

IPN REQUEST RQ 12/01

April 12, 2012

NOTICE OF REGISTRATION

Re: Request for Inspection Republic of Kosovo: Kosovo Power Project (proposed)

On March 29, 2012 the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”) concerning two Projects, namely the Kosovo Power Project (KPP, proposed) and the Lignite Power Technical Assistance Project (LPTAP, closed).

The Request was sent by representatives of the inhabitants of the villages of Darshishte, Lajthishte/Sibofc, Cerna Vidoca, and Hade of Obiliq Municipality and the town of Obiliq in Kosovo, the Kosovo Energy Corporation’s independent Kosovo Energy Trade Union¹, and three Kosovar civil society organizations, namely the Institute for Development Policy (INDEP), Institute of Advanced Studies, and Forum for Civic Initiative (the “Requesters”). The Request is accompanied by 14 annexes, including an annex containing copies of communications conducted with the World Bank, a detailed Technical Annex, and a Letter of Delegation which authorizes Mr. Nezir Sinani of the Kosovo-based Institute for Development Policy (INDEP) to be the Requesters’ representative in the Inspection Panel process.

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.*”

The Project

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*”. 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 Kosovo in an economically efficient, environmentally sustainable, and a carbon-neutral manner*”.²

¹ 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.

² Project Information Document (PID), Kosovo Power Project, July 27, 2011, World Bank.

The total cost of the proposed Kosovo Power Project (KPP) is estimated to be US\$2 billion, of which US\$50 million is likely to be sought as an IDA partial risk guarantee. It is categorized as Environmental Category “A” and is proposed to be implemented by the Kosovo Ministry of Economic Development.³

The proposed KPP is “*envisaged to replace the Kosovo A Power Station with a rehabilitated existing power plant (Kosovo B) and a new power plant as well as the development of a mine to meet the fuel needs*”. The proposed 600 MW “*new power plant [will] be developed as an extension of the Kosovo B power plant site and have some common facilities. Subject to a clearer definition of scope, 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.*”⁴

In July 2011, the World Bank constituted an External Expert Panel to review compliance of the proposed KPP with the World Bank’s six criteria for supporting coal-fired power generation projects. The Bank’s decision of whether or not to proceed with financial support to the KPP was dependent on the outcome of the Expert Panel review. The Expert Panel issued its report on January 31, 2012 and concluded that, in its opinion, the project complies with all six World Bank criteria for considering support to coal-fired power projects.⁵

According to project documents, the preparation of the proposed KPP has been supported by the Lignite Power Technical Assistance Project (LPTAP) which financed “*several key activities*” including the preparation of a Strategic Environmental and Social Assessment (SESA), preparation of a Resettlement Action Plan for Hade Village, and the purchase of air monitoring equipment.⁶ The LPTAP was supported by two technical assistance grants of about US\$8.5 million. It was approved by the Board on October 12, 2006 and closed on December 31, 2011. 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*”.⁷

The LPTAP mainly financed preparation of key legislation and amendments to facilitate the proposed New Mine/plant transaction including a “*draft regulation on Strategic Environmental and Social Assessment (SESA), and the preparation of a*

³ 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).

⁴ Integrated Safeguards Data Sheet (ISDS), Concept Stage, Kosovo Power Project, July 27, 2011, World Bank.

⁵ Kosovo: Kosovo Power Project, Report of the SFDC External Expert Panel to the World Bank, January 2012.

⁶ ISDS, Concept Stage, Kosovo Power Project July 27, 2011.

⁷ Project Appraisal Document, Lignite Power Technical Assistance Project, Kosovo, September 13, 2006, World Bank, page iii.

Resettlement Policy Framework consistent with World Bank OP/BP 4.12 on Involuntary Resettlement as well as draft legislation on land expropriation, and resettlement", the preparation of legal and contractual documents for a bid solicitation package, the preparation of a Strategic Environmental and Social Assessment (SESA) specific to energy sector development, the preparation of an environmental baseline monitoring toolkit, and an outline for institutional strengthening and capacity building. LPTAP also financed an Investment Options Review, New Power Plant Development and Technical Analysis, and Renewable Energy, Cogeneration and Energy Efficiency measures, and supported capacity-building for key ministries and agencies. A competitive transaction process aimed at determining a successful bidder for the development of the proposed New Mine/plant was also supported by the LPTAP.⁸

The Panel notes that IDA grants for the LPTAP closed on December 31, 2011 and in accordance with Paragraph 14 (c) of the Resolution⁹ that established the Inspection Panel (the "Resolution"), this registration does not cover LPTAP.¹⁰ The Panel also notes that regardless of the source of financing, studies carried out to support the preparation of the KPP could be subject to the Panel process moving forward.

