Report No. 69673-XK

The Inspection Panel

Report and Recommendation

Republic of Kosovo
Kosovo Power Project (proposed)

June 20, 2012

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Report and Recommendation
On
Request for Inspection

Republic of Kosovo: Kosovo Power Project (proposed)

A. Introduction

This Report

1. In accordance with the Resolution (hereinafter "the Resolution")[1] establishing the Inspection Panel (hereinafter "the Panel"), the purpose of this Report and Recommendation on Request for Inspection (hereinafter "the Report") is to make a recommendation to the Board of Executive Directors as to whether the Panel should investigate the matters alleged in this Request, based on the Panel's confirmation of the technical eligibility of the Request and its assessment of other factors as stipulated in the Resolution. The Panel's determination of the technical eligibility of the Request, in accordance with the 1999 Clarification,[2] is set out in Section E(b) below, and section E(c) summarizes the Panel's observations on others factors to be considered before making a recommendation to the Board. The Panel's recommendation is presented in Section F.

Panel process

2. On March 29, 2012 the Inspection Panel received a Request for Inspection concerning two Projects: the proposed Kosovo Power Project (KPP; hereinafter "the Project") and the Lignite Power Technical Assistance Project (LPTAP).

3. The Request was submitted by representatives of the villages of Dardhishte, Lajthishte/Sibovc, Palaj/Cerna Vidoca, Hade of Obiliq Municipality and the town of Obiliq in Kosovo; by the Kosovo Energy Corporation's independent Kosovo Energy Trade Union[3], and by three Kosovar civil society organizations, namely the Institute for Development Policy (INDEP), the Institute of Advanced Studies, and the Forum

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[1] International Bank for Reconstruction and Development (Resolution IBRD 93-10) and International Development Association (Resolution 93-6), "The World Bank Inspection Panel", September 22, 1993 (hereinafter "the Resolution"), para 19. Available at: http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ResolutionMarch2005.pdf

[2] "1999 Clarification of the Board's Second Review of the Inspection Panel", April 1999 (hereinafter "the 1999 Clarification"). Available at: http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf

[3] The Kosovo Energy Corporation is also known by its Albanian acronym KEK and the Kosovo Energy Trade Union is also known by its Albanian acronym SPEK.

for Civic Initiative (hereinafter "the Requesters"). The Request was accompanied by 14 annexes, including an annex containing copies of communications with the World Bank, a detailed Technical Annex, and a Letter of Delegation which authorized Mr. Nezir Sinani of INDEP to act as the Requesters' representative during the Panel process.

4. The Panel registered the Request on April 12, 2012. The Panel notes that the IDA grants for the LPTAP closed on December 31, 2011 and in accordance with Paragraph 14 (c) of the Resolution, the Panel's registration did not cover LPTAP.[4]

5. Management requested an extension for the submission of its Response[5] to the Request for Inspection which was received on May 21, 2012.

Key concerns raised in the Request

6. The Requesters state that they are *"concerned about the very serious social, economical and environmental impacts related to KPP and LPTAP"* and that they have *"already felt the impacts of these projects and are worried about what will happen after KPP has been built."*

B. The Project

7. The Project Information Document (PID) of the proposed Kosovo Power Project states that the Government of Kosovo (GoK) has *"requested that the World Bank provide support in the form of a partial risk guarantee from IDA for a proposed independent power project that would use domestic lignite coal."*[6] [7]

8. The PID explains that GoK's "Energy Strategy of Kosovo (2009-2018)" seeks to reduce the energy sector's carbon dioxide emissions and significantly reduce local air pollution. According to the PID, the *"objective of any prospective World Bank financial support to the proposed Kosovo Power Project would be to reduce the environmental impact of electricity generation and strengthen security of supply in*

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[4] Paragraph 14 (c) of the Inspection Panel Resolution states that the Panel shall not consider *";Requests filed after the Closing Date of the loan financing the project with respect to which the request is filed or after the loan financing the project has been substantially disbursed"*. Substantial disclosure is defined as when at least ninety-five percent of the loan proceeds have been disbursed.

[5] Management Response to Request for Inspection Panel Review of the Kosovo Power Project (Proposed), May 21, 2012, World Bank.

[6] Project Information Document (PID), Concept Stage, Kosovo Power Project, July 27, 2011, World Bank, p.1.

[7] The World Bank document titled *"World Bank Guarantee Products: IDA Partial Risk Guarantee (PRG)"* describes a PRG as *"World Bank Guarantees catalyze private financial flows to developing countries by mitigating critical government performance risks that the private financiers are reluctant to assume. Guarantees cover private debt against a government's (or government entity's) failure to meet specific obligations to a private or a public project"* and *"Partial Risk Guarantees (PRGs) cover private lenders, or investors through shareholder loans, against the risk of a government (or government-owned entity) failing to perform its contractual obligations with respect to a private project. International Development Association (IDA) PRGs are available for all countries eligible for IDA credits."* For more details, please visit: http://siteresources.worldbank.org/INTGUARANTEES/Resources/IDA_PRG.pdf

Kosovo in an economically efficient, environmentally sustainable, and a carbon-neutral manner."[8]

9. According to Management, Kosovo's domestic energy needs are currently met by the Kosovo A and Kosovo B power plants which produce between 840-900 MW of electricity.[9] The installed capacity of Kosovo A, built in 1962, was 610 MW but it currently produces about 350 MW. Similarly, the installed capacity of Kosovo B, commissioned in 1987, was 540 MW but it too is not operating at full capacity due to damages to key components and maintenance issues. Kosovo B's economically useful life is up to the year 2030.[10]

10. The proposed KPP, according to the PID, is "*envisaged to replace the Kosovo A Power Station*" which is planned to be decommissioned by 2017 in compliance with the European Union Energy Community Treaty to which Kosovo is a signatory.[11]

11. The Management Response states that the proposed KPP "*would comprise three components: (i) rehabilitation of the existing Kosovo B plant; (ii) construction of a new 600 MW power generation plant ("Kosova e Re Power Project" or "KRPP") using modern technology that is compliant with the European Union Industrial Emissions Directive;*[12] *and (iii) development of the lignite mine, Sibovc South, that will supply fuel to the new KRPP, as well as to Kosovo A and Kosovo B for their remaining operational lifetimes*".[13]

12. The PID states that the new power plant would be developed as an extension of the Kosovo B power plant site, and will share some common facilities. According to the Integrated Safeguards Data Sheet (ISDS) "*the associated infrastructure that might prospectively be needed would include an electrical interconnection upgrade, a water buffer reservoir, a suitable disposal site for ash, as well as other potentially associated infrastructure such as any necessary upgrades to the Iber-Lepenc water canal.*"[14]

