



CAO ASSESSMENT REPORT

**Complaint Regarding IFC's Investment in Strominvest (26107 & 31993)
Minsk, Belarus**

April 2017

Office of the Compliance Advisor Ombudsman
for
International Finance Corporation
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About the CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective and constructive, and to enhance the social and environmental outcomes of those projects.

For more information, see www.cao-ombudsman.org

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LIST OF ACRONYMS

- CAO Office of the Compliance Advisor Ombudsman
- IFC International Finance Corporation
- MIGA Multilateral Investment Guarantee Agency

1. OVERVIEW

In March 2016, a local Minsk resident filed a complaint with CAO regarding impacts of IFC's Strominvest II project in Belarus. CAO determined that the complaint met its three eligibility criteria in April 2016, and initiated an assessment of the complaint. During the assessment, the complainants and project sponsor stated their preference to engage with one another through CAO-facilitated dialogue to try to resolve the complaint. Hence, the complaint is being referred to CAO's Dispute Resolution function. This Assessment Report provides an overview of the assessment process, including a brief description of the project, the complaint, the assessment methodology, and next steps.

2. BACKGROUND

2.1. The Project

JV Strominvest LLC, the project sponsor, is a Belarusian construction company ("Strominvest") focused on developing commercial property and affordable housing projects in Belarus. Strominvest was established as a construction company in 1993, and has been an IFC Client since 2008.

IFC's first project (#26107) with Strominvest was for the development of a commercial real-estate building in Minsk and was approved in June 2008. The second project (#31993), approved in October 2015, is a corporate loan of US\$17 million for development of affordable housing projects in Belarus.¹

2.2. The Complaint

In March 2016, CAO received a complaint from a local Minsk resident who filed on behalf of himself, his mother, and other community members. The complaint raises concern about possible forced evictions and fear of resettling people against their will to affordable housing built by Strominvest.

3. ASSESSMENT SUMMARY

3.1. Methodology

The purpose of CAO's assessment is to clarify the issues and concerns raised by the complainants, to gather information on how other stakeholders see the situation, and to determine whether the complainants and the company would like to pursue a dispute resolution process under the auspices of CAO Dispute Resolution, or if the complaint should be transferred to CAO Compliance for appraisal. CAO does not make a judgment on the merits of the complaint during its assessment.

The CAO assessment of this complaint consisted of:

- A desk review of project documentation
- Field visit to Minsk, Belarus

¹ IFC Project Website <http://goo.gl/jxiaAZ> - accessed September 09, 2016

- Meetings with the complainants (eight individuals representing 6 households)² and visits to the proposed construction site
- Meetings with IFC's project team and Strominvest management

The CAO team also met with two additional Minsk residents who requested a meeting and who described similar concerns about being affected by other development construction projects in the city. However, their properties are in locations not affected, nor being considered, by Strominvest.

3.2. Summary of Issues

3.2.1 Complainants' perspective

During the assessment, complainants expressed two primary concerns to CAO:

First, they consider that they have been affected by Strominvest's feasibility study because the Minsk city government placed restrictions on their property. They informed CAO that they are not allowed to make any improvements to or to sell their property.

Second, they are concerned that they will be forcibly evicted and moved to Strominvest's affordable housing residences in Kamenaya Gorka, approximately nine kilometers from their current location, without due compensation.

Complainants expressed their preference for CAO Dispute Resolution and their wish to meet with Strominvest representatives to discuss their concerns and possible solutions.

3.2.2 Strominvest perspective

Strominvest conducted a feasibility study of the proposed construction site and decided not to implement the residential construction project due to the costs associated with demolition, resettlement, and compensation to residents. Strominvest concluded that the construction project concept cannot be deemed potentially successful in light of the current economic situation. