omitted]*

*(b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons [footnote omitted] should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.*

*(c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher. [footnote omitted]”<sup>81</sup>*

121. **Loss of Shelter.** Housing demolition is the epitome of displacement. It is addressed as a key issue in the Bank’s OP/BP 4.12 as “loss of shelter”, and many provisions indicate what the Bank should do when such loss of housing occurs.
122. Development often requires that houses be lost and rebuilt. Development projects may entail the expropriation of houses and population displacement. Under its involuntary resettlement policy, the Bank is required to ensure that: (i) first, every avoidable displacement and house condemnation is indeed avoided, and that the displacement is minimized as much as possible; (ii) second, the lost housing is compensated to the affected people at full replacement cost; and (iii) third, compensation for lost houses is paid before the demolition of the old house, so that the affected population is not left homeless, uncompensated, and with its rights and welfare deeply affected. This enables the affected family to use the alternative housing provided by the project or obtain its new house in time.
123. **Coverage.** Paragraph 3 of OP 4.12 indicates that the Policy covers direct economic and social impacts that result from Bank-assisted investment projects and are caused by, *inter alia*, the involuntary taking of land resulting in: relocation or loss of shelter; the loss of assets or access to assets; or the loss of income sources or means of livelihood, whether or not the affected persons must move to another location.<sup>82</sup> According to the Policy, land includes anything permanently affixed to it, such as buildings and crops.<sup>83</sup> Of particular relevance to the Project at hand is the clear reference of the Policy to “*loss of shelter*”, then “*loss of assets or access to assets*” and “*loss of income sources or means of livelihood*”.

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<sup>81</sup> OP 4.12, ¶2.

<sup>82</sup> OP/BP 4.12, ¶3

<sup>83</sup> OP/BP 4.12, footnote 8.

124. A footnote to paragraph 3 further states as follows “...*this policy does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc.*”<sup>84</sup> The applicability of this footnote is addressed further below.
125. Paragraph 4 of OP/BP 4.12 further indicates that the Policy applies not only to activities included in the Bank-financed project itself but also to “*other activities... that in the judgment of the Bank are:*
- a) *directly and significantly related to the Bank assisted project;*
  - b) *necessary to achieve its objectives as set forth in the project documents; and*
  - c) *carried out, or planned to be carried out, contemporaneously with the project.*”<sup>85</sup>
126. As can be seen by these provisions, the Policy covers not only the negative impact of displacement activities which result from the project, but also activities that are directly and significantly related to the project and are necessary to achieve its objectives as set forth in the project documents, and thus are furthering the attaining of the project’s objectives. Such activities may not necessarily be planned by the project itself but might be carried out by the borrower on its own, by his own resources “*contemporaneously with the project.*”<sup>86</sup>
127. **Eligibility.** It is important to note that the policy coverage is not limited to those with formal legal rights to land. Specifically, the Policy covers three groups of displaced persons. These are: (a) those who have formal legal rights to land; (b) those who do not have formal legal rights, but have a claim to land or assets that is recognized under the laws of the country or becomes recognized through a process under a resettlement plan; and (c) those who have no recognizable legal right or claim to the land that they are occupying.<sup>87</sup>
128. Persons in the first two groups receive compensation for their land and other assets they lose, and other assistance as specified in paragraph 6 of the Policy.<sup>88</sup> Persons in the third category are provided “*resettlement assistance in lieu of compensation for the land they occupy, and other assistance as necessary to achieve the objectives set out in this policy, if they occupy the Project area prior*

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<sup>84</sup> OP/BP 4.12, footnote 8.

<sup>85</sup> OP/BP 4.12, ¶4

<sup>86</sup> OP/BP 4.12, ¶4.

<sup>87</sup> OP 4.12, ¶15 (c)

<sup>88</sup> OP 4.12, ¶16.

to a cut-off date, established by the Borrower and acceptable to the Bank.”<sup>89</sup> The Policy further provides that persons who “encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance.”<sup>90</sup> Under the Policy, such resettlement assistance may consist of “land, other assets, cash, employment, and so on, as appropriate.”<sup>91</sup>



Picture 6: A Requester in front of her demolished property

#### **(b) Management Decision Not to Apply the Policy to Ongoing Demolitions in the Project Area**

129. Project documents offer the following explanation for the decision not to trigger the Bank’s Policy on Involuntary Resettlement for demolitions or removals of structures on the Project area.

*“Since the process of identifying and removing unauthorized encroachments in public space following the due process established under the Albanian laws and regulations predates the Bank’s involvement in the Project, and is aimed at promoting improved enforcement of existing land-use regulations in Albania, the removal of such encroachments is not subject to the World Bank’s Policy on Involuntary Resettlement. While some of the affected people would lose their structures and access to land as a result of encroachment removal, this neither “result directly from the Bank-supported Project” nor is such removal tantamount to “taking the land”. Therefore, the likely*

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<sup>89</sup> OP 4.12, ¶16. A footnote to this provision indicates that normally the “cut-of date” is the date that the census begins, but could also be the date which the project was delineated, prior to the census, in certain situations. See footnote 21.

<sup>90</sup> OP 4.12, ¶16

<sup>91</sup> OP 4.12, footnote 20.

*impacts on a section of the affected population do not meet the criteria necessary to trigger the Bank's resettlement policy.”<sup>92</sup>*

130. According to the PAD, the issue of demolition of illegal buildings “*is certainly distinct from land acquisition required for specific infrastructure investments in the southern coast that follow the SCDP, which may or may not be financed by the Bank.*” For these investments, the PAD states that the Government has committed to adopting a Resettlement Policy Framework “*that reflects the principles of the World Bank Policy on Involuntary Resettlement*”<sup>93</sup> to deal with expropriation of land for infrastructure investments.
131. The Management Response to the Request also indicates that in preparing the Project, Management commissioned an independent assessment of the law and its implementation with respect to the Government's encroachment removal program. According to the Response, the assessment clarified that the Government's program to demolish unauthorized structures started in 2001 and covers areas in Tirana, Durrës, Shkodra and Korça, as well as coastal areas in Himara and Saranda.<sup>94</sup> The assessment includes the following findings:

*“(i) the Government's program is aimed at enforcing existing land-use regulations in the country and follows the due process established under Albanian laws and regulations; (ii) the process does not target removing encroachments from specific locations for the purpose of promoting investments; (iii) the process predates the Bank's involvement in the Project; and (iv) the process is likely to continue regardless of the Bank's involvement in the Project.”<sup>95</sup>*

132. The Management Response states that on this basis, “*the Bank team determined that there is **no linkage**, as defined in paragraph 4 of OP 4.12 [footnote omitted] between any demolitions conducted under the Government's ongoing program of encroachment removal (including those identified in the Request) and the Bank supported Project*” (emphasis added).<sup>96</sup> As a result, according to the Response, **Management determined that the Government's program to demolish illegal buildings is neither related to Bank financed investments and/or the SCDP developed under the Project, and thus not subject to the Bank Policy on Involuntary Resettlement.**
133. Lastly, and as discussed in more detail below, the PAD stated that an agreement had been reached with the Government that no further demolitions would occur until criteria and procedures for identifying and assisting vulnerable affected people are in place. In the absence of applying the Policy to such demolitions,

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<sup>92</sup> PAD, p. 15.

<sup>93</sup> PAD, p. 22.

<sup>94</sup> PAD, p. 27.

<sup>95</sup> Management Response, ¶40.

<sup>96</sup> Management Response, ¶41.



this agreement was presented as a safeguard for the Project against the critical risk of demolitions in the Project area, identified in the PAD.<sup>97</sup>

### **(c) Panel's Analysis of the Management Decision**

134. As described above, a central reason given by Bank Management for not triggering the Policy on Involuntary Resettlement for the demolitions is the contention that there is no linkage between the Project and the ongoing demolition program. The Panel analyzed the application of the Bank's Policy to the ongoing demolitions in the Project area first in relation to the overall design and objectives of the Project. Later in this Report, the Panel reviews additional specific factual evidence that relates the demolitions in Jale to the Project.
135. As indicated in Project documents, during the design phase of the Project, the Bank viewed illegal construction as one of the main problems in the management of southern zone and in promoting high-end tourism development. **The PAD recognizes that the “key objectives of this campaign – to vacate public lands that may have been illegally occupied – are consistent with the objectives of the land-use planning activities supported under the Project.”** (emphasis added)<sup>98</sup>
136. Nevertheless, in stark contrast with the statement above, Management determined that there is “no linkage” between Government's demolition program and the objectives of the Project, as provided in paragraph 4 of OP 4.12.<sup>99</sup> After being confronted by the demolitions in Jale, Management went so far as to state categorically that “the demolitions were not linked to the Project directly or indirectly.”<sup>100</sup>
137. The Panel is surprised about this line of reasoning. The Government's demolition programs aim to enforce land-use requirements, and the very purpose of the Project is to promote sustainable development and management of the coastal zone, including through land-use planning measures and requirements and their enforcement.
138. Accordingly, the Panel finds that the kind of encroachment removal that the Government intends to carry out in the area covered by the Bank assisted Project clearly falls within the three categories stated in paragraph 4 of the Bank's Policy. These activities are directly and significantly related to the Bank-assisted Project, even if they are not included as such among the activities to be directly financed under the Project and a demolition program predates the Project's approval. In particular, they aim to achieve objectives which are declared to be the same as the objectives pursued by the Project itself

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<sup>97</sup> PAD, p. 15.

<sup>98</sup> PAD, p. 15.

<sup>99</sup> Management Response, ¶41.

<sup>100</sup> Management Response, ¶28.

-- the sustainable development and proper use of the coastal zone. As such, the activities are necessarily part of actions to achieve these objectives. Lastly, these activities are planned and carried out contemporaneously with the Project, within the meaning of paragraph 4 of OP 4.12.

139. Furthermore, during its investigation the Panel uncovered additional evidence indicating a strong and direct connection between the Project and the demolitions in Jale, including communications between the Project Coordination Unit and the Construction Police which carried out the demolitions in question. This additional evidence is described later in this Chapter.
140. The Panel is surprised to read Management's statement in the PAD that "[w]hile some of the affected people would lose their structures and access to land as a result of encroachment removal, this neither 'result directly from the Bank-supported project' **nor is such removal tantamount to 'taking the land'**" (emphasis added).<sup>101</sup> The Panel notes that by its clear terms, the Bank Policy states that **land "includes anything growing on or permanently affixed to land, such as buildings and crops."**<sup>102</sup>
141. **The Panel notes that Management's decision not to apply the Policy, as stated in the PAD, is in conflict with the provisions of the Policy, and relates to the view that demolitions of houses are not a 'taking of land.'** This faulty approach seems to be another reason behind Management's decision not to apply OP/BP 4.12 to the Project.

#### (d) Claimed "Agreement" to Suspend Demolitions

142. In the PAD, Management identifies the "[d]emolitions of illegal buildings" as among the "[c]ritical risks and possible controversial aspects" of the Project (emphasis added).<sup>103</sup> The PAD stated that the Government had made an important commitment to suspend demolitions until criteria and procedures were developed to assist the vulnerable affected people. Specifically, the PAD states:

*"The Government has agreed that further encroachment removal will take place only after the criteria and procedures for identifying and assisting such vulnerable affected people are in place."*<sup>104</sup>

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<sup>101</sup> PAD, p. 15.

<sup>102</sup> OP/BP 4.12, footnote 8.

<sup>103</sup> The section of the PAD devoted to "critical risks and possible controversial aspects", however, ranked other lesser risks as either substantial or modest, but avoided giving any ranking to the risks of demolitions treated in the same section.

<sup>104</sup> PAD, p. 15.

143. **In the absence of applying the Bank Policy on Involuntary Resettlement, this claimed “agreement” gave the impression that a safeguard was in place to protect potentially affected people and the Bank against the critical Project risk of demolitions.**
144. During its investigation, it came as a big surprise to the Panel to uncover an unexpected yet very serious finding. **Specifically the Panel learned that the Government had not made such a commitment and had not agreed with what the PAD was stating. The crucial statement quoted above turned out to be unfounded and incorrect.**
145. The Panel also found that during the presentation of the Project for Board approval, Management was aware that the PAD statement quoted above was not correct. **Nevertheless, even during the Board Meeting, Management did not inform the Board about this fact, although Executive Directors indicated that they welcomed the existence of this agreement.**<sup>105</sup> To date, Management has not provided the Panel with an adequate explanation about this matter and how it evolved over time.
146. This distorted the reality and caused confusions even among Bank staff involved in implementation. The Fact Finding Mission that took place a couple of weeks after the demolitions in Jale “*raises the concern of lack of conformity with Government commitment*” to suspend demolitions in the Project area.<sup>106</sup> However, when describing the results of this Fact Finding Mission, the Management Response does not refer to the Government’s alleged commitment to suspend demolitions, but states that “*the Bank advised the Government to put on hold future plans for further demolition...*”<sup>107</sup> Later, during the eligibility visit, Management informed the Panel team that the statement in the PAD regarding the Government’s agreement to suspend demolitions was a mistake and that the commitment did not exist.
147. The Panel notes that Management also failed to reach an agreement on a cut-off date after which encroachments in the Project area would not benefit from compensation or any other form of assistance described under the Policy.<sup>108</sup> Such an agreement would have been consistent with the objective of limiting illegal constructions, while safeguarding existing residents in the Project area, as well as the reputation of the Bank.
148. **The Panel finds that without the alleged agreement with the Government to suspend demolitions in the Project area, without an agreement on a cut-off**

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<sup>105</sup> Chapter 3 describes in more detail the Board meeting and the issuance more than three years later by Management of a “Corrigendum” concerning this statement in the PAD.