13. The total cost of the Project is estimated to be US$2 billion which is proposed to be financed by the private sector and supported by a US$50 million IDA partial risk guarantee.[15] Management states that the Bank has provided a "*non-binding, in principle" expression of support, with the caveat that WBG* [World Bank Group]

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[8] PID, p. 2.
[9] Management Response, p. 4.
[10] Management Response, p. 2.
[11] PID, p. 2.
[12] The proposed KRPP would be required to be built as a carbon-capture and sequestration-ready facility to comply with another relevant EU Directive.
[13] Management Response, p. v.
[14] Integrated Safeguards Data Sheet (ISDS), Concept Stage, Kosovo Power Project, July 27, 2011, World Bank.
[15] Project Profile, Kosovo Power Project, World Bank external website http://www.worldbank.org/projects/P118287/kosovo-power-project?lang=en (information updated as of April 12, 2012).

support is contingent on the proposed Project complying fully with applicable Bank policies, including environmental, social and fiduciary safeguard policies" and the Bank's Strategic Framework for Development and Climate Change (SFDCC).[16] The Project is categorized as Category "A" and is proposed to be implemented by the Kosovo Ministry of Economic Development.

14. According to available project documents, the Lignite Power Technical Assistance Project (LPTAP) supported the preparation of the Project by financing "*several key activities*." Such activities included the preparation of a Strategic Environmental and Social Assessment (SESA) for a proposed 2000 MW power plant referred to as Kosovo C, a Resettlement Policy Framework (RPF) consistent with World Bank OP/BP 4.12 on Involuntary Resettlement, a Resettlement Action Plan (RAP) for Hade village, and the purchase of air monitoring equipment.[17] The LPTAP was classified as Category "B" triggering OP/BP 4.01 (Environmental Assessment) "*because of the safeguard impacts of possible follow-on investment projects, the feasibility of which are studied under the LPTAP*".[18] The project was supported by two technical assistance grants of about US$8.5 million and was approved by the Board on October 12, 2006. The project closed on December 31, 2011.

C. The Request

15. What follows is a summary of the Request for Inspection. The Request is attached to this Report as Annex I.

16. In their submission to the Panel, the Requesters express concerns about potential serious social, economic and environmental impacts of the proposed Project, and raise concerns about the already high level of environmental degradation in the Project area. Furthermore, the Requesters are concerned about the loss of jobs related to the proposed privatization of energy generation and mining.

17. According to the Request, the proposed new power plant will be built in Obiliq, about 7 km from Pristina, Kosovo's capital, where two coal power plants - Kosova A and Kosova B - already operate. The Requesters state that the burning of lignite for these two plants has made Obiliq and the surrounding villages the "*most polluted area in Europe*". The Requesters fear that the increased quantity of lignite likely to be burned in the new plant will worsen such pollution, which, they state, already affects agricultural land, surface and ground waters and air.

18. **Environmental and Health Impacts**. According to the Request, pollution from the existing power plants affects people's health and pollutes water resources. The

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[16] Management Response, p. vii. Management also states (p. vi) that the Expert Panel found KPP to be consistent with the SFDCC and suggested some improvements which are being incorporated in the project design.

[17] ISDS, Concept Stage, Kosovo Power Project July 27, 2011.

[18] Project Appraisal Document, Lignite Power Technical Assistance Project, Kosovo, September 13, 2006, World Bank, page iii.

Requesters state that the people living in the area already confront rising health issues – e.g. higher incidence of cardiovascular and neural diseases and harm to children's cognitive abilities – due to the release of pollutants from coal combustion. In addition, they state that discharges of some pollutants in the water adversely affect people and livestock, and the general health of the population who use domestic animal products.

19. The Technical Annex attached to the Request provides additional details on the Requesters' concerns and raises questions about the adequacy of the Strategic Environmental and Social Assessment (SESA) carried out under the LPTAP. More specifically, the Technical Annex states that since the Bank has not made it clear whether the SESA will serve as the Environmental Assessment for the proposed KPP, it can be assumed that this is the only analysis prepared to meet the requirements of OP 4.01 (Environmental Assessment). Furthermore, it states that the SESA does not meet requirements of OP 4.01 related to environmental, health and social impacts, consideration of alternatives, and consultations with affected communities.

20. **Water Shortages**. The Request also points to water shortages which, in the Requesters' view, will be caused by the Project. According to the Requesters, the existing power plants get their water supply from the Iber-Lepenc canal, whose waters are used to irrigate agricultural land in three municipalities, including Obiliq, and to supply water to the Badovc Lake which is the main source of potable water for Pristina. The Requesters state that the new power plant will also use water from the Iber-Lepenc canal and claim that increased use of this water for power generation will result in water cuts for Kosovo's capital and less water for irrigating agricultural land.

21. **Economic Impact**. According to the Requesters, the Project will cause negative economic impacts in the Obiliq area. They maintain that 70% of the Obiliq Municipality has been declared a zone of national interest for lignite mining in order to supply lignite to the power plants. As a result of this declaration, local people cannot develop existing or new homesteads. According to the Request, potentially affected people have not been included in any resettlement project that could relocate them to a new area. In addition, power cuts occur systematically in the area and this, in the Requesters' view, "*increases the risk of accidents for the population who live in the 'backyard' of power plants and existing mines.*" Moreover, the Requesters claim that the villages of Hade, Dardhishte and Lajthishte were not included in any plan to receive compensation for air, water, and land pollution.

22. **Impact on Employment**. The Requesters also claim that hundreds of workers of the Kosovo Energy Corporation (KEK) will be dismissed when the Kosovo A plant will be decommissioned by 2017 and the supply and distribution grid will be privatized. They state that the Kosovo Energy Corporation's independent Energy Trade Union (SPEK) was not consulted about the impacts on employment, and that incentive packages to workers were not developed. They point to technical and commercial losses in the energy distribution system and state that more jobs could be created if projects specific to curbing these problems are developed.

23. **Displacement**. The Request expresses concerns about the need to displace inhabitants of the villages that fall within the area designated for the proposed power plant and the mining field. They allege displacement was already initiated in Hade village for the proposed KPP by KEK under the LPTAP. According to the Requesters, this displacement occurred contrary to World Bank policies and the terms of compensation were unfair.

24. Moreover, they state that any future displacement should occur according to World Bank policies but caution this may not happen as affected people would not be able to relocate within the territory of Obiliq since 70% of it is designated a zone of national interest; they note that resettlement in the remaining 30% of Obiliq's territory may hinder the achievement of World Bank resettlement requirements.