The Request

The Request raises several social, economic and environmental concerns, and related issues of compliance with Bank policies and procedures. The Requesters' concerns, as stated in the Request for Inspection, are elaborated below.

Environmental Pollution. The Requesters state that the KPP is planned to be built in Obiliq municipality where the existing Kosovo A and Kosovo B power plants already operate, and that the *"use of lignite for the needs of both existing power plants and technological treatment in this area turned Obiliq and surrounding villages into the most polluted area in Europe"*. They state that pollution in the area is *"comprehensive"* and that the *"consequences of burning coal for power generation, directly affects our lives and those of the other 500.000 inhabitants of the capital"* Prishtina which is 7km away from the power plants, and that increased lignite use by the proposed new power plant will worsen this situation for the inhabitants of Obiliq and surrounding villages.

Moreover, the Requesters state that pollution from coal combustion leading to a *"release of smoke, sulphide dioxide, iron, zinc, mercury and other pollutants, has direct impact on increasing incidence of cardio-vascular and neural diseases among our communities"*, and that their children are *"especially vulnerable and their cognitive abilities will be affected from the release of mercury and iron to the environment, while release of hydrogen chloride will affect their lungs."*

⁸ PAD, LPTAP, pp. 9-10.

⁹ International Development Association, Resolution No. IDA 93-6, dated September 22, 1993 (the "Resolution")

¹⁰ 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.

The Requesters believe that the “*greatest impact*” is water pollution as the river and ground water are polluted by the “*lignite ashes, airborne ash and other pollutants from the lignite discharge.*” They also state that since “*60% of the communities living in the polluted area are farmers, our flocks of animals are also affected by pollution, since they use the river and ground waters...*”, and that human health is in turn affected through the consumption of animal products.

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). 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.¹¹

Water Shortage. The Requesters state that KPP requires that water from the Iber Lepenc Canal, which is used to meet the irrigation needs of 3 municipalities and provides potable water for Prishtina and its suburbs, be used to supply KPP and the existing two power plants. They are concerned that this could lead to irrigation shortages and consequently affect agricultural production, and exacerbate the existing water shortages experienced by Prishtina. They state that they need water for their homes and farms, and that there will be no water for their use if KPP is built.

Economic Impact. The Requesters state that as of the last seven years, 70% of the area of Obiliq municipality has been declared a “*zone of national interest*” due to lignite mining. This declaration led to local residents not having a “*right of developing their households*”, or being allowed to develop new households. Moreover, they state that the villages of Hade, Dardhishte and Lajthishte were not included in any plan to receive compensation for air, water, and land pollution. Moreover, they state that they suffer from “*systematic power cuts*” which “*increases the risk of accidents for the population who live in the ‘backyard’ of power plants and existing mines.*”

Impact on Employment. The Requesters state that “*hundreds*” of workers of the Energy Corporation will be dismissed as a result of the KPP as the Kosovo A plant will be decommissioned by 2017 and the supply and distribution grid will be privatized. They state that the KEK Workers Union (SPEK) was not consulted regarding the impacts on employment, and that the World Bank “*is obliged through best working practices to take specific measures towards workers who are affected by the KPP implementation process. Development of incentive packages to such workers is not seen in the horizon, while WB has failed to include in this project the investments in other areas of power development in Kosovo.*”

¹¹ Technical Annex to the Request for Inspection on the Proposed Kosovo Power Project, March 29, 2012, pp. 9-10.