<sup>106</sup> Aide Memoire, Fact Finding Mission May 3-5, 2007, ¶5.

<sup>107</sup> Management Response, ¶51.

<sup>108</sup> As indicated above, OP 4.12 provides that persons who “*encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance.*” OP 4.12, ¶16.

**date, and above all without applying the Bank’s Policy on Involuntary Resettlement to ongoing demolitions, Management failed to safeguard people potentially affected by Project related activities. This fails to comply with OP/BP 4.12 on Involuntary Resettlement. In addition Management did not protect the Bank against a significant reputational risk acknowledged in the PAD.**

## **2. Implementation of the Southern Coastal Development Plan (SCDP) - - Land Zoning**

149. The discussion above addresses the issue of the applicability of OP 4.12 to ongoing demolitions in the Project area prior to the finalization of the SCDP, which is the main subject of the claims presented in the Request for Inspection.
150. In its Response to the Request, Management indicates that during the design phase, Management considered two other aspects of the Project that could trigger OP/BP 4.12. These relate to the regional zoning requirements related to the implementation of the SCDP and infrastructure investments following the adoption of the SCDP.<sup>109</sup> What follows is a brief analysis of these issues.

### **(a) Applicability of Bank Policy to the Implementation of the SCDP**

151. As stated in the Management Response, the SCDP, supported under the Project, is likely to result in rezoning and possible removal of buildings in the process of the implementation of the plan.<sup>110</sup> In the Management Response, Management contended that OP 4.12 is not applicable to displacement that might result from any reclassification and zoning of land implemented on the basis of the SCDP based on footnote 8 of the OP 4.12.<sup>111</sup> This footnote states that the Policy “*does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc.*” Management seems to have decided that the coastal zone of Albania is a natural resource within the meaning of this footnote, i.e. similar to a watershed, groundwater or fisheries. Management concluded that OP/BP 4.12 does not apply to demolitions that might result from the implementation of the SCDP, on the apparent justification that the SCDP is a regulation of natural resources that aims at sustainable land use management along the coast.<sup>112</sup>
152. The Panel considers, however, that the objectives of the Project, including the SCDP are well beyond the intended notion of “*regulation of natural resources*” as described in the footnote. Indeed, the Project includes activities to support the

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<sup>109</sup> Management Response, ¶39.

<sup>110</sup> Management Response, ¶39.

<sup>111</sup> Management Response, ¶42.

<sup>112</sup> The Panel notes that Management did not appear to make this argument in connection with the ongoing demolitions in the Project area prior to the finalization of the SCDP.

development of sustainable tourism to serve as an engine for economic growth. The SCDP also intends to evaluate and support various other land use purposes, such as urban, agriculture, forestry, pasture, etc., identify the most appropriate locations for various types of development with an emphasis on tourism, and identify areas where certain developments should be forbidden or discouraged.<sup>113</sup> Main deliverables of the SCDP, as described in its initial terms of reference, include “[d]evelopment plan and zoning plan for future tourism developments; specific zones, detailed master plans.”<sup>114</sup>

153. Moreover, the Project documents do not explain how the southern Ionian Coast is analogous to a “watershed” or “fishery,” as described in this footnote. The Panel also did not find any documentary evidence and explanation that the provisions of this footnote were relied upon in Management decisions on the applicability of the Policy. The Panel notes that the footnote seems to be a *post-facto* rationalization and is belatedly cited in both the Management Response to the Request as well as in interviews with Bank staff.
154. The Panel notes the importance of regulation to protect natural resources and recognizes that there are limits to the application of the Policy on Involuntary Resettlement. **The Panel finds, however, that the objectives and content of the Project,<sup>115</sup> including the SCDP, go well beyond the regulations of natural resources and therefore the Policy applies.** Doing so would have served the key objectives of the Bank Policy to safeguard the Project, the potentially affected people, and the reputation of the Bank.

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<sup>113</sup>Management Response, ¶31. In this regard, Project documents note that Management did not envisage any large scale demolitions in the Project area or any large scale relocation of people or communities. While it is not clear what is meant by the term ‘large scale,’ the possibility remains that the implementation will lead to significant relocations, considering the main objective of the Project is to support sustainable coastal management, which includes land-use planning activities and various types of development, with an emphasis on tourism, and the identification of areas where certain developments should be forbidden or discouraged. The Project further provides for both physical and technical assistance to the Construction Police, who are responsible for the demolition of illegal construction.

<sup>114</sup> Terms of Reference, Integrated Coastal Development Study and Plan for the Albanian Southern Coast, Tirana, September 2004.

<sup>115</sup> The Project includes *inter alia*: (a) improvements in solid waste management in the south coastal zone, including the design and construction of two municipal landfills in Saranda and Himare; (b) improvements in water supply and sewerage systems in the tourist area of Saranda town; (c) transformation of the Port of Saranda into a dedicated ferryboat and passenger terminal to facilitate access of passengers and vehicles to south Albania; (d) establishment of a Coastal Village Conservation and Development Program to offer financial and other form of support to local governments and communes for the implementation of sub-projects aiming at improving public utility infrastructure for environmental and cultural heritage protection and enhancement, supporting sustainable tourism development, revitalizing traditional architectural heritage; as well as to communes surrounding the Butrint National Park for promoting environmental protection and sustainable economic activities. PAD, pp. 7-8.

### **(b) Measures Proposed to Protect Vulnerable People during Implementation**

155. In the absence of applying the Policy, Management decided to introduce “*social due diligence and measures*” to protect vulnerable people during the implementation phase of the SCDP.<sup>116</sup> According to the Management Response, this decision was based on the guidance provided in footnote 8 of OP 4.12 and the findings of a legal assessment commissioned by the Bank to understand the Government’s demolition program.
156. The Bank-commissioned assessment identified several shortcomings with the Government’s demolition program and noted that it is not clear whether demolitions are conducted in a fair and consistent manner. The assessment also alluded to corrupt practices. The PAD states that “*As part of the Bank efforts to promote social due diligence, criteria and procedures for assisting affected people who lose their primary residence or main source of livelihood due to encroachment removal will be developed as part of the preparation of the SCDP under the Project.*”<sup>117</sup>
157. It must be noted, however, that these measures would not be effective during the development of the SCDP but only in the next phase, as part of its implementation.
158. In summary, as discussed above, Management decided not to apply the Bank’s Policy on Involuntary Resettlement to ongoing demolitions in the Project area. Management also decided not to apply the policy to demolitions that might take place as a result of the implementation of the SCDP. However, as part of “good project design” in the preparation of the SCDP, Management agreed with the Borrower that it would develop certain criteria and procedures to assist “*affected people who lose their primary residence or main source of livelihood due to encroachment removal.*” **The Panel notes, however, that this promise becomes effective only once the SCDP is prepared. As a result, this Project design has not enabled the provision of assistance to people who lost their homes or sources of livelihood in Jale. As far as the Panel can ascertain, as of the date of this Report, no assistance has been provided to these people.**

### **(c) Lack of Foresight and Lack of Adaptive Measures**

159. The Panel heard from several Project team members that the planning phase was meant to be completed within months after the approval of the Project by the Bank’s Board. During the interviews, Bank staff noted that the possibility of delay in the approval of the SCDP by several years had never been considered.

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<sup>116</sup> Management Response, ¶44.

<sup>117</sup> PAD, p. 15.



Picture 7: A child in the demolition area in Jale

160. The Panel is concerned about Management’s lack of foresight regarding the consequences of a substantial delay in completing the SCDP. The Panel is equally concerned that the Project design was not reviewed and adapted to the new realities once significant delays in finalizing the planning phase had occurred. This is not consistent with the provisions of OP/BP 13.05 on Supervision.

### 3. Infrastructure Investments Following the Adoption of the SCDP

161. Management states in its Response that OP/BP 4.12 applies to specific investments that will follow the adoption of the SCDP and that the Government has adopted a Resettlement Policy Framework that reflects the “*core principles*” of the Policy and Albanian laws on land expropriation.<sup>118</sup> The Panel did not review the adequacy of this framework, however, **the Panel finds that the provisions of OP/BP 4.12 need to apply to these investments that will follow the planning framework of the SCDP.**<sup>119</sup>
162. According to the Management Response, “[t]he ESSF reflects the requirements of the World Bank policies on Environmental Assessment, Physical Cultural Resources and Involuntary Resettlement to address environmental, cultural property and land acquisition issues associated with specific infrastructure or

<sup>118</sup> Management Response, ¶44. According to the PAD, the Government committed to develop a Resettlement Policy Framework that “*reflects the principles*” of OP/BP 4.12, to be applied to specific investments under the SCDP.

<sup>119</sup> Panel notes the importance of clarifying that the requirements of the Policy are applied to these investments and not just the “*principles*” reflecting the Policy as noted in the PAD.

*physical investments financed by the Project or recommended by the SCDP and financed by any financial source.*"<sup>120</sup> The PAD adds that "*the Bank will monitor the adherence to the ESSF as part of its supervision activities.*"<sup>121</sup> It is not clear however to the Panel how the Bank will monitor and supervise the implementation of the ESSF in accordance with Bank relevant policies in cases of infrastructure investments not directly financed by IDA.

#### **4. Disparate Treatment for Affected People**

163. As described above, Management decided to apply OP/BP 4.12 only to specific infrastructure investments that will eventually occur as a result of the implementation of the SCDP, but not to ongoing demolitions in the Project area nor to the rezoning and possible removal of buildings that will likely result from the implementation of the SCDP.
164. The Panel observes that such a differentiated approach to the application of OP 4.12 could lead to different treatment of the affected people with similar situations under different phases of the Project. For instance, consider the situation of three vulnerable households, whose livelihoods depend on the houses they have in the coast, which they have built on their own land without a construction permit. The first might receive nothing if his house is demolished by the Construction Police prior to the finalization of the SCDP. If the second house is demolished, due to zoning restrictions based on the implementation of the SCDP, this household might receive a package of assistance if determined by the Government to fit into the criteria and procedures to be developed under the SCDP. Such a package may not be at the level of the assistance provided for under OP/BP 4.12. And finally, the third household might receive a full package of assistance provided for under OP/BP 4.12 if that house is demolished due to road construction or other investment financed under the SCDP.
165. Another striking example of the Project design chosen would be the fact that a speculative land developer who constructed on public land without a construction permit would receive resettlement assistance under OP 4.12 if his construction would be demolished as a result of a specific investment under the SCDP, while a vulnerable person who built on his own land without a construction permit would receive nothing if his house would be demolished prior to the finalization of the SCDP. **The Panel finds that such outcomes should have been envisaged during Project design and that neglecting the possibility of their occurrence represents a failure of policy interpretation and a substantive non-compliance with the necessary application of the Bank's Policy on Involuntary Resettlement.**

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<sup>120</sup> Management Response, ¶37.

<sup>121</sup> PAD, Annex 10, p. 70.



166. Taking the foregoing into account, and as noted above, **the Panel is also concerned about what the safeguards framework would be for treatment of affected and vulnerable people who live in areas designated by the SCDP as suitable for tourism development, once private tourism developers seek to develop those lands.**

### **5. Imprecise Use of Terminology: Encroachment and Illegal Construction**

167. The Panel identified significant imprecision in Project document descriptions of issues of “encroachment” and “illegal construction”, which appeared to affect the analysis and decisions regarding the application of Bank Policy on Involuntary Resettlement.
168. The Panel observed that key concepts such as “encroaching buildings” and “illegal buildings” were not defined and used clearly in the Project documents. These terms were basically “imported” from the terminology and vernacular used in Albania, where they are employed liberally, yet without precise definitions.
169. The PAD refers to “*unauthorized encroachments in public space*”<sup>122</sup>. This is one of the few *correct* usages of the term “encroachment,” because, in Bank practice, encroachment is the appropriation and usage of public or someone else’s space by an unauthorized private user. By the same token, however, land owners cannot be held to be “encroachers” if they use their own private land for building their house. Even in situations of delays in getting a permit for building a house, the construction could be seen as illegal due to the lack of permit. However, a building on one’s own private land without permit cannot be regarded as an “encroaching” building.
170. This clarification is important for understanding correctly the Bank’s Policy and the Project’s policy framework in this case. With some possible exceptions of improvised seasonal facilities on the sandy part of the beach, almost all the houses which were demolished and were labeled by the Construction Police as “encroaching,” were in fact built on land long regarded as owned legally by, or at least in peaceful possession of, the villagers who built them.<sup>123</sup> The Panel notes the need for clarification of the terminologies used, because Bank staff has to make judgments on practical issues.
171. The Panel notes that the Project has actively supported the freeze of issuance of construction permits and the approval of partial urban planning studies in the southern coast until the formulation and approval of the SCDP. Ongoing

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<sup>122</sup> PAD, p. 15.