25. **Absence of Transparency and Consultations**. The Requesters state that they have been excluded from the decision-making process regarding the proposed new power plant. They claim they have not had access to relevant information and project documents related to the proposed project and thus were deprived of their right to be involved in the preparation process.

26. **Absence of Studies on Alternative Energy Sources**. Finally, the Requesters assert that civil society in Kosovo has been requesting the World Bank for a full analysis of the energy options of Kosovo and an economic analysis but the World Bank *"still does not have a full overview of what Kosovo provides in term of alternative energy sources."* They add that the Bank has embarked in the proposed project in a way that violates World Bank's policies and best practices. The Request further mentions analysis prepared by civil society and the University of California, Berkeley which "*showed that Kosovo has a great potential of alternative sources and this potential is economically viable, serves the purpose of protecting health and environment in Kosovo, and creates 30% more jobs.*"

27. The Requesters state that "*Kosovo could meet its energy needs by using a combination of an upgraded Kosovo B, energy efficiency measures, and renewable energy sources.*" They state that stopping transmission losses could yield enough electricity such that a decommissioned Kosovo A would not need to be replaced by new generating capacity. They also allege that the Bank did not adequately consider the potential of renewable energy resources such as hydro power, wind and solar energy,[19] and that the Bank's analysis does not examine a meaningful mix of base, load-following and peaking units.[20]

28. The Requesters state that they have raised these issues with relevant World Bank staff on numerous occasions, most recently in a letter dated March 5, 2012, and are not satisfied with the response received. The Requesters ask the Board of the World Bank to *"immediately address all demands and concerns raised on the concerned projects."*

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[19] Technical Annex to Request for Inspection, p. 17.
[20] Technical Annex to Request for Inspection, p. 27.

29. The above claims may constitute, *inter alia,* non-compliance by the Bank with provisions of the following operational Policies and Procedures:

OP/BP 4.01	Environmental Assessment
OP/BP 4.12	Involuntary Resettlement
OP/BP 10.04	Economic Evaluation
OMS 2.20	Project Appraisal

30. The Panel notes that the Office of the Compliance Advisor/Ombudsman (CAO) of the International Finance Corporation (IFC) received a complaint in August 2011 related to the IFC-financed Kosovo KEK Project (#29107). The IFC Project provides assistance to GoK to privatize KEK's energy distribution functions. The concerns raised in the CAO complaint relate to the social and environmental impacts of the privatization of KEK, access to information, and the lack of an appropriate Social and Environmental Assessment. The CAO concluded in its April 18, 2012 Appraisal Report that the case merited a compliance audit of IFC. The CAO Appraisal Report states "*[d]ocumentation reviewed by CAO show that the IFC followed the applicable procedures within what it defined as the Advisory Services project. However, it is unclear whether appropriate guidelines exist to ensure that IFC delineates the scope of Advisory Services projects, and the scope of the due diligence review, so that the outcomes of the Advisory Services are consistent with the desired effect of IFC policy provisions.*"[21] The CAO is presently developing a Terms of Reference for its compliance audit.

D. The Management Response

31. As stated earlier, the Management Response was submitted on May 21, 2012. A brief summary follows, and a complete copy is attached to this Report as Annex II.

32. Management states that the Project is presently at a concept stage and major parts of project assessment are yet to be completed. Therefore, according to Management, it would not be able to decide for another year whether to propose the KPP for Board consideration.

33. Management asserts that because of the stage of the project processing, there has been no violation by the Bank of its operational policies and procedures which has, or is likely to, cause harm to the Requesters. Management notes that the Request describes pre-existing conditions and is based on an assumption that the Bank will fail to follow its policies and procedures. Management states that the claims of harm relate to "*(i) existing and historical conditions on the ground (air, water and land pollution, economic impact from zoning, water usage); (ii) issues that are outside Bank policy and Panel mandate; or (iii) are based on the general assumption that the proposed*

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[21] CAO Appraisal Report, Kosovo KEK, April 18, 2012. Available at: http://www.cao-ombudsman.org/documents/CAO_Appraisal_Report_C-I-R7-Y12-F158_ENG.pdf

Project would be carried out in noncompliance with Bank policy leading to direct and serious harm" which are unlikely to arise from the proposed Project.

34. Management agrees that the impacts noted in the Request are "*severe and have persisted since the two power plants began operation in 1962 (Kosovo A) and 1983 (Kosovo B).*" However, Management notes that new power generation is needed to allow the decommissioning of Kosovo A and the rehabilitation of Kosovo B, both of which are "*responsible for the associated adverse impacts.*"[22]

35. Management states that a comprehensive Environmental and Social Impact Assessment (ESIA) will be undertaken for the Project, and is expected to be prepared in 12-15 months. According to Management, the ESIA will meet all requirements of OP 4.01 (Environmental Assessment), and a draft Terms of Reference for the ESIA has been prepared and will be publicly disclosed to seek comments.

36. **Kosovo Energy Sector**. Management states that energy supply is a key constraint to Kosovo's economic and social development. Priorities in the sector are reconstruction and rehabilitation of the power generation and distribution systems, and the restructuring of corporate governance of the power utility KEK. Management notes that energy consumption and peak demand for energy in the country has grown in the past decade by almost 90 percent. According to the Bank's December 2011 Options Study, the peak demand on the Kosovo Power System is forecasted to grow from 1,158MW in 2010 to 2,152MW in 2025 – i.e. 85% over a period of about 5 years.[23]

37. Kosovo has the third largest lignite reserves in Europe, and Kosovo A and B power stations, though highly polluting, produce about 840-900MW of electricity. However, according to Management, these sources are unreliable – out of the five generating units of Kosovo A, two are out of operation and the remaining three produce up to 350 MW of electricity which is below their installed capacity of 610 MW; similarly, Kosovo B is frequently out of operation due to maintenance issues. Additional supply of about 5-17 percent of annual consumption is imported.

38. Management states that between 2001 and 2006, the Bank provided three Energy Sector Technical Assistance Projects which assisted in developing a long-term strategy, a long-term investment program, and technical and institutional capacity. Furthermore, the LPTAP assisted in developing a safeguards framework and the SESA for the then proposed 2000 MW Kosovo C power plant.

39. According to Management, after considering environmental, social, and financing concerns, it was decided to plan for a power plant of 600MW capacity, now known as KRPP, whose objective is to meet only domestic demand. Hence, according to Management, the Government, with support from donors, has adopted an approach which entails (i) closing Kosovo A by 2017, and replacing it with a privately operated

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[22] Management Response, p. 6.