They also state that *“Kosovo now loses about 40% of generated and imported power as a result of technical and commercial losses in the grid, while power demand is 30% higher as a result of such losses, and as a result of absence of projects for energy efficiency and proper insulation of houses.”* They write that projects developed to curb energy losses and promote energy efficiency *“would result in increasing number of employees, and according to current international trends, the number of jobs in this area is much higher than investment in the new power plant.”*

Displacement. The Requesters state that displacement of *“Hade inhabitants for KPP”* started under LPTAP without *“developing any plan of activities for displacement of inhabitants and with no national displacement policy that would be in line with World Bank displacement policies.”* They state that displacement occurred in contradiction to *“such policy and resulted in unfair and low displacement compensation paid to inhabitants of such villages.”*

They also state that displacement likely to occur as a result of developing a new mine and a new power plant should be done according to national displacement policies which *“provide that us and our neighbours in Obiliq be displaced within the territory of Obiliq”*. However, they state that since 70% of Obiliq’s territory has been designated as a zone of national interest, it will create a *“serious problem to the displacement process”* as it *“hinders the proper displacement required by World Bank displacement policies.”* Moreover, they state that *“[D]isplacement should be performed in line with these policies”* and that any future displacement will *“require revision of current displacement policies”*.

Absence of transparency and consultations. The Requesters write that the *“Obiliq community, Union of KEK Workers and civil society have been excluded from the decision-making processes”* since the World Bank became involved in power projects in the country, and that *“requests for official documents, which is provided by the national legislation, have been constantly turned down by the Ministry of Economic Development, project leading agency, and also by the World Bank almost in all cases.”* The absence of information, in their opinion, has deprived them of *“the right to get involved in these projects”* and is in *“contradiction with the World Bank policies on the right of information and data disclosure.”*

The Requesters also state that they would *“refer once again to all requests filed to the World Bank and the Ministry of Economic Development, for access to information regarding LPTAP and KPP”* submitted *“mainly by Mr. Nezir Sinani on behalf of civil society, and the community of Obiliq and surrounding villages.”*

Absence of studies on alternative energy sources. The Requesters state 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 that the *“World Bank still does not have a full overview of what Kosovo provides in term of alternative energy sources.”* They point to analysis done 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.”* Moreover, they state that the failure of having such analysis and by not having a *“Partnership Strategy in Kosovo in effect, World Bank has embarked its*

engagement in this project in a way which contradicts its policies on such projects and fully contradicts the best work practices held and implemented by the Bank.”

The Requesters state that they have raised these issues with relevant World Bank staff on numerous occasions, and most recently in a letter dated March 5, 2012, and are not satisfied with the response received. As noted above, the Request includes an annex containing copies of communications conducted with the World Bank.

The Requesters ask the Board of the World Bank to *“immediately address all demands and concerns raised on the concerned projects.”*

The above claims may constitute, *inter alia*, non-compliance by the Bank with various 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

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).¹² 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.

In accordance with paragraph 17 of the Panel’s Operating Procedures (the “Operating Procedures”), I am notifying you that I have, on April 12, 2012, which is also the date of the dispatch of this notice, registered this Request in the Inspection Panel Register. Please note that the Panel’s registration is an administrative procedure and it implies no judgment whatsoever concerning the merits of the Request for Inspection.

As provided in paragraph 18 of the IDA Resolution that established the Panel, paragraphs 2 and 8 of the *“Conclusions of the Board’s Second Review of the Inspection Panel”* (the “1999 Clarification”), and paragraph 18(d) of the Operating Procedures, Bank Management must provide the Panel, no later than May 11, 2012, with written evidence that it has complied, or intends to comply, with the Bank’s relevant policies and procedures in relation to the above-referenced Project. The subject matter that Management must deal with in a response to the Request is set out in paragraphs 3 and 4 of the 1999 Clarification.

After receiving the Management response, the Panel will, as outlined in the 1999 Clarification and as provided by paragraph 19 of the Resolution, *“determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and*

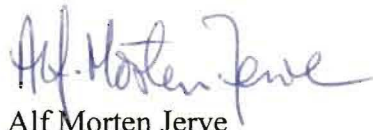
¹² The website of the IFC Compliance Advisor/Ombudsman has more information on the complaint it received at http://www.cao-ombudsman.org/documents/Kosovo_webtext_English_January2012.pdf

shall make a recommendation to the Executive Directors as to whether the matter should be investigated.”

All communications with the Requesters in connection with the Request will be sent to Mr. Nezir Sinani of the Institute for Development Policy (INDEP).

The Request has been assigned IPN Request Number RQ 12/01.

Yours sincerely,

A handwritten signature in blue ink that reads "Alf Morten Jerve". The signature is fluid and cursive.

Alf Morten Jerve
Chairperson

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