<sup>123</sup> Management Response notes that the Government “*indicated that the recent drive to remove structures in the coastal areas was in view of the impending tourist season, to remove physical structures that block public access to beaches*” (Management Response, ¶28). The Panel verified *in situ* that most, if not all, of the buildings demolished in Jale were not blocking access to the beach.

construction freeze since January 2004 on one hand and significant delays in the formulation and the approval of the SCDP on the other hand left the local community living in the southern coast in a very difficult situation in their attempts to legalize their buildings.<sup>124</sup>

## **D. Project Implementation and Demolitions in Jale**

### **1. Apparent Links Between Demolitions in Jale and the Project**

172. This section focuses on the central issues of “linkages” between the Project and the demolitions in Jale. The Panel carefully examined the evidentiary facts that support or disprove the conflicting allegations summarized in the Request and in the Management Response.
173. As noted above, the Request and Management’s Response make disparate assertions on:
- (a) the cause and reasons of the Jale demolitions;
  - (b) their legitimacy;
  - (c) whether the demolitions are directly or indirectly related to the Project; and
  - (d) on whether the Bank’s operational policies and procedures have been violated.
174. The Panel notes that the demolitions in Jale were not specifically included, as such, among the activities to be directly financed under the Project. This fact, however, does not in the present case support Management’s assertion that the demolitions in Jale are “not linked” to the Project.
175. As discussed below, the Management Response fails to acknowledge critical information related to the Jale events. The Management Response is factually incorrect and misleading, and contradicts documentary evidence, as shown below.
176. The PAD reported, for example, an agreement that demolitions would not continue until criteria and procedures for identifying and assisting vulnerable affected people are in place.<sup>125</sup> However, and in spite the PAD’s statement, the Panel has already shown that, in reality, such an agreement did not exist (see section C.1(d) of this Chapter).
177. As a result of the non-application of the Bank Policy on Involuntary Resettlement with the protection it offers and the lack of an agreement to suspend demolitions, the Project left demolitions, without the benefit of Bank’s

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<sup>124</sup> In addition, the Requesters contend that they are in a situation where there are delays in the administrative offices tasked with the issuance of construction permits and they have accumulated an enormous backlog of non-issued permits, even for buildings constructed long ago.

<sup>125</sup> PAD, p. 15.

safeguards, as a possibility in the Project area and during the Project's duration, such as the demolitions in Jale.

## **2. Relevant Factual Evidence on the Demolitions in Jale**

178. The evidence unveiled by the Panel team shows a direct connection between the Jale demolition and the Project. It reveals a direct link and role of the Project's Coordination Unit in the initiation of the Jale demolitions.
179. The primary evidence described below is objective, factual and recorded formally, in writing. Documents of the Project's Coordination Unit and information in the Project's Bank files in Tirana and Washington, D.C., as well as the paper trail tracked by the Panel, show the direct connection.
180. Notably, this recorded evidence was long known to the Bank and its relevant staff in a written form, ever since the demolitions occurrence in April 2007. Six months later, however, when the Management Response was submitted on September 17, 2007, it failed to disclose the known linkages, thus misleading both the Panel and the Board.
181. Additional confirming evidence was uncovered during the Panel team's field analysis and its interviews with Project staff in Albania and at the Bank's Headquarters. Annex B of this Report shows a chronology of key Project events related to the investigation.

### **(a) Project Communications Relating to the Demolitions in Jale**

182. The Panel investigation revealed an important and direct connection between the Project and the demolitions in Jale. Indeed, Project records indicate an active relationship between the Project and the Construction Police and the fact that aerial photography financed under the Project identified the buildings that were demolished.
183. On March 26, 2007, the Project Coordination Unit (PCU) sent a letter, signed by the Project Coordinator, acting as such, to almost all relevant high level Government authorities<sup>126</sup>, on Project's letter-head, including the General Director of the Construction Police, notifying them of what he characterized as illegal constructions along the Ionian Coast. Attached to the letter were two CDs with aerial photos of the coast and a printed illustrated photo showing a so-called illegal construction in the Borsh area. **Aerial photographs of the coast**

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<sup>126</sup> The letter was addressed to: the General Director of Construction Police in the Ministry of Public Works, Transport and Telecommunication; the Director of Construction Police in Saranda; the Deputy Minister for Public Works Transport and Telecommunications; and the Director of Urban Planning Policies Department in the same Ministry. In addition, the letter was copied to three other high ranking members of the Government: the Minister of Public Works; the Minister of Tourism; the Minister of Environment; and the Advisor to the Prime Minister of Albania.

were financed by the Project. The Project Coordinator wrote: “[a]s you may see from these pictures, illegal constructions are still going on in the Ionian coast. Given the importance of sustainable development in this area... kindly make sure to take the necessary measures and as fast as possible.”<sup>127</sup>

184. **It is important to note that the PCU issued the letter on the official letter head of the Bank-financed Project and the letter was signed by the head of the PCU, in that capacity as the Project Coordinator and attached to the letter were aerial photographs financed by the Project.** The Project Coordinator is well known in Albania’s administrative circles. He is often described in the country’s press both for his role as the Bank Project’s Coordinator and as a family member of one of the country’s highest leading Government officials.<sup>128</sup>
185. In response to the PCU’s above-noted letter, within two weeks, on April 10, 2007, the Construction Police sent a letter to the Minister of Public Works, Transport and Telecommunications, the PCU Coordinator, and the Advisor to the Prime Minister. The response letter noted a number of illegal constructions identified by a working group that had been established by the Construction Police immediately after the receipt of the PCU’s letter. These included 16 alleged illegal constructions in Jale. **In its response letter, the Construction Police stated that it had administered all the necessary procedures and the decisions for the demolition of these constructions had been communicated to the respective parties.**<sup>129</sup>
186. The demolitions at Jale took place seven days after the date of the letter from the Construction Police to the PCU. Following the deployment of a large

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<sup>127</sup> Above noted letter.

<sup>128</sup> This Project Coordinator was selected in February 2006. The previous Project Coordinator’s contract expired in November 2005 at the time the new Government came to power following the elections in July 2005. The supervision mission that took place right before the Government’s decision not to renew the Project Coordinator’s contract indicated its high satisfaction with the performance of the PCU staff and stated its support for the renewal of contracts of the staff whose contracts were expiring (Aide Memoire, Supervision Mission October 31-November 9, 2005). On February 3, 2006, the Bank received the evaluation reports for the short-listed candidates for the Project Coordinator position. The evaluation committee selected unanimously the current Project Coordinator. Regional Bank staff who were reviewing the selection process pointed to some inconsistencies in the evaluation report and stated that the selected candidate did not have better qualifications with respect to the other candidates (communication date February 7, 2006). Regional staff also raised concerns regarding the selected person’s political connection. However, the Bank Project team stated that they were satisfied with the qualifications of this candidate and the Bank’s no objection was issued to the selection after receiving an assurance from the MPWTT that the evaluation committee “was not based (sic) or influenced in any manner” by the high Government official “directly or indirectly” to select the Project Coordinator, and that he will not be “supervised or report directly or indirectly” to the high Government official and “his remuneration fee will remain reasonable and comparable with other in similar positions” (letter from MPWTT to the Bank dated February 13, 2006).

<sup>129</sup> Letter dated April 10, 2007, from the MPWTT, Construction Police Department to the Minister of Public Works, Transport and Telecommunications, the PCU Coordinator, and the Advisor to the Prime Minister.

contingent of the Construction Police from Tirana to Jale, the demolitions started on April 17, 2007, as shown by the Project timeline (see Annex B: Key Project Events Related to the Investigation), and lasted continuously for five days.

187. The Panel notes that the PCU did not initially copy this letter to the Bank's Tirana office or to the Task Team Leader. Nor was the April 10, 2007 response of the Construction Police about the imminent demolition copied to the Bank at that time.
188. During the demolitions in Jale, on April 20, 2007, the PCU staff informed the Bank Project team that the PCU has sent a letter on March 26, 2007, to "*most of responsible people (please see attached) notifying them for the illegal construction along the Ionian Coast.*" The PCU staff also noted that they received a response from the Construction Police on April 10, 2007, where they updated the PCU on the situation of the illegal construction along the Ionian Coast. Included with this communication were copies of the PCU letter to the Construction Police and their response, an aerial photograph of the coast, and a table of alleged illegal constructions in Jale.<sup>130</sup>
189. Through this communication, the Bank became aware of the role of the PCU in triggering the demolitions, based on aerial photographs financed for these purposes under the Project, and that the Construction Police had prepared the demolitions.
190. After the demolitions were completed, on April 23, 2007, the PCU again sent copies of the correspondence mentioned above to the Bank. In the cover letter, the PCU stated that "*we informed the authorities that the aerial photographs we had received showed the construction of illegal buildings were continuing in the coast.*"<sup>131</sup>
191. The Bank's Tirana office circulated the letters received from the PCU to the Task Team Leader and other Bank staff in the Bank's Headquarters. These included the PCU's original communication and the response of the Construction Police on preparing the demolitions.<sup>132</sup>
192. The Panel also learned of additional communication between the PCU and the Construction Police relating to other constructions on the coast. On May 24, 2007, for example, one month after the Jale demolitions and the outcry they generated, the head of the PCU, acting as such, sent another letter to the General Director of the Construction Police in Tirana, this time attaching pictures of the National Butrinti Park and noting that a massive enclosure with stone walls,

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<sup>130</sup> Communication dated April 20, 2007.

<sup>131</sup> Letter dated April 23, 2007, from the PCU to the Bank.

<sup>132</sup> Communication dated April 25, 2007.

concrete and iron rails was being built in the National Butrinti Park.<sup>133</sup> The letter refers to the equipment provided by the Project to the Construction Police to control illegal construction in the coast and notes that:

*“All this construction was not made overnight and it is difficult to be stopped by a cancellation act issued by the office. **The Coastal Zone Management Project has provided necessary equipment to the offices of the Construction Police, in order to control the situation in the fields. Such equipment contains digital camera, GPS, computer etc.** (emphasis added)”*<sup>134</sup>

193. The letter further states the importance of controlling illegal construction in the coast line and states that:

*“Developments in the coastal line should be conducted carefully in order to protect the ecological, landscape and economic values of national importance. The agreement of the credit between the World Bank and the Government of Albania, states that the Government of Albania can not approve any object in the coastal zone, even if it were a strategic investment, without the completion of the plan on the development of the Coastal Zone Development. This plan is expected to be completed upon the participation of the community and it is expected to be finalized by the end of the year. **The continuation of the illegal constructions on the coastline questions the continuity of the project funding by the World Bank and the donors.**”* (emphasis added)<sup>135</sup>

194. In the May 24, 2007, letter referred to in the preceding paragraph, the PCU very clearly communicated to the Construction Police that Project funding could be suspended by the Bank if illegal constructions continue along the coast and if the Construction Police would not control the situation, considering that the Project had provided it with the necessary equipment. This example and the Jale case show how demolitions in the Project area are regarded as “*necessary to achieve the objectives of the Project*” as referred to in Bank Policy on Involuntary Resettlement.
195. In response to the PCU’s letter mentioned above, the Saranda Branch of the Construction Police wrote to the PCU on May 31, 2007, and informed that “*the intervention for the demolition of this partial construction was executed.*”<sup>136</sup>

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<sup>133</sup> Letter dated May 24, 2007, from the PCU to the Director, General Directorate of the Construction Police and Chief of the Construction Police of the Saranda Branch.

<sup>134</sup> Letter dated May 24, 2007, from the PCU to the Director, General Directorate of the Construction Police and Chief of the Construction Police of the Saranda Branch.

<sup>135</sup> Letter dated May 24, 2007, from the PCU to the Director, General Directorate of the Construction Police and Chief of the Construction Police of the Saranda Branch.

<sup>136</sup> Letter dated May 31, 2007, from the Construction Police of the Saranda Branch of the MPWTT to the PCU.



Picture 8: Jale after Demolitions

**(b) Demolished Houses Identified by Aerial Photographs Financed Under the Project**

196. Project records show that the Project provided support, both material and technical, to the Construction Police for the demolitions that were the cause of this Request for Inspection. The most important support materialized when the Project team agreed to finance aerial photographs of the Project area to identify and monitor so-called illegal construction and inform the Construction Police about these activities. The Fact Finding Mission reported that “[u]pon review of the aerial photographs taken between December and February, in late March/early April, the Construction Police identified the first phase of demolition...”<sup>137</sup> The following highlights some of the documentary evidence found in Project records.
197. In May 2006, the PCU wrote to the Project team and indicated that following the discussion of the PCU and Project team “*on the need to take aerial photos of the Coastal Area for accurate information from the ground*” and that the PCU had contacted the only group providing this service in Albania.<sup>138</sup> In the same communication the Project Coordinator stated that “[t]hese photographs *might be very useful in the course of our project, as well as for the other beneficiaries, e.g. Construction Police who claim they do not have good vehicles and the terrain is not appropriate to perform random checks on the ground...*” (emphasis added).<sup>139</sup>

<sup>137</sup> Aide Memoire, Fact Finding Mission May 3-5, 2007, ¶9.

<sup>138</sup> Communication dated May 19, 2006.

<sup>139</sup> Communication dated May 19, 2006.