[23] Economic Base Case Demand Forecast. Background Paper: Development and Evaluation of Power Supply Options for Kosovo. December 2011. Prepared by DHInfrastructure and reviewed by World Bank staff.

KRPP; (ii) rehabilitating and upgrading Kosovo B with private investment while ensuring compliance with EU environmental standards, (iii) privatizing electricity distribution in an effort to reduce technical losses; (iv) improving payment enforcement and raise tariffs to reflect full cost recovery; (v) addressing Kosovo A and B's environmental legacy; (vi) investing more in energy efficiency; and (vii) increasing the use of renewable energy.

40. Management points out that the decommissioning of Kosovo A and upgrading of Kosovo B are also legal obligations which Kosovo has under the EU Energy Community Treaty.

41. **Environmental Pollution**. Management states it is "*aware of the severe adverse environmental legacy and ongoing environmental concerns associated with the Kosovo A and B power plants*" which have "*caused significant deterioration of the air, soil, and water quality in the vicinity of the plants – with likely negative impacts on the health of households living in the area.*"[24]

42. Management states that the Government's energy strategy is expected to lead to a reduction of environmental impacts of the power sector, and the proposed ESIA will assess "*alternatives to the proposed KPP...as well as investigate and assess the emissions and impacts of the proposed Project*". The ESIA is expected to assess "*in detail (i) the reduction in impacts due to proposed decommissioning of Kosovo A; (ii) impacts likely to be caused by emissions from the proposed KRPP; (iii) the (reduced) impacts from proposed improvements to Kosovo B; (iv) impacts from the proposed development and operation of the Sibovc South lignite mine; and (v) implications of the proposed KPP for air, soil and water quality and other environmental parameters such as noise levels.*"[25]

43. **Water Shortages**. Management states that the concern regarding water shortages will be analyzed in the ESIA. Management points to a number of studies that have examined water availability and competing water uses, including one by the Bank in 2011 titled "Water Security in Central Kosovo". The latter concluded that investments are needed in the Iber-Lepenc canal to enable its improved functioning. Management notes that in response to the findings of this 2011 study and suggestions made during the Country Partnership Strategy (CPS) FY 12-15 consultations, a water supply project has been included in the FY 12-15 CPS. Moreover, a feasibility study for the maintenance of the Iber-Lepenc canal is being considered by the Western Balkans Investment Framework. Management states that the issue of water shortages will be "*carefully analyzed in the context of the preparation of the proposed Project.*"[26]

44. **Economic Impact**. Management agrees that a 2004 Government decision limited the rights of households located in Hade, Sibovc, Leshkooshiq and Cerna Vodice villages of the Obiliq municipality by not allowing new construction or expansion. These

[24] Management Response, p. 7.
[25] Management Response, p.8.
[26] Management Response, p. 8.

villages fall within a "Zone of Special Economic Interest" and these restrictions may have affected the livelihoods of some residents. These restrictions, according to Management, were reconfirmed in 2009 and superseded in 2011 when the Spatial Plan for the Zone, also known as the New Mining Field (NMF), was adopted by the Assembly. Management states that the NMF covers a 150 square kilometer (km^2) area, and is considerably larger than the 10.5 km^2 area likely to be affected by the Sibovc South mine expansion.

45. Management further states that the ESIA will analyze the potential livelihood related impacts of the proposed KPP on the residents in the KPP affected area and propose mitigation. Also, should the Bank decide to support the proposed KPP, it will "*draw the Government's attention to the need to address the legitimate concerns of residents in the non-KPP portion of the NMF area.*"[27]

46. **Displacement**. Management states that the Resettlement Policy Framework (RPF), developed with financing from the LPTAP in accordance with Bank policies, "*will apply to all resettlement associated with the proposed KPP.*" The Resettlement Action Plan (RAP) of Hade village, according to Management, was also prepared with financing from the LPTAP in accordance with the RPF. Management states that the Shala neighborhood of Hade village "*will be relocated from the Sibovc South mine field since it is close to the edge of the mine from which extraction of lignite has started.*" Management notes that infrastructure and housing plots are "*already being developed*" at the Shkabaj relocation site.[28]

47. Management agrees that issues remain in relation to the resettlement carried out in 2004/5 by the United Nations Mission in Kosovo (UNMIK) when, on an emergency basis, a number of Hade households that were at risk of a landslide were evacuated. Management notes that this evacuation was not part of any Bank-financed project, but that the Bank provided technical advice on the resettlement process to UNMIK and the then Kosovo Provisional Institutions of Self Governance (PISG). Management states that this resettlement is "*ongoing*" and the Government is *'planning to accommodate the people displaced in 2004 from Hade village at the new resettlement site (Shkabaj)*" and that the Bank will provide the Government "*technical advice and use its good offices to encourage the Government to engage the resettled households to resolve outstanding issues.*"[29]

48. **Absence of Transparency and Consultations**. Management states that it has met with the Requesters several times in the past few years, corresponded with them, disclosed many documents, and responded to meeting invitations sent by them. Furthermore, Management states that in addition to the more recent consultations held in relation to the report of the External Expert Panel related to the SFDCC and the CPS, more than 50 consultations were held during the past 6 years in preparation of

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[27] Management Response, p. 8.
[28] Management Response, p. 9.
[29] Management Response, p. 9.

the SESA, RPF, and RAP and summaries of these documents were shared in English and the local language.

49. **Impact on Employment**. Management states that while the overall impact of the proposed KPP on Kosovo's economy will be positive, it recognizes there may be potential job losses due to the closure of Kosovo A and the privatization of mining and generation operations. Management notes a number of steps already taken by the Government to analyze the impacts on KEK workers, including a requirement that the prospective private sector operator "*retain workers for an initial 3-year period and match terms of service with those provided by KEK, among others.*" Furthermore, Management states that the Bank will carry out a "*detailed analysis of the impact of the proposed KPP on the current employees of KEK to recommend to the Government appropriate actions to mitigate adverse impacts through active employment and social assistance measures.*"[30]

50. **Absence of Studies on Alternative Energy Sources**. Management states that the Bank and other donors have commissioned several studies in the past 10 years about Kosovo's energy sector. Furthermore, Management notes that a December 2011 study titled "*Development and Evaluation of Power Supply Options for Kosovo*" was commissioned by the Bank prior to providing its "in principle" PRG support. This study concluded that "*the lowest cost reliable energy supply to meet Kosovo's base load and peak demand is a mix of thermal and renewable energy sources that includes about 750 MW from hydropower and other renewable sources, rehabilitation of Kosovo B and construction of the 600 MW KRPP.*"[31] Management states that its findings differ from the findings of the University of California, Berkeley study cited by the Requesters and the study prepared by the Sierra Club, and that the Bank team does not share the conclusions of the latter two studies.