198. Between May 29 and June 3, 2006 a supervision mission took place. The Aide-Memoire of the supervision mission reports the following:

***“Monitoring of illegal construction in the coastal zone. The PCU has identified a unique small NGO that specialized in panoramic mapping utilizing a motorized para-glider as the aerial platform. A few suggestions were provided to the NGO members to improve the methodology, so as to develop a cost-effective means of aerial mapping, which could be used to monitor illegal construction of the immediate coastal strip of the southern coast of Albania on a quarterly basis. Technical specifications for a two-phase aerial mapping survey were drafted during the course of the mission.”*** (emphasis added)<sup>140</sup>

199. Between February 19-24, 2007, two months before the demolitions in Jale, another supervision mission took place. The Aide-Memoire states that:

***“The Project has provided basic equipment to local government units in the southern coast and the Construction Police to assist them in the delivery of their functions. An aerial mapping survey for the entire southern coast has been commissioned, which will be repeated on a quarterly basis to inform the Construction Police about illegal activities.”*** (emphasis added)<sup>141</sup>

200. On March 26, 2007, the PCU sent a letter to the Construction Police, discussed elsewhere in this Report, attaching several aerial photographs in a CD financed by the Project, and stated, “[k]indly, look at the air pictures of the land areas in the Ionian coast in the attached CD...” adding that “[a]s you may see from these pictures, illegal constructions are still going on in the Ionian coast.” The letter ends with a request to “kindly make sure to take the necessary measures and as fast as possible.”<sup>142</sup>

201. **The foregoing constitutes a direct and material support of the Project to the demolitions in Jale. The Panel notes that this Project activity was not acknowledged or described in the Management Response. To the contrary, the Response states in no uncertain terms that “[t]he demolitions were not linked to the Project directly or indirectly.”**<sup>143</sup>

### (c) Assistance to the Construction Police

202. It is important to note that the Project design includes the provision of equipment and technical assistance to the Construction Police. The PAD

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<sup>140</sup> Aide Memoire, Supervision Mission May 29-June 3, 2006, ¶43.

<sup>141</sup> Aide Memoire, Supervision Mission February 19-24, 2007, Annex 2: Technical Assessment by Project Component, ¶6.

<sup>142</sup> Letter from the Project Coordinator, dated March 26, 2007.

<sup>143</sup> Management Response, ¶28. Bolded in text.



specifies the support to be provided to the Construction Police under the Project.<sup>144</sup> The PAD states that under sub-component A.2 for coastal management strengthening, the Project will “*support efforts ... for land-use planning and regulations including compliance with constructions permits.*” The PAD adds that the Project will “*provide equipment (e.g. vehicles, digital cameras, GPSs, computers, etc.), professional development and training for municipal staff and Construction Police (at the central, regional and local levels) and support the development and acquisition of adequate management tools such as the implementation of integrated geographic information system for land use.*”<sup>145</sup> The same sub-component includes assistance to the Construction Police to build capacity and develop procedures to adequately address disputes arising from the demolition of buildings, including the clarification of criteria and assuring transparency.

203. The Management Response, on the other hand, states that the Construction Police “***will receive technical assistance but is not an implementing partner of the Project***” (emphasis added).<sup>146</sup> The Management Response does not indicate any other assistance provided or planned to be provided to the Construction Police.
204. This description in the Management Response, however, does not include elements of the procurement plan of the Project, which includes provision of office equipment, furniture and vehicles for enforcement capacity and **equipment for collection and transport of demolition waste**.<sup>147</sup> As noted above, the February 19-24, 2007, supervision mission confirmed the provision of basic equipment to the Construction Police by the Project.<sup>148</sup> Furthermore, on April 3, 2006, the Construction Police submitted a request for the financing by the Project of vehicles and several items of electronic and office equipment.<sup>149</sup>
205. **The Project documentation demonstrates that the Project has provided resources and support for the Construction Police related to demolition activities in the Project area.** This kind of support establishes a crucial link between the Project and the demolitions.

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<sup>144</sup> PAD, Annex 4, p. 39.

<sup>145</sup> PAD, Annex 4, p. 39.

<sup>146</sup> Management Response, Annex 1, p. 18.

<sup>147</sup> Procurement Plan approved on April 15, 2005.

<sup>148</sup> Aide Memoire, Supervision Mission February 19-24, 2007, Annex 2: Technical Assessment by Project Component, ¶6.

<sup>149</sup> Letter dated April 3, 2006, from the MPWTT Directorate of the Construction Police to the Project. The request includes: “*I-Vehicle for the transportation of troops and motor cars: police van (5 pieces); motor car (6 pieces); II-Link up equipment: link up stations (5 pieces); link up apparatuses (50 pieces); III-Electronic Means: camera (6 pieces); photographic camera (15 pieces); computers and printers (15 pieces); typewriters (10 pieces); photocopiers (12 pieces); fax machine (15 pieces); laser meter (15 pieces)IV- Office Equipment: tables (40 pieces); chairs (70 pieces); buffets (40 pieces).*”

206. The analysis and facts established above show that the Bank Policy on Involuntary Resettlement should have been applied to the demolitions related to the Project. This conclusion takes into account the assistance provided by the Project to the Construction Police for the delivery of their functions, aerial photographs identifying the demolished houses also financed by the Project, and the official communications of the PCU calling on the Construction Police to deal with the alleged illegal construction.
207. The Panel finds no merit in Management's statement that "*the demolitions were not linked to the Project directly or indirectly.*" Indeed, the Panel finds a direct link between the demolitions in Jale and the Project and its objectives. Consequently, the Panel finds that Management failed to comply with the requirements of the OP/BP 4.12 on Involuntary Resettlement with respect to demolitions that took place in Jale. In this sense, the Project also failed to address the poverty reduction objectives set forth in OP 1.00 on Poverty Reduction.

### 3. Debates in Albania's Parliament on Linkages with the Bank

208. Other powerful and worrisome signals arrived at the same time both at the Bank's field office in Tirana and to the Bank's Headquarters in Washington, D.C. Many of these additional signals similarly and explicitly linked the demolition to the Bank-financed Project. Not only the Albanian press published many articles reporting on the demolition and linking it to the Bank-financed Project, but debates were opened up in the Parliament on the same event and were reported on Albania's television.
209. On April 23, 2007, the staff from Bank's Tirana Office reported that during the plenary session of the Parliament, demolitions in Jale had been discussed and the Minister said that "*this [the demolition] was a must because of the World Bank project in the area, the Bank has asked for it.*" (emphasis added)<sup>150</sup> The next day the same staff member reported that many of the newspapers included news on the Parliament's session on demolitions in Jale and the fact that the Minister has referred to the Bank activities in the southern coast.<sup>151</sup>
210. For a better understanding of the charged atmosphere surrounding the Jale demolitions and the political visibility that the Bank had in this context, it is useful to document portions of the publicly available official record of the debate in the Albanian Parliament.
211. On April 23, 2007, members of Albania's Parliament debated the Jale demolition. The Deputy representing that area in the Parliament requested to be given the floor

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<sup>150</sup> Communication dated April 23, 2007.

<sup>151</sup> Communication dated April 24, 2007.

*“[T]o discuss [on] issues which have already become very sensitive for the entire public opinion, relevantly the demolitions of the illegal constructions in Jala of Vuno... I went to the site of the events and I met all the people damaged by the state massacre, [and] I identified the documents which they possessed and, as a lawyer, I consulted the laws dealing with the construction police”<sup>152</sup>*

212. The speaker continued by describing the demolition, condemning it, and arguing that Albania’s own laws and people’s rights were severely violated in this process.
213. In turn, another member of the Parliament also took the floor expressing outrage, condemning the events and arguing that they are illegal under Albanian law and illegally caused irreparable destruction of people’s assets and livelihood. The deputy stated:

*“[T]he Construction Police, supported also by the forces of the Public Order has committed an act of selective punishment. Not all the buildings which are considered as illegal have been attacked. Only some individuals have been punished there, a part of whom are entitled to these properties. They also possess documents which are recognized by the state institutions. ... [W]hen these selective actions aim to attack only some persons, the issue becomes a mystery regarding possible investments in that region by companies or individuals closely related to the central government officials. Therefore the evil becomes a pile of evils whereupon everything damages the state and its transparency.”<sup>153</sup>*

214. The Government of Albania was represented in that Parliamentary discussion by the Minister of Public Works. The Minister had been himself directly informed by the PCU’s letter and his Ministry’s Construction Police Department was in charge of the demolition. The Minister of Public Works responded to the allegations of illegality by invoking the support of the World Bank to the Project and by directly associating the Bank-financed Project to the demolitions, alleging that the Jale demolition are “*paving the way*” for achieving the goals of the Project and of the Bank financing for carrying it out. The Minister stated:

***“the Government of Albania assisted by the World Bank is working for the finalization of the plan for the coastal zone of the Ionian***

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<sup>152</sup> Speech by Member of Parliament, Records of the Plenary Session of the Parliament of Albania, April 23, 2007. The record is available on the website at [www.parliament.al](http://www.parliament.al).

<sup>153</sup> Speech by Member of Parliament. Records of the Plenary Session of the Parliament of Albania, April 23, 2007. The record is available on the website at [www.parliament.al](http://www.parliament.al).

[Sea]. ... *For the first time this project is financed by the World Bank, plans investments in the sum of \$13 million for roads, water-supply, conservation, and lighting alongside the entire coastal zone... In order to pave the way to these financings the law should be enforced and the state should act.*"(emphasis added)<sup>154</sup>

215. **The Minister's official statement before Parliament leaves no doubt about the close link between this specific instance of enforcement of laws on demolitions in Jale and the Project.** This rather open and blunt Ministerial statement in the Parliament that the demolitions are "*paving the way*" to the Bank's financing, quoted above, is in direct contrast to the statement made in the Management Response. The Management Response states that the Jale demolitions:

*"were not limited to the Project area, not caused by or linked to the Project, and were not done in anticipation of the Project or to achieve the Project objectives"*<sup>155</sup>

216. The Management Response was submitted five months after the Minister's explanation given, which had been publicly to the Parliament and the country on April 23, 2007. Although Management was informed by Tirana staff about the Parliamentary discussion implicating the Bank, the Management Response kept silent about it.
217. The Panel regards the explanation given by the Government in the Parliament, which implicated the Bank in the Jale demolitions that were "*paving the way*" for the achievement of Project objectives, as a serious matter. This should have been brought to the Panel's attention. Moreover, Management did not challenge the public statement made by the Minister in Parliament.

#### **4. Media Coverage on Linkages**

218. The Minister's statement in the Parliament reinforced, with the Government's imprimatur, the already widespread belief about the role of the World Bank in the Jale demolitions.
219. In addition, several articles were published in the media after the demolitions, which commented on the connection between the Project and the demolitions that took place in Jale. The article published in *Mapo* magazine<sup>156</sup> on June 9, 2007, featured the photo of the cover page of the Integrated Coastal Development Study and Plan financed under the Project and satellite view of

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<sup>154</sup> Speech in Parliament by the Minister of Public Works, Transport and Telecommunications, Records of the Plenary Session of the Parliament of Albania, April 23, 2007. The record is available on the website at [www.parlament.al](http://www.parlament.al)

<sup>155</sup> Management Response, ¶28.

<sup>156</sup> In *Mapo* magazine dated June 9, 2007.

Jale included in the Study. The article included detailed information regarding the PCU Coordinator and the Project's role in demolitions in Jale. The article states that demolitions are done to clear the way for tourist villages that will be built following the preparation of the plan. A similar article was published in the Albanian newspaper *Shekulli* on October 22, 2007.

220. Moreover, the Bank's Tirana Office reported to the Bank's Headquarters several other media articles describing links between the Project, the PCU Coordinator and the demolitions.<sup>157</sup> These include an article in the *Gazeta Shqiptare* dated September 17, 2007, titled "*The PM Son-in-law Challenges the WB*" and two articles published in the daily newspaper *Albania* dated September 18, 2007, titled "*Jal, the next sacrifice with the World Bank money*" and "*this is the truth for the multi-billion project of the south coast.*" The Panel notes that despite this wide-spread public information and outcry, the Bank neither responded to these publications nor disassociated the Bank from the Jale demolitions.
221. The Panel learned that the Bank prepared a draft press release to address these swirling allegations and statements about the Bank's involvement in demolitions in Jale,<sup>158</sup> but decided not to issue any press release and, as far as the Panel can ascertain, did not challenge publicly these allegations.



**Picture 9: A Requester telling her story to the Panel team**

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<sup>157</sup> Communication dated September 18, 2007.

<sup>158</sup> Communication dated May 8, 2007.

## 5. A Partial Fact Finding Process in Response to Requester's Complaints

222. A couple of weeks after the demolitions took place and in response to a letter sent by the Mayor of Himara, an email by one of the Requesters and media reports regarding the demolitions, a Bank Fact Finding Mission took place during May 3–5, 2007.<sup>159</sup> The Fact Finding Mission was tasked

*“to obtain a fuller understanding of the facts concerning the demolition of illegal construction along the Ionian coast and its implications for the Integrated Coastal Zone Management and Clean-up Project (ICZMCP) and assess concern[s] raised that the demolitions have been undertaken to facilitate the World Bank financed investments under ICZMCP”*<sup>160</sup>

223. The Fact Finding Mission submitted the Back to Office report (BTO) to all relevant Bank staff, together with an Aide-Memoire containing recommendations on how to continue the Project's work after the demolition. The BTO contained a number of accurate information such as: confirmation of the geographical overlap between the place of demolition and the Bank's Project area; recognition that there are local perceptions that *“the drives for the demolition in Jale beach are future tourism development plans”*<sup>161</sup>; the fact that demolitions in Jale had not occurred on the sandy portion of the beach but that the buildings destroyed were situated further inland; the recognition that the Jale demolitions

*“have impacted some vulnerable people... some could have been built by people who had perhaps invested their savings in their construction”*<sup>162</sup>

224. However, in carefully reviewing the “fact findings” of the BTO and the Aide-Memoire, the Panel was disturbed to realize that the Mission that was formally mandated to “obtain a fuller understanding” did not interview the Requesters, and based its findings on discussions with the PCU and the Construction Police.
225. Even more serious, in the Panel's opinion, the “fact finding” team also omitted, in its written formal BTO report, an essential fact about the role of the PCU in prompting the Construction Police to proceed to demolition and in sending to the Construction Police a formal letter including aerial photos financed by the Project. This certainly is a most relevant fact, apt to enable the Bank and its Management to understand the **causality** that led to the demolitions in Jale, and to deal with the Bank's reputation risk in a forthright and constructive manner

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<sup>159</sup> Aided Memoire, Fact Finding Mission May 3-5, 2007, ¶1. On April 23, 2007, the Bank's Tirana Office received a communication from one of the Requesters containing information about the demolitions at Jale.

<sup>160</sup> Aided Memoire, Fact Finding Mission May 3-5, 2007, ¶1.

<sup>161</sup> BTO Fact Finding Mission May 3-5, 2007, ¶3.

<sup>162</sup> BTO Fact Finding Mission May 3-5, 2007, ¶3.

both in the Project area and in the country at large. To this day, it remains difficult to understand how a fact finding team could not reveal this central fact and others discussed in this Report, which were known first-hand by the head of the Fact Finding Mission who, as the Project's Task Team Leader, had received from the PCU both the letter sent by the PCU to the Construction Police and the response of the Construction Police to the PCU.

226. Another important omission of the Fact Finding Mission was to leave out references to the debate in Parliament and the various publications that linked the Bank-financed Project to the Jale demolitions.
227. **The omission of key events and relationships surrounding the demolitions in Jale in the Fact Finding Back to Office Report may be regarded as a material misrepresentation of a situation about which the Mission was mandated to provide a “fuller understanding of the facts”.** This omission distorts the image of the reality on the ground reported back to Management. **This omission fails to convey evidence that would have suggested fundamental flaws in Project design, implementation, and supervision.**
228. In short, crucial facts did not make their way into the Fact Finding Mission report and Aide-Memoire. **It appears that Management would have been better served by sending in staff who were not directly involved in this Project to undertake a “fact finding” mission in a highly controversial situation.**
229. The Panel finds that Management's own “fact finding” report, by leaving out essential facts which it had the obligation to report according to the TOR it received, **did not comply with Bank Policy on Supervision, OP/BP 13.05.** The Panel cannot ascertain whether or not the Mission made other verbal, unrecorded communication to the country department's managers or other staff in the line of command for sector work and country work in the Region and whether Regional Management has taken any action with regard to this flawed report.
230. To their credit, however, at the end of the Mission Bank staff indicated the need for defining: (a) transparent criteria for identifying illegal buildings for demolitions; (b) eligibility criteria for compensation; (c) a package of assistance; (d) public outreach and dissemination efforts<sup>163</sup>. In addition, the Mission recommended that the Government suspend future plans for demolitions in the Project area until suitable provisions are in place to ensure transparency and proper compensation.
231. Management recently informed the Panel that it had received a letter from the Minister of Public Works Transport and Telecommunications dated April 8,

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<sup>163</sup> Management Response, ¶50.

2008, which states that demolition works in the Project area would only focus on constructions that began after November 2007 until the Coastal Regulations for the Southern Coast are approved and revised criteria for identifying occupied buildings for demolition have been agreed. Management added that the Coastal Regulations have been approved and the criteria for identifying occupied buildings for demolition have been completed.<sup>164</sup>

232. Management also informed the Panel that it expects a confirmation from the Government that no construction undertaken in the Project area prior to November 2007 will be subject to demolitions until an assistance package (including eligibility criteria for assisting poor and vulnerable people who may be affected by demolitions related to local development plans) is agreed with the Bank. Management added that the consultants to carry out this work are expected to be appointed by the end of November 2008 and complete their work within four months.
233. The Panel notes that the provisions of OP/BP 4.12 do not require that affected people must be poor or vulnerable to receive compensation as a result of taking of land, resulting in relocation or loss of shelter, loss of assets or access to assets or the loss of income sources or means of livelihood, whether or not the affected persons must move to another location.<sup>165</sup>
234. Although the Panel welcomes the above referred developments, the Panel notes that it has not received any meaningful information on follow-up actions taken by the Bank with respect to Requesters.

#### **E. Diverging Perceptions Regarding the Role of the Project Coordination Unit**

235. As described above, the PCU played a key role in the events that unfolded in Jale. During its fieldwork in Albania, the Panel therefore attempted to understand the PCU's role in the implementation of the Project and in situations like the demolitions in Jale. In an interview, the Coordinator of the PCU described the unit as a kind of "small post office", which only conveys papers and documents from one source to another without substantive responsibility in the implementation of the Project.
236. The Panel team was presented with a drawing apparently prepared in advance for the meeting (Fig 1 below). The drawing is intended to suggest that the PCU makes no decisions because the PCU acts only as a "turning platform", a conveyor of paper: it receives documents from one supplier and transfers them to another address.

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<sup>164</sup> Communication dated November 13, 2008.

<sup>165</sup> The Panel notes that according to OP/BP4.12 that "*particular attention is paid to vulnerable groups among those displaced*", however provision of compensation or other forms of assistance is not restricted to such groups.



237. According to the Project Coordinator, the drawing describes the PCU as a mere communication platform and simply receives and forwards Project communications. In the Panel's view, this description seems to downplay the role of the PCU and the Project Coordinator in the implementation of the Project.

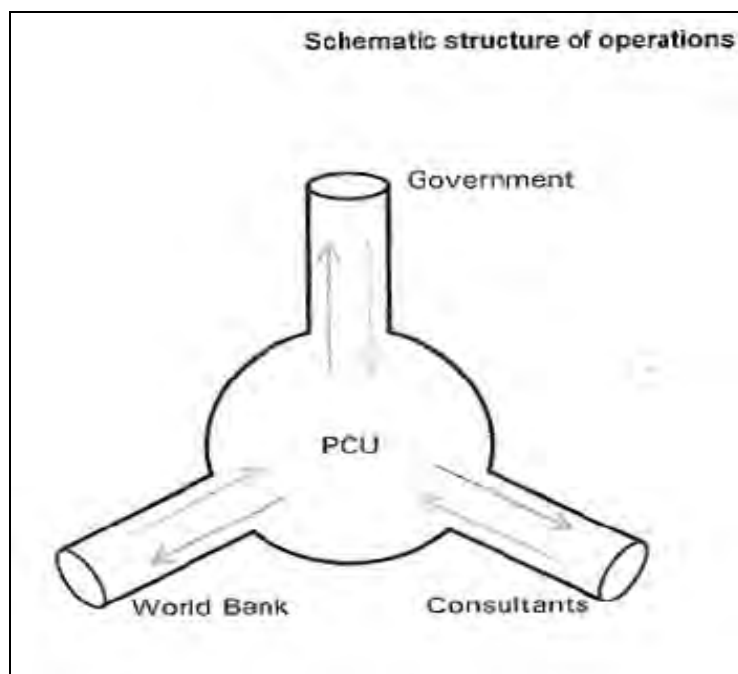


Figure 1: Structure of the PCU provided to the Panel team

238. In contrast with the suggested minimal role and function of a “mailing office,” Project records show that in reality the link between the PCU and the launching of the Jale demolitions indicates a decisive role of the PCU in triggering such processes. The Panel notes that the Project Coordinator evidenced a significant degree of authority in addressing directly high level Government authorities and requesting specific action from them.

## F. Allegations of Corruption

239. During the course of this investigation, the Panel team received allegations of corruption from the interviewed people in Albania about corruption being the ultimate cause that triggered the selected demolitions in Jale village.<sup>166</sup>
240. In this case, the allegation of corruption among officials involved in triggering and executing the demolitions were numerous, and were made in Albania's printed press as well. The press has published articles that refer to plans under

<sup>166</sup> By its terms of reference, the Panel is not mandated to examine such allegations of corruption for which the Bank created other specialized units. In line with Staff Rules, Panel staff has the duty to report credible allegations of this nature. The Panel understands that this matter has been referred by Management to the World Bank's Institutional Integrity Vice Presidency (INT).

preparation for developing a private sector tourist complex precisely at the Jale village site, where the demolition was performed.

241. The Panel found that the location of the cluster of demolished houses in Jale seems to coincide with the area which, according to the media accounts, has already been proposed as a tourist village under a plan allegedly negotiated with a foreign company. That plan was cancelled after the change of Government in Albania. Recent press reports mention directly a private tourism complex being prepared for Jale and the allegations are accompanied by the drawing of a Jale-located beach resort, in the same area of demolitions.<sup>167</sup> In fact, there is a website promoting a tourist development in Jale Beach.<sup>168</sup>
242. While the Panel only informs about, but does not evaluate the allegations of corruption, the selective nature of the demolitions carried out by the Construction Police seems to support the Requester's arguments about discriminatory treatment of the Jale buildings, which was one of main grounds for their complaints.<sup>169</sup> The Bank's Fact Finding Mission also made statements about "*some degree of selectivity in determining the sites for demolition, particularly Jale.*"<sup>170</sup>

## G. Conclusions

243. **The Panel finds that the initial decision not to apply OP/BP 4.12 at the decisive stage of appraisal was a root cause in Management's mishandling of the Jale demolitions.** This and the failure to effectively safeguard the Project through an agreement with Government to suspend demolitions in the Project area had dire consequences for the affected population and for the Bank's reputation. Based on the foregoing analysis, **the Panel finds that not only during Project design and appraisal but also during Project implementation the Bank failed to comply with its OP/BP 4.12 Policy on Involuntary Resettlement.**
244. In the Panel's opinion, the initial failure to apply the Policy left the Bank in a vulnerable position. The Bank should have used the demolitions in Jale for re-examining with the Government of Albania the Project's entire approach to demolitions, and to reconsider the applicability of the Bank's OP/BP 4.12 in this Project, since this Policy is the only firm policy basis and shield that the Bank can use with regard to Project-related activities that may harm people living in the Project area.

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<sup>167</sup> In *Shekulli*, July 7, 2008.

<sup>168</sup> *Best Property Albania* lists the "Jala Beach Resort" under its "Commercial" category. Available at <http://www.bestpropertyalbania.com/en/commercial.html> (accessed on July 10, 2008, and November 12, 2008)

<sup>169</sup> Request, pp. 1, 7.

<sup>170</sup> Aide Memoire, Fact Finding Mission May 3-5, 2007, ¶11.

245. **This Project, which included components known to be associated with demolitions in the Project area, harbored a critical risk that could have been avoided with an appropriate contractual framework and adequate supervision. The Panel finds that the Bank has failed to supervise the Project, as required under Bank’s Policy on Supervision OP/BP 13.05.**
246. A prime example of inadequate supervision is the partial Fact Finding Mission, which ended up not “finding,” **some of the most important facts that explained the events which led to the present inspection**, and may have led to a problematic Management Response. The Panel is struck by Management’s lack of response both to the demolitions themselves and to the surrounding press coverage and Parliamentary discussions, which directly implicate the Bank in these demolitions.
247. **The Panel also concludes that the Management Response was particularly unhelpful and non-informative and at times in total conflict with factual information which had been long known to Management.** The omission of known key information in the Management Response distorts the overall picture and further compounds many less than straight forward answers received by the Panel to its questions from some of the staff involved in Project management, and implementation. The Panel notes that, given the seriousness of the situation, it took the unusual step during the investigation of alerting Senior Management to key facts that it has uncovered.
248. Although this is not a requirement for compensation or assistance according to OP/BP 4.12, some of the people affected seem poor and vulnerable, and they claim that the demolitions took away their life savings and need assistance to rebuild their lives. As established in this Report the Panel found direct links with the Project and the demolitions in Jale. It may be argued that their situation could have been prevented with a better approach by the Bank to this Project, by first conducting a social assessment and developing an approach within the framework of the OP/BP 4.12 to assist people who might be affected by demolitions in the Project area. The demolitions in Jale took place more than one and a half year ago. As far as the Panel can ascertain, **no action has been taken with regard to the situation of the affected people.**

## Chapter Three

### Project Appraisal, Board Presentation and the Investigation Process

249. This Chapter deals with a series of difficulties the Panel encountered in obtaining adequate and complete information from Bank Management on key Project-related facts and the disturbing set of circumstances regarding Management's presentation of the Project to the Bank's Board of Executive Directors.