E. Panel Review of the Request and Management Response

51. The Panel has carefully reviewed the Request and the Management Response. Panel Chairperson Alf Jerve, together with Deputy Executive Secretary Dilek Barlas and Operations Officer Mishka Zaman, visited Kosovo from May 31-June 2, 2012. During its visit, the Panel team met with the Requesters, their representative, other members of the communities, World Bank staff in Kosovo, KEK officials, officials of the Ministry of Economic Development, and representatives of the European Union and World Health Organization. The Panel's review is based on information presented in the Request, on the Management Response, on other documentary evidence, and on information gathered during the site visit, and meetings with Requesters and Bank Management.

52. The Panel wishes to express its appreciation to all those mentioned above for sharing their views and exchanging information and insights with the Panel. The Panel also

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[30] Management Response, p. 10.
[31] Management Response, p. 11.

wishes to thank the World Bank Country Office in Kosovo for providing relevant information and assisting with logistical arrangements.

53. This review includes determination of the technical eligibility of the Request, according to the criteria set forth in the 1999 Clarification (see subsection E(b)), and the Panel's assessment of other factors to be taken into consideration when making a recommendation to the Board, as stipulated in the Resolution and the 1999 Clarification (subsection E(c)). Prior to these subsections, the Panel defines the scope of its assessments with respect to the Project and the role of the Bank (subsection E(a)).

a. Scope of Panel's review and the proposed KPP project

54. The Panel notes that the Government of Kosovo, together with several international donor agencies, is implementing a multi-faceted energy strategy to address Kosovo's increased energy needs and related environmental issues. Important activities under the strategy include decommissioning Kosovo A and replacing it with a new 600 MW power plant (KRPP), rehabilitating and upgrading Kosovo B, developing the Sibovc South lignite mine, and privatizating electricity distribution with the aim to improve efficiency and demand side management. The strategy also includes developing renewable energy sources.

55. The Request raises concerns regarding several aspects of this strategy and related activities, including environmental and social impacts of the project currently under preparation (i.e. the Project or KPP). The Requesters complain about pollution from the operations of Kosovo A and Kosovo B which affects "*agricultural land, surface and ground waters, and air*", and adverse health impacts as a result of such pollution. They are also concerned about previous emergency resettlement in the area and its adverse impacts. Furthermore, the Requesters fear that the decommissioning of Kosovo A and the privatization of energy operations, in general, will result in dismissal of a significant number of workers of KEK. The Request also raises concerns related to the LPTAP, which financed several activities to support the preparation of the proposed KPP project.

56. Management Response notes that while the Government has requested that IDA provide a Partial Risk Guarantee (PRG) for the proposed KPP project, the costs associated with the closure of Kosovo A and rehabilitation of the site will most likely be financed by the European Commission (EC). The International Finance Corporation (IFC) is providing advisory services to the Government to privatize electricity distribution and supply business in Kosovo.

57. In its assessments, the Panel focused on the activities to be financed by the Bank under the proposed KPP project. Management Response states that the Project presently is at a concept stage (including the issuance of a Project Information Document), and also confirms that the Bank has provided a "*non-binding, in principle*" expression of support for the proposed KPP. The Panel was informed by both the Bank and the Government that this expression of support is an important element of

the Request for Proposals recently issued to potential investors for KPP. As noted clearly in the definition of "project" in the 1996 Review of the Resolution Establishing the Inspection Panel *"[t]he word "project" as used in the Resolution has the same meaning as it generally has in the Bank's practice, and includes projects under consideration by Bank management as well as projects already approved by the Executive Directors".* [32] Thus the ongoing preparation process for the Project falls within the mandate of the Panel.

58. The Panel understands the scope of the proposed KPP, as explained in the Management Response, to be that it *"would comprise three components: (i) rehabilitation of the existing Kosovo B plant; (ii) construction of a new 600 MW power generation plant ("Kosova e Re Power Project" or "KRPP") using modern technology that is compliant with the European Union Industrial Emissions Directive; and (iii) development of the lignite mine, Sibovc South, that will supply fuel to the new KRPP, as well as to Kosovo A and Kosovo B for their remaining operational lifetimes."*

59. As the Panel noted in its Notice of Registration,[33] the Lignite Power Technical Assistance Project (LPTAP) closed on December 31, 2011 and the Panel's registration did not cover LPTAP. The Panel also noted that, regardless of the source of financing, studies carried out to support the preparation of the KPP need to be considered as part of the KPP project and thus come under the purview of the Panel in the context of this Request.

b. Determination of technical eligibility

60. The Panel is satisfied that the Request meets all six technical eligibility criteria provided for in paragraph 9 of the 1999 Clarification.

61. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, does not involve the Panel's assessment of the substance of the claims made in the Request. It follows from this interpretation, that technical eligibility in and of itself would not be a sufficient basis for recommending an investigation.

62. Criterion (a): *"The affected party consists of any two or more persons with common interests or concerns and who are in the borrower's territory."* The Panel confirms that the Requesters share common concerns with respect to the Bank's compliance with its policies and that different categories of Requesters have common interests

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[32] First Review of the Resolution Establishing the Inspection Panel: 1996 Clarification of Certain Aspects of the Resolution, paragraph on "Eligibility and Access". Available at: http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1996ReviewResolution.pdf

[33] Notice of Registration, Re: Request for Inspection Republic of Kosovo: Kosovo Power Project (proposed), Inspection Panel, April 12, 2012. Available at: http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/NOR_Kosovo.pdf

related to issues of current or potential harm linked to the proposed KPP project. Furthermore, the majority of the Requesters reside in areas that might be impacted by the investments being considered by the Bank. Hence, the requirement of paragraph 9(a) is met.

63. Criterion (b): "*The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester.*" The Panel confirms that the Request raises issues of actual and potential material adverse effects on the Requesters, and that the Request asserts that these harms are linked to serious violation by the Bank of its policies and procedures. The Requesters are also concerned that the Bank may not be able to implement some of these policies in the future, which the Requesters believe is likely to result in harm to them. The Panel is satisfied that the requirement of paragraph 9(b) is met.

64. Criterion (c): "*The request does assert that its subject matter has been brought to Management's attention and that, in the Requester's view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures.*" The Requesters state that they have raised their concerns with World Bank staff on several occasions but are not satisfied with the response they have received. The Requesters also state in the Technical Annex that they have raised resettlement related concerns with the Bank as far back as 2007, and that their representative has raised their concerns with the World Bank over the past two years in writing and in various meetings and relevant fora. The Requesters also provide details of the written correspondence between their representative and Management. The Panel is satisfied that this criterion has been met.

65. Criterion (d): "*The matter is not related to procurement*". The Panel is satisfied that the claims with respect to harm and non-compliance included in the Request for Inspection do not raise issues of procurement under the Project.

66. Criterion (e): "*The related loan has not been closed or substantially disbursed*". As noted earlier, the IDA grants for the LPTAP closed on December 31, 2011 and in accordance with Paragraph 14 (c) of the Resolution, the Panel's registration did not cover LPTAP.[34] As explained in subsection (a) above, the proposed KPP however is a project under preparation with support of the Bank and is within the Panel's mandate. The Panel is thus satisfied that this criterion has been met.

67. Criterion (f): "*The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request*". The Panel confirms that it has not previously made a recommendation on the subject matter of the Request.

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[34] Paragraph 14 (c) of the Inspection Panel Resolution states that the Panel shall not consider "*Requests filed after the Closing Date of the loan financing the project with respect to which the request is filed or after the loan financing the project has been substantially disbursed*". Substantial disbursement is defined as when at least ninety-five percent of the loan proceeds have been disbursed.

c. Observations on other factors supporting the Panel's recommendation

68. Before making a recommendation on whether to investigate, the Panel further considered certain other factors, in line with the Resolution. These included: the likelihood that there may be a causal link between the Project and the harm alleged in the Request; whether the harm and the possible non-compliance may be of a serious character, noting that the Panel cannot make any definitive assessment of non-compliance and related harm at this stage[35]; and review of Management Response with respect to how it has dealt with, or intends to deal with, the subject matter of the Request and possible policy non-compliance. These considerations are outlined below in the context of the key concerns raised by the Requesters.

69. The Panel notes that the Request raises a diverse set of issues and that different groups represented in the Request have their distinct concerns. The Panel met with all these groups to understand whether there is likelihood of a causal link between the harms alleged and the proposed Project, and the Bank's lack of follow-up of its operational policies. Furthermore, the Panel has carefully reviewed Management Response with respect to these issues. The Panel provides observations on the following four subsets of issues of potential serious harm: (i) adverse health effects as a consequence of air, soil and water pollution; (ii) adverse effects on water resources; (iii) adverse effects on livelihoods as a consequence of loss of employment in KEK; and (iv) adverse effects of land acquisition and resettlement.

70. In addition, the Panel also considered whether at this stage the allegations with respect to (v) potential serious violation of Bank policy provisions pertaining to analysis of alternatives to power generation using coal, consultation, and assessment of environmental and social impacts of the proposed Kosovo KRPP (Kosovo e Re) would warrant a Panel investigation. This is considered in subsection (v) below.

i. Adverse health effects as a consequence of air, soil and water pollution

71. The Panel team visited **Dardhishte village**, located in the vicinity of Kosovo A. The main concern of the inhabitants of Dardhishte village is their proximity to Kosovo A, its ash dumps, and the possibility that their village will not be resettled. Dardhishte residents said that they have been living near the Kosovo A plant and its ash dump for almost 60 years, and that the environmental impacts on soil, water, and air have been severe, causing serious health problems. They were concerned that there had not been a proper study of health impacts on the population living in the vicinity of the plant. The Panel was informed that there are some preliminary studies indicating high prevalence of cancer in the area.

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[35] Paragraph 7 of the 1999 Clarification provides that at the eligibility stage "*...the Panel will not report on the Bank's failure to comply with its policies and procedures or its resulting material adverse effect; any definitive assessment of a serious failure of the Bank that has caused material adverse effect will be done after the Panel has completed its investigation.*"

72. Representatives of the village complained that the work of covering the ash dump close to the village, under the World Bank-financed Energy Sector Clean-up and Land Reclamation Project, is moving slowly and no trees have yet been planted in the areas that have been covered with soil. In the Panel's view, the Request raises concerns of a serious nature with respect to peoples' exposure to historical and current levels of environmental pollution, and reflects a genuine fear of potential harm from the continued combustion of lignite in the power plants.

73. The Panel notes that the Management Response confirms that these conditions will be analyzed in the ESIA for the proposed KPP through baselines studies before Management makes a final decision on its support to the Project and recommends it for Board approval. The Panel notes, however, that it is not clear whether the ESIA would include a survey of existing health conditions.

ii. Adverse effects on water resources

74. The Panel heard from the Requesters and several villagers in the vicinity of the mine and Kosovo A and B that their drinking water, mostly derived from ground water sources, was polluted as a result of the mine and the power plants. They were concerned about the impact drinking this water was having on their health. The Request also states that the population in Obiliq and in Pristina will suffer water shortages when the KRPP is built as it too will use the waters of the Iber-Lepenc canal, which already has many other users.

75. The Panel notes that Management agrees that Kosovo A and Kosovo B and their associated activity have had an impact on water quality in the area, with likely impacts on the health of the residents of the vicinity.[36] Management states that the proposed ESIA will analyze in detail the implication of the proposed KPP on water quality.

76. The Panel notes that, with respect to the allegation of water shortages, Management confirms that the issues of water availability for the Project and effects on other water users will be studied and analyzed in the ESIA for the proposed Project. Moreover, the Management Response states that a 2011 Bank study titled "Water Security in Central Kosovo" looked at the issue of adequate supply and quality of water from the Iber-Lepenc canal for domestic and industrial uses in all the municipalities mentioned in the Request, including Pristina and its suburbs. This study concluded that investments are needed to improve the maintenance of the Iber-Lepenc canal and consequently the Bank has included a water supply project in the CPS (FY 2012-2015). Management also states that this issue would be carefully analyzed in the context of the preparation of the proposed Project.

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[36] Management Response, p. 7.

iii. Loss of employment of KEK workers and adverse effects on livelihoods

77. The Request raises concerns of the KEK workers who may be adversely affected by restructuring and privatization of the company. During the Panel team's meeting with SPEK, union members said that the privatization of supply and distribution grid, decommissioning of Kosovo A, refurbishment of Kosovo B and privatization of the Sibovc South mine will lead to retrenchment of approximately 4,100 employees from KEK. They said that neither the government nor KEK is consulting with the employees or their trade union to understand their needs and concerns. They added that the process is not transparent.

78. KEK employees said that they will receive only nine months of salary in case of retrenchment under the Labor Law. They added that there is no social security fund and there is no health insurance. They also claimed that under the circumstances they feel pressured to accept KEK's optional scheme, leave voluntarily, and receive 24 months of salary. They refered to the Government letter indicating the Government's intention to require the private company to retain the employees for three years after the takeover, but they said that this is a short period of time and will not be enough to sustain their livelihood. They said that most of the employees are over 50 years of age and it will be almost impossible for them to find new employment.