#### A. Presentation to the Board

250. The PAD rightly identifies the Government's demolition of illegal buildings as one of the critical risks and possible controversial aspects of the Project. The PAD explains the Government's program to remove unauthorized encroachments from public spaces, including the coastal zone. It also provides a justification about why, in Management's opinion, the Bank's Involuntary Resettlement Policy was not triggered for those affected people who would lose their structures and access to land as a result of encroachment removal.
251. The Bank was aware of the reputational risks involved and, as a mitigation measure for this critical risk, the PAD states that: "[a]s part of the Bank efforts to promote social due diligence, criteria and procedures for assisting affected people who lose their primary residence or main source of livelihood due to encroachment removal will be developed as part of the preparation of the SCDP under the Project. **The Government has agreed that further encroachment removal will take place only after the criteria and procedures for identifying and assisting such vulnerable affected people are in place.**" (emphasis added)<sup>171</sup>
252. Following the distribution of documents to the Bank's Board of Executive Directors for approval of the credit supporting the Project and prior to the Board meeting, two of the Executive Directors issued written statements welcoming the Government's agreement stated in the PAD that further encroachment removal will take place only after the criteria and procedures for identifying and assisting the vulnerable affected people are in place. During the Board discussion,<sup>172</sup> another Executive Director, in comments verbally made, again reiterated the issue and mentioned the reputational risk the Bank might face as a result of demolitions and requested more information on the Government's commitments stated in the PAD.
253. Management responded to issues raised regarding the resettlement and overall social issues but did not refer to the alleged Government commitment to halt

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<sup>171</sup> PAD, p. 15.

<sup>172</sup> Board discussion took place on June 21, 2005.

demolitions. Management reiterated the PAD's statement that the Bank's Involuntary Resettlement Policy is not triggered as the removal of illegal encroachments across Albania is an ongoing process and is not resulting from the Bank-assisted Project. Management stated that "*as part of socially responsible project design,*" they have discussed with the Government, measures to assist potentially affected people that are vulnerable and whose primary residence or primary source of livelihood is dependent upon the structure(s) in the coastal zone.

254. Management further stated that the Government agreed to establish elaborate criteria as part of the coastal zone management plan whereby "*such people will be identified and assisted*" prior to or as part of the implementation of the Southern Coast Development Plan. Management indicated that no eviction as part of the implementation of the Plan would take place until such assistance is provided to vulnerable groups to protect their source of livelihood.
255. In addition, in response to questions regarding Albanian laws on compensation and resettlement, Management stated that they have done an elaborate analysis of assistance to people under different land tenure regimes and found that the Albanian laws do not protect the rights of people who do not hold legal title to the land they are occupying. Based on this analysis, Management stated to the Board that "*as part of good project design,*" they went beyond what is provided under the Albanian laws and have agreed with the Government to establish mechanisms to fully protect poor or otherwise vulnerable people without legal rights to land. Management clarified that the only ones who would not be protected, as part of this process, would be those who are not vulnerable and use the coastal zone for opportunistic reasons and have other sources of livelihood.
256. Based on the above noted discussion the Bank's Board of Executive Directors approved the credit on June 21, 2005.

#### **B. Information Given to the Panel During its Eligibility Visit**

257. After the Panel received the Request for Inspection and the Management Response related to the demolitions in Jale, the Panel reviewed all relevant Project documents and went to Albania to determine the eligibility of the Request. During its meeting with the Project team and Country Management at the Bank's Tirana office, the Panel team requested information on the Government's agreement not to continue demolitions in the Project area as set forth in the PAD. The Project team indicated that this was a mistake in the PAD and no such agreement exists with the Government.
258. The Project team further indicated to the Panel team that during the Board discussion Management clarified to the Board members that this statement in the PAD was a "*mistake.*" The Project team stated that although the Board members were informed about this mistake, the PAD, which was made

available to the public after the Board's approval of the Project, was erroneously not corrected. The Project team then provided to the Panel team a copy of the statement which was allegedly read by Management to the Board.

259. The statement, which the Panel team was told was read to the Board, contained the following paragraph:

*“[w]e want to clarify that the Bank does not have a blanket agreement with the Government to put a moratorium on the application of the Urban Planning Law, which calls for removal of unauthorized encroachments in public space in general. We will take another look at the PAD to remove any possible confusion in the public document.”<sup>173</sup>*

260. The Panel team was surprised that the Project team did not clarify this important issue in the Management Response. However, the Panel team made note of the discussion, accepted Management's explanation related to the Government's agreement not to continue further demolitions and continued its eligibility visit.

### **C. Information that Emerged During the Investigation**

261. During its investigation, the Panel conducted an in-depth review of the Project documents. One of the important documents contained in the Project files is the Aide-Memoire of the Fact Finding Mission conducted during May 3-5, 2007 by the Project team following the demolitions in Jale. The team included staff who were directly involved in the Project preparation and supervision. Among the key findings of the Mission, the Aide-Memoire clearly states, that:

*“The current demolitions in specific locations in the Ionic Coast raises the concern of **lack of conformity with Government commitment that encroachment removal in the southern coast will take place only after criteria and procedures for identifying and assisting vulnerable affected people** who lose their primary residence or main source of livelihood due to encroachment removal are in place.”*  
(emphasis added)<sup>174</sup>

262. The Aide Memoire and Back to Office Report of the Fact Finding Mission stated the Mission's recommendations, including: (a) defining transparent criteria for identifying illegal buildings for demolishing; (b) defining eligibility criteria for compensation; (c) identifying a package of assistance; (d) public outreach and dissemination efforts; and (e) stopping plans for further demolition of illegal complete buildings. During the internal clearance process of the Aide

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<sup>173</sup> Albania-Integrated Coastal Zone Management and Clean-up Project, Board Presentation, June 21, 2005.

<sup>174</sup> Aide Memoire, Fact Finding Mission May 3-5, 2007, ¶5.

Memoire and the transmittal letter to the Government, a Manager cautioned about “*making a blanket recommendation to stop demolition of illegal buildings, when it seems that a legal framework is clearly in place for this.*”<sup>175</sup>

263. Although no one from the Bank staff, including the team members of the Fact Finding Mission, spoke to the people affected by the demolitions in Jale, a Manager concluded that the Bank has “*only ‘hearsay’ evidence that there is real hardship caused by the demolitions, while there seems to be a high degree of clarity, and public knowledge, that the constructions are illegal in the first place.*”<sup>176</sup> A staff member, who was a part of the Fact Finding Mission, responded to this communication indicating that the Bank is “*just asking the Government to follow on their commitments.*”<sup>177</sup>
264. As a result, in the letter sent to the Government to transmit the findings of the Fact Finding Mission, Management referred to the commitments made by the Government in the Development Policy Letter adopted by the Government for the Project. The transmittal letter of the Fact Finding Mission’s Aide Memoire states that “*it is essential that the Government keeps the commitments made regarding the handling of demolition of illegal buildings in the southern coast, which are reflected in the Development Policy Letter adopted by the Government for the ICZMP.*”<sup>178</sup> However, the Aide Memoire attached to the letter included the Mission’s finding noted in above regarding the Government’s lack of conformity with its commitment on demolitions as set forth in the PAD.
265. It is interesting to note that the Letter of Development Policy does not contain a commitment by the Government regarding ongoing demolitions in the southern coast prior to the finalization of the SCDP. The Letter of Development Policy indicates Government’s commitment only with respect to “[a]doption of adequate procedures and measures, including a resettlement policy framework for the entire Southern coastal zone, to avoid, and where not feasible to avoid, to mitigate risks to individuals and communities if the Plan and associated zoning and regulations and specific investments yield negative impacts relating to loss of land or living.”<sup>179</sup>

#### **D. Panel’s Review of Board Transcript**

266. This discrepancy of statements of the Project team, on one hand indicating the Government’s commitment not to continue demolitions in the Aide Memoire of the Fact Finding Mission of May 2007, thus confirming the statement in the PAD and on the other hand stating to the Panel, during its Eligibility visit in September 2007, that the statement in the PAD was a mistake, coupled with a

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<sup>175</sup> Communication dated June 28, 2007.

<sup>176</sup> Communication dated June 28, 2007.

<sup>177</sup> Communication dated June 28, 2007.

<sup>178</sup> Letter dated July 3, 2007 to the Minister of Public Works, Transport and Telecommunications.

<sup>179</sup> PAD, Annex 12: Letter of Development Policy, April 21, 2005.

number of other incidents, where the Project team did not provide information or misrepresented the facts, which are described in detail in this Report, led the Panel team to request and review the transcript of the Board discussion that took place on June 21, 2005.

267. As a result of the careful review of the transcript, **the Panel found that the paragraph allegedly included in the Board statement given to the Panel by Management, referred to above, was not read to the Board. The Panel found that this statement would have provided to the Board crucial factual information on the status of a critical risk mitigation measure in the PAD, and which was welcomed and relied upon by the Board members while approving the Project. This is not in compliance with OMS 2.20 and Annex D of BP 10.00 on Investment Lending: Identification to Board Presentation.**
268. Given the seriousness of this matter, the Panel Chairperson took the unprecedented step of sharing the Panel's observation with Senior Management together with other important findings throughout the Panel's investigation in March 2008. Senior Management characterized the events as series of misjudgments by Bank staff and assured the Panel Chair that Management would act in a transparent manner to the Panel from then on.
269. The Panel conducted interviews with Bank staff who were present during the Board meeting to understand why the clarification was not read to the Board and why correct information was not provided to the Board although the issue was discussed and specifically referred to by two Executive Directors in their written statements and by another Executive Director verbally. Again to the Panel's surprise, the staff who discussed the issues raised by the Executive Directors and were present during the Board meeting could neither recall what happened nor provide a plausible explanation to the Panel.
270. **To date, the Panel does not know why and when Management decided not to indicate that the statement in the PAD was a mistake and how this issue evolved over time. The Panel is very concerned about Management's actions that obstructed the Panel's investigation. Management's misrepresentation of important factual information to the Panel. This is contrary to the process established by the Board Resolution establishing the Panel and the provisions of BP 17.55.**

#### **E. Corrigendum of September 2, 2008**

271. Months after becoming aware of the Panel's discovery regarding this statement in the PAD indicating a Government agreement to suspend demolitions, Management circulated a Corrigendum to the Board on September 2, 2008.<sup>180</sup>

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<sup>180</sup> Corrigendum, Albania Integrated Coastal Zone Management and Clean-up Project, dated September 2, 2008.



The Corrigendum informs the Board that the public version of the PAD, which was approved by the Board more than three years ago, has been amended by deleting the statement indicating Government's agreement to suspend demolitions until criteria and procedures for identifying and assisting vulnerable affected people are in place.

272. The Corrigendum states that “[t]his sentence was inadvertently included in the document circulated for Board consideration.” Through the Corrigendum, the Board has been informed that Management has dealt with this serious misinformation by simply correcting, retroactively, the PAD available to the public.
273. As noted above in this Chapter, the PAD statement being deleted by the Corrigendum was an assurance made to the Board at that time. In fact, it was an important representation to the Board of a substantial agreement reached with the Borrower to establish a moratorium on demolitions until criteria and procedures to identify and assist the vulnerable affected people are in place. This agreement provided an important mitigation measure for a possible reputational risk to the Bank. In other words, this particular statement was a way of expressing the assurance through the PAD, that even if the OP/BP 4.12 will not be applied formally, an effective protection against demolitions was obtained by another means, i.e. the agreement with the Government.
274. This agreement was a subject of discussion at the Board meeting and specifically referred to in written statements by two Executive Directors who expressed their satisfaction at the existence of this moratorium. Management has acknowledged this fact in the Corrigendum.
275. **The use of a Corrigendum to modify such a substantive statement in the PAD, which was relied upon by the Board, without any explanation or consideration by the Board, may set a very serious and disturbing precedent. The Panel notes that this is a fundamental issue of Board-Management relations.<sup>181</sup>**
276. In addition, the Corrigendum includes a statement which indicates that the Inspection Panel “has been informed of the error in the PAD and Management will address all related issues in the context of the Management Response to the Inspection Panel Investigation Report at that time.” This chapter sets forth above in detail how the Panel investigation process unfolded events regarding Management's misrepresentation to the Board. It is important to note that Management neither informed the Panel of the “error” in the PAD, nor provided

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<sup>181</sup> While this Report was being prepared, the events surrounding this Corrigendum were under review by the Acting Vice President and General Counsel. For the record, the Panel notes that reporting on this issue can not be construed as endorsement of the procedures surrounding the issuance of this Corrigendum or its content.

any explanation with respect to events surrounding the misrepresentation to the Board regarding this “error.”

#### **F. Panel Process**

277. The Panel finally notes that in the course of this investigation, it encountered a series of difficulties in obtaining accurate and complete information from Bank staff on key Project-related facts. The Panel acknowledges that the Bank works in a technically and politically difficult environment. Decisions often have to be made under conditions of uncertainty, and errors can and will happen. Moreover, risk taking is an important part of development, although the Bank needs to ensure that the risks do not fall on the most vulnerable. The Bank has developed an operational policy framework and established mechanisms to deal with these risks.
278. The Panel notes that staff cooperation and transparency is essential so that when errors occur, normally unintended, they are acknowledged and corrected. This benefits not only the institution, but also the people the Bank is mandated to serve.
279. Access to relevant and accurate information is fundamental to the work of the Panel. This principle is clearly set forth in paragraph 21 of the Resolution establishing the Panel. It is well known that candor in information is part and parcel of the letter and spirit of the Bank’s staff work rules in general, and this refers to the Panel’s work as well, and is specifically provided in BP 17.55 which states, “[w]hen requested by the Panel, Bank staff cooperate fully with the Panel in the discharge of its functions.” Staff cooperation is particularly indispensable because the institutional memory exists not only in the form of written documents but also as the informed personal memory of project staff involved day in and day out in a certain project.
280. The Panel notes and appreciates the significant efforts that Bank Management and staff normally makes to fulfill this responsibility, and this has been explicitly recognized by the Panel in most prior reports to the Board. However, in the present investigation, the Inspection Panel has been confronted with an array of difficulties in its access to relevant information, at times having to sort through misrepresentations, and in obtaining the requisite level of staff cooperation.