79. The Management Response recognizes potential job losses associated with the proposed closure of Kosovo A and privatization of generation and mining operations. Management states that the Bank plans to conduct a detailed analysis of the impact of the proposed KPP on the current employees of KEK so as to recommend to the Government appropriate actions to mitigate adverse impacts through active employment and social assistance measures.

80. The Panel notes Management's recognition of the potential of job losses associated with the proposed Project, and the detailed analysis which it plans to conduct with a view to providing recommendations to the Government on how to mitigate adverse impacts. The Panel, therefore, expects that the concerns raised by the Requesters will be adequately considered in this proposed study and that the study will be conducted in consultation with all relevant stakeholders.

iv. Adverse effects of land acquisition and resettlement

81. The Requesters raise serious concerns related to land acquisition and resettlement caused by, or likely to be caused by, the expansion of the Sibovc South mine field that will supply the new power plant (KRPP) as well as Kosovo B. In order to understand the concerns of the Requesters, the Panel team visited and met with the residents of Hade village, Palaj/C. Vodica village, Lajthishte/Sibovc village, and Dardhishte village. Hade village is located inside the Sibovc south mining field boundary, Palaj/C. Vodica and Lajthishte/Sibovc are on the immediate edges of the boundary,

and Dardhishte is located next to the existing ash dumps and the existing KEK mining license boundary, but outside the Sibovc South mining field.[37]

82. **Hade village**. The Requesters claim that displacement of Hade residents for the proposed KPP project already started in 2004. They claim that this displacement took place without developing any plan for resettlement, and in the absence of a national resettlement policy in line with World Bank standards.

83. During its visit, the Panel team met with the residents of the Shala neighborhood in Hade village. Resettlement from Shala neighborhood of Hade village started in 2011 as the Sibovc South mine field is being expanded and the Shala neighborhood is close to the current edge of the Sibovc South mine. Shala residents told the Panel team that while five families moved to temporary locations during the summer of 2011, there are 30 families or more waiting to move. They said that they agreed to resettle and signed an agreement with the Ministry of Environment and Spatial Planning and Municipality of Kastriot/Obiliq. Moreover, they said that due to landslide risk, operation of heavy machinery close to their houses, and pollution, "*life is very difficult in Shala neighborhood and conditions are grim.*" They added that the children are in danger because of a steep slope caused by excavation for the mine field and a new coal conveyor belt which is only 20m away from their houses. They stated that their preference is to move as soon as possible, but are not able to do so for the following two reasons.

84. Firstly, they are not satisfied with the implementation of the agreement with the Ministry. They said that their land and houses were expropriated and compensation paid in October 2011. However, contrary to Article 3.3 of the Agreement,[38] they are not receiving any payment for temporary housing and food, and as a result they do not have the funds to be able to move from their houses.

85. Secondly, the Shala community is proposed to relocate to a new site (Shkabaj) which is closer to Pristina city. The Shala residents said that since the construction work in the new relocation site in Shkabaj is very slow, they do not know when they will be able to start building their new houses in this new site. The residents showed the Panel

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[37] See Map IBRD 39302 attached to Management Response for locations of these villages with respect to the Sibovc mining field.

[38] Paragraph 3.3 of Article 3 of the Tripartite agreement between the Ministry of Environment and Spatial Planning, Municipality of Kastriot/Obiliq, and Representatives of the inhabitants of Shala neighborhood of Hade village states the following "***Emergency (Lease and Food)*** *– According to the Law on Expropriation (Article 20 – temporary accommodation) compensation for lease and food is provided for a 4 months period following the expiration of 30 days period from the compensation of property and assets (Article 11, paragraph 9), however if during the abovementioned period the allocation of parcels fails, in that case the compensation of emergency shall continue, until the allocation of parcels, transfer of ownership and (completion of) the infrastructure at the Location "New Hade" – Shkabaj, which shall be provided by the Expropriating Body (MEST), with the budget of the Requesting Entity (KEK j.s.c.).*" (This is an unofficial translation of this paragraph provided by the Inspection Panel.)

team the relocation site in Shkabaj. They said that while they like the site and they want to move to this new site quickly, they are not sure when the Municipality will be able to finish the infrastructure works in the site and allocate the land to them.

86. The Shala residents also said that they cannot access their land which is behind their houses because of a canal that KEK has opened which cuts through the middle of their land. They said that this land was not expropriated and they did not receive compensation for it.

87. **Palaj/C. Vodica, and Lajthishte/Sibovc villages.** The Panel team met with residents of these villages who have similar concerns. The residents said that they do not object to projects of national interest, however, they do not want the situation of the villagers to worsen. They said that they have been informed that they will have to relocate sometime in the future due to expansion of the Sibovc South mine field. In the meantime, they fear that "*their lives are frozen*". Since the area has been declared an "*Area of Special Interest*", further public investments in their villages are unlikely, and people also believe that they may not be allowed to improve their houses or that such improvements may not be compensated when expropriation eventually takes place. It may take 10-15 years before mining reaches some of these villages, and people do not want to live under such conditions of uncertainty. In fact, they requested that resettlement should take place well in advance of the mine boundary reaching them, in accordance with a RAP that is of international standards, and that it be done in a carefully planned manner which allows for the relocation of the entire village and not neighborhood by neighborhood as is being done in Hade village. They said that they do not want to wait until the mine comes very close and be resettled on an emergency basis, similar to what happened in Hade village in 2004/2005.

88. Management Response notes that a Resettlement Policy Framework (RPF) has been developed under the LPTAP and will apply to all resettlement associated with the proposed KPP. Management notes that a Resettlement Action Plan (RAP), also financed through LPTAP, has been prepared for the Shala neighborhood of Hade village, in consultation with the affected communities. Management states that the RPF, the existing RAP and any additional RAPs which will be developed for other affected communities based on the RPF, would govern the relocation and resettlement of any population that may be displaced for the proposed Project. Management also states that the ESIA, which will be prepared for the proposed KPP project will analyze impacts from the proposed development and operation of the Sibovc South mine. It is the Panel's understanding that this will include the ongoing resettlement from the Shala neighborhood.