## Annex A

### Table of Findings

ISSUE	MANAGEMENT RESPONSE	PANEL'S FINDINGS
<b><i>PROJECT DESIGN: APPLICATION OF OP/BP 4.12 ON INVOLUNTARY RESETTLEMENT</i></b>		
<b>Analysis of Management Decision Not to Apply OP/BP 4.12 to Ongoing Demolitions in Project Area</b>	Bank team determined that there is no linkage, as defined in Paragraph 4 of OP 4.12, between any demolitions conducted under the Government's ongoing program of encroachment removal (including those identified in the Request) and the Bank-supported Project. Therefore the removal of such encroachments is unrelated to Bank-financed investments and/or the SCDP and is not subject to the Bank's Policy on Involuntary Resettlement.	Panel is surprised with Management's determination that there is " <i>no linkage</i> " between GoA demolition program and the objectives of the Project as provided in paragraph 4 of OP 4.12. The Government's demolition programs aim to enforce land-use requirements, and the very purpose of the Project is to promote sustainable development and management of the coastal zone, including through land-use planning measures and requirements and their enforcement. Panel finds that the kind of encroachment removal that the GoA intends to carry out in the area covered by the Bank assisted Project clearly falls within the three categories stated in paragraph 4 of OP/BP 4.12, Bank Policy on Involuntary Resettlement. To wit: (a) the Government's demolition program aims to achieve objectives which are declared to be the same as the objectives pursued by the Project itself -- the sustainable development and proper use of the coastal zone; (b) as such, the activities are necessarily part of actions to achieve these objectives; and (c) these activities are planned and carried out contemporaneously with the Project, within the meaning of paragraph 4 of OP 4.12. Panel notes that Management's decision not to apply the policy, as stated in the PAD, is in conflict with the provisions of the policy, and relates to the view that demolitions of houses are not a ' <i>taking of land.</i> ' This faulty approach seems to be another reason behind Management's decision not to apply OP/BP 4.12 to the Project.
<b>Claimed "Agreement" to Suspend Demolitions</b>		In the absence of applying the Bank Policy on Involuntary Resettlement, the claimed "agreement" with the GoA to suspend demolitions in the Project area, stated in the PAD, gave the impression that a safeguard was in place to protect potentially affected people and the Bank against the critical Project risk of demolitions. During its investigation, however, Panel learned that the Government had not made such a commitment and had not agreed with what the PAD was stating. The crucial statement cited above turned out to be unfounded and incorrect. During the Board Meeting, Management did not inform the Board about this fact, although Executive Directors indicated that they welcomed the existence of this agreement.

ISSUE	MANAGEMENT RESPONSE	PANEL'S FINDINGS
		Panel finds that without the alleged agreement with the GoA to suspend demolitions in the Project area, without an agreement on a cut-off date, and above all without applying the Bank's Policy on Involuntary Resettlement to ongoing demolitions, Management failed to safeguard people potentially affected by Project related activities. This fails to comply with OP/BP 4.12. Management did not protect the Bank against a significant reputational risk acknowledged in the PAD.
<b>Implementation of the Southern Coastal Development Plan (SCDP)—Land Zoning</b>	<p>The aim of the Project is to introduce a replicable concept of, and approach to, integrated planning in Albania. As reflected in the PAD, in the event of adverse impacts arising from regulations to promote sustainable land-use (resulting from the SCDP), the Policy is not triggered. OP 4.12 also is not triggered with respect to regulations of natural resources on a national or regional level (in this case, coastal areas) to promote their sustainability.</p> <p>The OP [4.12] suggests, however, that it is good practice for the Borrower to undertake a social assessment and implement measures to minimize and mitigate adverse social impacts, especially those affecting poor and vulnerable groups. In the present case, although OP 4.12 is not applicable, the Project ensures that due diligence is undertaken on social aspects of potential displacement arising from implementation of the Project to ensure that vulnerable people are not affected.</p>	<p>Panel finds that the objectives and content of the Project, including the SCDP, go well beyond regulation of natural resources and therefore the Policy applies.</p> <p>As part of “good project design” in the preparation of the SCDP, Management agreed with the Borrower that it would develop certain criteria and procedures to assist “<i>affected people who lose their primary residence or main source of livelihood due to encroachment removal.</i>” Panel notes, however, that this promise becomes effective only once the SCDP is prepared. As a result, Project design has not enabled the provision of assistance to people who lost their homes or sources of livelihood in Jale. As far as Panel can ascertain, as of the date of this Report, no assistance has been provided to these people.</p>
<b>Infrastructure Investments Following the Adoption of the SCDP</b>	The PAD indicated that in the event that land has to be acquired for specific Project-financed infrastructure investments, OP 4.12 would apply and that the Government had adopted a Resettlement Policy Framework that reflects the “core principles” of the Policy and Albanian laws on land expropriation.	Panel did not review the adequacy of the Resettlement Policy Framework adopted by GoA that Management states will apply to specific investments to be supported under the SCDP, however, Panel finds that the provisions of OP/BP 4.12 need to apply to investments that will follow the planning framework of the SCDP.
<b>Disparate Treatment for Affected People</b>		<p>Panel observes that a differentiated approach to the application of OP 4.12 could lead to different treatment of affected people with similar situations under different phases of the Project. Panel finds that such outcomes should have been envisaged during Project design and that neglecting the possibility of their occurrence represents a failure of policy interpretation and a substantive non-compliance with necessary application of Bank Policy on Involuntary Resettlement.</p> <p>Panel is also concerned about what the safeguards framework would be for treatment of affected and vulnerable people who live in areas designated by</p>

ISSUE	MANAGEMENT RESPONSE	PANEL'S FINDINGS
		the SCDP as suitable for tourism development, once private tourism developers seek to develop those lands.

### ***LINKAGES BETWEEN THE PROJECT AND THE DEMOLITIONS IN JALE***

<b>Documentary Evidence</b>  <b>(a) Project Communications Related to Demolitions in Jale</b>  <b>(b) Demolished Houses Identified by Aerial Photographs Financed Under Project</b>  <b>(c) Assistance to the Construction Police</b>	<p>The demolitions were not linked to the Project directly or indirectly. The demolitions at Jal were undertaken in the context of a nationwide Government program (ongoing since 2001) to remove unauthorized buildings and encroachments from public spaces, in accordance with national law. The demolitions referred to by the first Requester in the Request for Inspection were not limited to the Project area, not caused by or linked to the Project, and were not done in anticipation of the Project or to achieve the Project objectives.</p> <p>Management wishes to clarify that the Construction Police will receive technical assistance but is not an implementing partner of the Project.</p>	<p>Panel investigation revealed an important and direct connection between Project and demolitions in Jale. Indeed, Project records indicate an active relationship between Project and Construction Police and the fact that aerial photography financed under the Project identified the buildings that were demolished.</p> <p>On March 26, 2007, PCU sent a letter, on the official letter head of the Bank-financed Project, signed by Project Coordinator, to almost all relevant high level government authorities, including the General Director of the Construction Police, notifying them of what he characterized as illegal constructions along the Ionian Coast. Attached to the letter were two CDs with aerial photos of the coast. Aerial photographs of the coast were financed by the Project. It is important to note that PCU issued the letter on the official letter head of the Bank-financed Project and the letter was signed by the head of PCU, in his capacity as the Project Coordinator and attached to the letter were aerial photographs financed by the Project. In its response letter, the Construction Police stated that it had administered all the necessary procedures and the decisions for demolition of these constructions had been communicated to the respective parties.</p> <p>Project records show that the Project provided support, both material and technical, to the Construction Police for the demolitions that were the cause of this Request for Inspection. The most important item being the aerial photographs used to identify the houses to be demolished. This constitutes a direct and material support of the Project to the demolitions in Jale. Panel notes that this Project activity was not acknowledged or described in Management Response. To the contrary, the Response states in no uncertain terms that “[t]he demolitions were not linked to the Project directly or indirectly.”</p> <p>Project documentation demonstrates that the Project has provided resources and support for the Construction Police related to demolition activities in the Project area. This kind of support establishes a crucial link between the Project and the demolitions.</p>

ISSUE	MANAGEMENT RESPONSE	PANEL'S FINDINGS
		<p>The analysis and facts established above show that the Bank Policy on Involuntary Resettlement should have been applied to the demolitions related to the Project. This conclusion takes into account the assistance provided by the Project to the Construction Police for the delivery of their functions, aerial photographs identifying the demolished houses also financed by the Project, and the official communications of the PCU calling on the Construction Police to deal with the alleged illegal construction.</p> <p>Panel finds no merit in Management's statement that "[t]he demolitions were not linked to the Project directly or indirectly." Indeed, Panel finds a direct link between the demolitions in Jale and the Project and its objectives. Consequently, Panel finds that Management failed to comply with requirements of OP/BO 4.12 on Involuntary Resettlement with respect to demolitions that took place in Jale. In this sense, Project also failed to address the poverty reduction objectives set forth in OP 1.00 on Poverty Reduction.</p>
<p><b>Other Relevant Facts</b></p> <p><b>Debates in Albania's Parliament</b></p>		<p>During the plenary session of the Parliament on April 23, 2007, the demolition in Jale had been discussed and the Minister of Public Works, Transport and Telecommunications said that "<i>this [the demolition] was a must because of the World Bank project in the area, the Bank has asked for it.</i>" The Minister's official statement before Parliament leaves no doubt about the close link between this specific instance of enforcement of laws on demolitions in Jale and the Project.</p>
<p><b>Partial Fact Finding Process in Response to Requester's Complaints</b></p>	<p>When the Bank received complaints and allegations in late April 2007 that demolitions had occurred as a consequence of the Project, it promptly sent a fact-finding mission to Albania in early May 2007.</p> <p>In early July 2007, the Bank sent an Aide-Memoire to the Albanian authorities outlining its findings and making recommendations. Bank's recommendations included: defining transparent criteria for identifying illegal buildings for demolition, defining eligibility criteria for assistance, identifying a package of assistance, and public outreach and dissemination efforts. In addition, Bank advised the Government to put on hold future plans for further demolition until the above mentioned criteria are developed and agreed.</p>	<p>The omission of key events and relationships surrounding demolitions in Jale in Fact Finding Back to Office Report may be regarded as a material misrepresentation of a situation about which the Mission was mandated to provide a "<i>fuller understanding of the facts</i>". This omission fails to convey evidence that would have suggested fundamental flaws in Project design, implementation, and supervision. It appears that Management would have been better served by sending in staff who were not directly involved in this Project to undertake a "fact finding" mission in a highly controversial situation. Panel finds that Management's own "fact finding" report, by leaving out essential facts which it had the obligation to report according to the TOR it received, did not comply with Bank Policy on Supervision, OP/BP 13.05.</p>

ISSUE	MANAGEMENT RESPONSE	PANEL'S FINDINGS
<b><i>PROJECT APPRAISAL, BOARD PRESENTATION AND THE INVESTIGATION PROCESS</i></b>		
<b>Panel's Review of Board Transcript</b>		<p>Panel found that the paragraph allegedly included in the Board statement given to the Panel by Management during its Eligibility visit, was not read to the Board. The Panel found that this statement would have provided to the Board crucial factual information on the status of a critical risk mitigation measure in the PAD, and which was welcomed and relied upon by the Board members while approving the Project. This is not in compliance with OMS 2.20 and Annex D of BP 10.00 on Investment Lending: Identification to Board Presentation.</p> <p>To date, Panel does not know why and when Management decided not to indicate that the statement in the PAD was a mistake and how this issue evolved over time. Panel is very concerned about Management's misrepresentation of important factual information to the Panel. This is contrary to the process established by the Board Resolution establishing the Panel and provisions of BP 17.55.</p>
<b>Corrigendum of September 2, 2008</b>		<p>The use of a Corrigendum to modify such a substantive statement in the PAD, which was relied upon by the Board, without any explanation or consideration by the Board, may set a very serious and disturbing precedent. Panel notes that this is a fundamental issue of Board-Management relations.</p>
<b><i>CONCLUDING REMARKS</i></b>		
<b>Conclusions</b>		<p>Panel finds that initial decision not to apply OP/BP 4.12 at the decisive stage of appraisal was a root cause in Management's mishandling of the Jale demolitions. Panel finds that not only during Project design and appraisal but also during Project implementation the Bank failed to comply with OP/BP 4.12 on Involuntary Resettlement.</p> <p>This Project, which included components known to be associated with demolitions in the Project area, harbored a critical risk that could have been avoided with an appropriate contractual framework and adequate supervision. Panel finds that Bank has failed to supervise the Project, as required under Bank's Policy on Supervision OP/BP 13.05.</p> <p>Panel also concludes that Management Response was particularly unhelpful and non-informative and at times in total conflict with factual information which had been long known to Management.</p>

## Annex B

### Key Project Events Related to the Investigation

The table below shows a chronology of key events related to this investigation. These include: the development of the SCDP and the delay in its preparation; selection of the PCU; Bank-financed actions related to the demolitions in Jale, including aerial photography and assistance to the Construction Police; the events surrounding the demolitions in Jale; Bank supervision; and further evidence of links between the Project and the demolitions in Jale.

YEAR/MONTH	DAY	EVENT
1995		A coastal zone management plan was prepared by the Government of Albania with assistance from consortium of donors including the Bank. Plan did not contain sufficient detail to allow for use in zoning, building permits or regulations.
2001–present		Government program to remove unauthorized encroachments from public spaces, in accordance with national law.
<b>2004</b>		
Nov. 2004	4	<b>Project Preparation Facility (PPF) became effective</b> to finance key Project preparation studies. Some proceeds of the PPF were used to finance actual implementation of Project, including preparation of the Southern Coastal Development Plan (SCDP) and establishment of the Project Coordination Unit (PCU) and Implementation Teams.
<b>2005</b>		
Feb. 2005	17	Bank provided no-objection to selection of Project Coordinator.
	23	Bank provided no-objection to draft contract for selection of consultant consortium for the preparation of the SCDP under the PPF.
June 2005	21	<b>Board discussion of the Project:</b> IDA Credit to finance the Project approved by Bank Board, based on Project Appraisal Document (PAD), which refers to an alleged Government agreement not to continue demolitions in the Project area.
July/Sept 2005		<b>National elections</b> and change of administration and ministries.
Oct. 2005		Integrated Coastal Development Study and Plan—Final Interim Report, including the draft Southern Coastal Development Study, was submitted by consultant consortium.



YEAR/MONTH	DAY	EVENT
Nov. 2005	9	Supervision mission stated that the study presented by consultant consortium provided a comprehensive assessment of the situation in the southern coast, and indicated Bank's high satisfaction with the performance of PCU staff and supported the renewal of their contracts.
	29	<b>IDA Credit Agreement became effective.</b>
	30	Government informed Bank that Project Coordinator's contract would be terminated and selection process for hiring new Project Coordinator would be launched.
<b>2006</b>		
Jan. 2006	17	Consultant consortium presented interim report of the SCDP to the new Deputy Minister of MPWTT at public meeting in Vlora.
Feb. 2006	12	Bank provided conditional no-objection to <b>selection of a new Project Coordinator</b> , in light of Coordinator's close family ties to a key government official. To meet Bank's condition, MPWTT provided a statement confirming that the decision was not biased by the influence of the key government official concerned, that the Project Coordinator will not be supervised directly or indirectly by the key government official, and that the Project Coordinator's remuneration will be reasonable and comparable with others in similar positions.
Apr. 2006		Law No. 9482 " <i>On the legalization, urbanization and integration of buildings without permits</i> " was enacted. According to the Requesters, most of those submitting Request for Inspection applied to legalize their new buildings on the lands that they owned and/or possessed for several years pursuant to this law and these applications were verified and registered by local authorities.
May-June 2006	29-3	Supervision mission noted that PCU had identified a " <i>unique small NGO</i> " specialized in panoramic mapping utilizing a motorized para-glider as the aerial platform and suggested that it could develop a cost-effective methodology for aerial mapping that could be used for monitoring of illegal construction in the coastal zone.
June 2006	15, 23	According to Bank staff, PCU sent communication for Bank's no-objection of the TORs and draft invitation-to-quote to take aerial photos of the Ionian Coast.

YEAR/MONTH	DAY	EVENT
July 2006	10	According to Bank staff, PCU submitted request for the purchase of equipment for the project units and government agencies, including the Construction Police.
	11	According to Bank staff, Bank provided no-objection to draft Invitation-to-Quote to take aerial photographs of the Ionian Coast.
mid-Oct. 2006		MPWTT initiated termination of contract with consultant consortium due to alleged inadequate content of draft SCDP and improper consultation process.
Oct. 2006		MPWTT and consultant consortium agreed to terminate the contract on <i>“amicable terms”</i>
Nov. 2006		MPWTT initiated procurement process for selection of new consultants to assist with the formulation of the SCDP.
<b>2007</b>		
Jan. 2007	31	According to Bank staff, developer approached Bank with investment proposal for the Southern Coast.
Feb. 2007	19-24	<p>Supervision mission noted that Government was <i>“being approached constantly by interested developers and investors with several tourism projects”</i> for Southern Coast. Mission recommended that the Government adopt competitive and transparent procedures to invite the private sector to undertake investments in the coast upon approval of the SCDP.</p> <p><b>Mission confirmed that equipment had been provided</b> under the project to local government units in the southern coast and to the Construction Police to assist them in the execution of their functions. An aerial mapping survey for the entire southern coast was commissioned, which would be repeated on quarterly basis to inform the Construction Police about illegal construction activities.</p>
Mar. 2007	12	Bank issued a press release indicating that <i>“the World Bank works directly with the public sector and does not sponsor private sector initiatives or get involved in their backing.”</i>
	Mid-March	According to Bank staff, aerial photographs of the Southern Coast were completed.
	26	PCU sent a letter to several Ministers and the Construction Police attaching aerial photographs, financed by the Project, and alerting to

YEAR/MONTH	DAY	EVENT
		continued construction of illegal structures along the southern coast. Coordinator stated that “[g]iven the importance of the sustainable development in this area and its impact on the overall economic and tourism development of the country, with respect for the environment, kindly make sure to take the necessary measures and as fast as possible.”
Apr. 2007	3	<b>Jale residents receive notice from Construction Police</b> and MPWTT that a decision had been made for demolition of their houses.
	8	Affected families filed timely complaints and appeals as provided for in the law. All those who filed and followed through with lawsuit were assigned court dates after April 17, 2007, and Requesters claim that the Construction Police were notified.
	10	Construction Police informed the Minister of MPWTT, the PCU, and the Advisor to the Prime Minister that the Construction Police were taking action with regards to the request sent by the PCU and lists a number of so-called illegal constructions in the Southern Coast area including 16 in Jale.
	17– 21	Assisted by National and local police forces, <b>Regional Construction Police demolish several buildings in Jale</b> , the homes and structures of the Requesters.
	18	<i>Shekulli</i> , a leading newspaper in Albania, reported the demolitions in Jale.
	19	<i>Albania Daily News</i> reported about demolitions in Jale. Bank staff contacted PCU to inquire about article in newspaper and requested to be informed about the developments. PCU acknowledged receipt of request and committed to act upon.
	20	PCU technical expert from Vlore Project implementation team visited Jale to see situation on the ground. PCU sent to Bank staff copies of the letter sent by the PCU to the Construction Police and its response and report prepared by PCU technical expert, which included information about the developments in Jale and pictures of the site.

YEAR/MONTH	DAY	EVENT
	23	Bank's Tirana Office received a communication from one of the Requesters containing information about the demolitions at Jale. Bank has acknowledged that it has never responded to this communication. Bank team member informed colleagues that the Jale demolitions were discussed at a plenary session in Parliament, and that a Minister explaining the situation stated that such demolitions were <i>"a must because of the World Bank project in the area, the Bank has asked for it."</i>
	25	PCU letter dated April 23 attaching again the letter sent by the PCU to the Construction Police and its response was received by the Bank office in Tirana, and was sent to Bank team in Washington, D.C.
	26	Bank received copies of a letter sent by Mayor of Himara to Prime Minister, MPWTT and Minister of Justice opposing the demolitions in Jale. News article reported that allegedly an agreement had been reached between Vlore branch Construction Police and Himara's Mayor on voluntary demolition of illegal houses.
May 2007	3 - 5	Bank <b>Fact Finding Mission</b> to assess the situation in Jale.
June 2007	28	Contract for the preparation of the SEA was signed and planned to be implemented between July and November, 2007.
July 2007	3	Bank sent the Aide-Memoire to the Government outlining the findings and recommendations of the Fact Finding Mission.
	30	Request for Inspection submitted by affected Jale residents received by Inspection Panel.
Aug. 2007	2	<b>First Request registered</b> by Inspection Panel.
	13	<b>Second Request received</b> by Inspection Panel.
	30	Contract for preparation of the SCDP was signed.
Sept. 2007	21-25	Panel conducted an eligibility visit and met with Government officials, Bank Tirana office staff, Requesters and other stakeholders.
Oct. 2007	17	Panel released its Eligibility Report and recommends investigation of matters alleged in first Request.

YEAR/MONTH	DAY	EVENT
Nov. 2007	1	Board approved Panel's recommendations. Panel conducted investigation visit and met with Government officials, Bank Tirana office staff, Requesters and other stakeholders.
<b>2008</b>		
Sept. 2008	2	Months after becoming aware of Panel findings about a material misrepresentation in PAD, Management issued a <b>Corrigendum to the PAD</b> more than three years after Board approval.

## **Annex C**

### **Biographies**

**Mr. Werner Kiene** was appointed to the Panel in November 2004 and has been its Chairperson since September 2007. He holds a Masters of Science degree and a Ph.D. in Agricultural Economics from Michigan State University. He has held leadership positions with the Ford Foundation and German Development Assistance. In 1994, Mr. Kiene became the founding Director of the Office of Evaluation of the United Nations World Food Programme (UN WFP). He was the World Food Programme Country Director for Bangladesh from 1998 through 2000 and also served as UN Resident Coordinator during this period. From 2000 to 2004 he was a Representative of the UN WFP in Washington, D.C. Mr. Kiene's focus has been on the design, implementation and assessment of sustainable development initiatives. His professional writings have dealt with issues of rural poverty and social services delivery; food security, agricultural and regional development; emergency support and humanitarian assistance; international trade and international relations. Mr. Kiene is involved in professional organizations such as the European Evaluation Association; the Society for International Development; the American Association for the Advancement of Science; and the International Agriculture Economics Association.

**Mr. Roberto Lenton** is currently Chair of the Technical Committee of the Global Water Partnership and a Member of the Inspection Panel of the World Bank. A specialist in water resources and sustainable development with over 30 years of international experience in the field, he also serves as Chair of the Water Supply and Sanitation Collaborative Council, Member of the Board of Directors of WaterAid America, and Senior Advisor to the International Research Institute for Climate and Society (IRI) at Columbia University. A citizen of Argentina with a Civil Engineering degree from the University of Buenos Aires and a Ph.D. from MIT, Dr. Lenton is a co-author of *Applied Water Resources Systems*. He is also a lead author of *Health, Dignity and Development: What will it take?*, the final report of the United Nations Millennium Project Task Force on Water and Sanitation, which he co-chaired. Dr. Lenton was earlier Director of the Sustainable Energy and Environment Division of the United Nations Development Programme in New York, Director General of the International Water Management Institute in Sri Lanka and Program Officer in the Rural Poverty and Resources program of the Ford Foundation in New Delhi and New York. He has served on the staff of Columbia University and the Massachusetts Institute of Technology (MIT), including posts as Executive Director of the IRI Secretariat for International Affairs and Development and Adjunct Professor in the School of International and Public Affairs at Columbia and Assistant Professor of Civil and Environmental Engineering at MIT.

**Mr. Alf Jerve** was appointed to the Panel in November 2008. He earned his Magister Degree in Social Anthropology and his Bachelor's degree in Environmental Science and Biology from the University of Bergen, Norway. As a Social Anthropologist with close to three decades of work in the field of development, he has been engaged in a wide range of development activities, including extensive field research in Africa and Asia. Among his assignments was a three year posting to Tanzania with the Norwegian Agency

for Development Cooperation as Coordinator of a rural development program. From 1993-1995 he was responsible for resettlement and rehabilitation issues with projects in Bangladesh during an assignment with the World Bank. In 1995 he became Assistant Director, and served as Director in 2005 and 2006, at the Christian Michelsen Institute in Norway, an internationally recognized development research institution where he has also devoted his energies and expertise to the research and analysis of a wide variety of policy and program issues affecting people in developing countries. Mr. Jerve has also led and participated in numerous independent evaluations commissioned by bilateral and multilateral development agencies, and served as a Member of the Roster of Experts for the Asian Development Bank's Inspection Function. His publications have focused on rural development, decentralization and poverty reduction and most recently on issues of ownership in development aid cooperation.

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### **Consultants**

**Michael Cernea** is Research Professor of Anthropology and International Affairs, George Washington University, Washington, D.C., and Honorary Professor of Resettlement and Social Development at Hohai University, Nanjing, China. He joined the World Bank as its first sociologist in 1974 and has held senior positions in the Operational Policy Vice-Presidency, and in the ESSD Vice-Presidency, until 1997. In his capacity as the World Bank's Senior Sociologist and Senior Advisor for Social Policies, he has contributed to defining the social content of several World Bank policies, including the Resettlement Policy, and of numerous Bank programs. Professor Cernea has also served or is currently serving as Advisor to other international organizations such as OECD, UN, UNDP, ADB, CGIAR, FAO, and GEF on social policy, poverty reduction, population resettlement, and cultural issues in development.