89. The Panel notes that currently the Bank does not have a monitoring role with respect to ongoing resettlement activities related to the proposed KPP project, including the Hade resettlement. The LPTAP grant, which financed the preparation of the Resettlement Policy Framework and the RAP for Hade village, is closed, there is no other active WB project that includes supervising resettlement actions, and the ESIA still needs to be prepared for the proposed KPP project. As noted earlier, Management states that all resettlement related to the proposed KPP will be in accordance with the

Bank Policy on Involuntary Resettlement. It is the Panel's understanding that the Bank will assess the implementation of all resettlement activities related to the proposed KPP project, which includes the resettlement from Hade village, to ensure compliance with Bank policies before the proposed financing for the KPP is submitted for approval to the Board. Failure by the Bank to properly carry out this responsibility would give affected people the option to seek recourse under the Panel process.

v. Allegations of serious violation of Bank policies

90. **Analysis of Alternatives.** Several Requesters told the Panel team that they were not convinced of the need for a new power plant as they felt Kosovo's energy requirements could be met by curbing transmission loses which they believed were in the range of 37%-50%. Moreover, they believed Kosovo's base load demand gap was 450 MW and not 600 MW (the proposed production of KRPP); they alleged the latter was the gap in peak demand. The Requesters also stated that the Bank has failed to consider sustainable alternatives and that there were no studies on Kosovo's alternative energy sources. Moreover, the Requesters disagree with the findings of the World Bank's independent External Panel of Experts, which assessed the proposed Project against the six screening criteria of the SFDCC.

91. Management notes that several studies have been carried out in the past 10 years on Kosovo's energy sector, including some financed by the World Bank. Management states that the December 2011 World Bank study "Development and Evaluation of Power Supply Options for Kosovo", after taking into account the economic, financial and environmental costs (including local and global externalities), concluded that"*the lowest cost reliable energy supply to meet Kosovo's base load and peak demand is a mix of thermal and renewable energy sources that includes about 750 MW from hydropower and other renewable sources, rehabilitation of Kosovo B and construction of the 600 MW KRPP.*"[39]

92. The Panel notes that the External Panel of Experts found the Project to be in compliance with the SFDCC screening criteria subject to certain recommendations. While reviewing energy alternatives in the coming 10-15 years, the External Expert Panel unanimously concluded that even with energy efficiency measures and utilization of renewable energy potential, Kosovo's base-load energy generation could only be met by thermal power plants in the foreseeable future.[40]

93. The Panel notes that Management states in its response that the proposed ESIA for the Project will assess alternatives to the proposed KPP to meet energy needs, in addition to assessing the emissions and impacts of the proposed Project.[41] It is the Panel's understanding that the study of alternatives under the ESIA will include both a 'non-project scenario' (i.e. assessing foreseeable developments without implementing the

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[39] Management Response, p. 11.
[40] Beér, Mielczarski and Taylor, (2012). *Kosovo: Kosovo Power Project Report of the SFDCC External Expert Panel to the World Bank.*
[41] Management Response, p. 8.

Project) and an 'alternative energy scenario' (i.e. assessing the potential to use alternative energy sources and energy efficiency measures to meet required energy demands).

94. **Consultation.** The Panel was told by some Requesters that the Bank had not shared relevant documents with them upon request on the pretext that the documents were either in draft form or were deemed confidential. Some Requesters mentioned that they had had consultations about resettlement some years ago, and the villagers the Panel met in the Shala neighborhood confirmed that they had been consulted on the drafting of their RAP.

95. Management states in its response that it has met and corresponded with the Requesters several times over the past few years, and disclosed dozens of documents online in both English and Albanian. Management further states that more than 50 consultations were held in the past six years with local communities with respect to the preparation of the SESA, Resettlement Policy Framework, and the Shala village RAP. Moreover, Management states that civil society has been consulted on the proposed KPP related energy sector studies and assessments.

96. The Panel notes that Management emphasizes in its Response that the proposed ESIA will be prepared in consultation with the Requesters, that Management will continue to interact with civil society during the preparation of the proposed Project, and that Management will disclose all documents in line with the Bank's Access to Information Policy. Management mentions that some documents requested by the Requesters did not exist at the time the initial disclosure request was made, but that these will be disclosed when available.

97. **Assessment of environmental and social impacts of Kosovo A and B and proposed KPP.** The Panel team heard from many villagers about the profound environmental and social impacts in the area from the existing Kosovo A and B power plants and the lignite mines, and the fear that these may be compounded with the construction of the proposed KRPP and the expansion of the Sibovc South mine. Air pollution, water pollution, soil degradation, and corresponding health impacts were the most commonly heard concerns with regard to the existing facilities. Job losses as a result of the closure of Kosovo A and privatization of the generation and mining entities was another common fear.

98. Management states in its response that "*any involvement by the Bank in providing such support [to the proposed KPP] will depend on a series of activities that include economic, financial, environmental and social assessment of the proposed KPP, other Bank initiated studies (in addition to those already conducted), sharing and discussion of studies with relevant stakeholders, and scrutiny by an independent Panel of Environmental and Social Experts. Only if these activities indicate, in the judgment*

of Management, that the proposed KPP is viable, will the proposed Project be submitted to the Bank's Board for its consideration."[42]

99. The Panel notes, with respect to the analysis of alternatives, consultations, and the assessment of environmental and social impacts of the existing power projects and the proposed KPP, that Management is aware of the importance of these concerns and has committed to carry out adequate studies, which meet Bank policies and procedures, in consultation with relevant stakeholders. During its field visit, the Panel was informed by several Requesters and community members of their hope that the existing environmental and social impacts suffered by their villages would be mitigated, and any future adverse impact from the proposed KPP would be prevented as much as possible.

F. Recommendation

100. The Panel considers that the Requesters raise important and legitimate concerns about potential future impacts of the proposed Project. Non-compliance with Bank policies, if it were to occur, could potentially contribute to the harms of the type raised in the Request and noted above.

101. The Panel understands that important analytical work, such as the ESIA, the RAPs for villages that may be resettled, and the proposed labor study, are yet to begin. The Panel notes Management's explanation that it intends to ensure all analytical and relevant preparatory work will comply with Bank policies and procedures moving forward. The Panel understands that this commitment also implies ensuring that the ongoing and future resettlement will be implemented in accordance with Bank policy and provisions, as laid out in the respective RAPs and land acquisition and compensation agreements with the affected households.

102. It is the Panel's assessment that, at this early stage in the Project preparation process and prior to the start of the ESIA for the Project, there are no key Bank activities or decisions relevant to the concerns raised in the Request with respect to the Project that can be reviewed by the Panel as a matter of policy compliance. The Panel, therefore, does not recommend at this stage an investigation of whether the Bank has complied with its operational policies and procedures. The Panel notes that affected people will have recourse to the Panel at a later stage in the Project cycle if they so wish.

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[42] Management Response, p. 11.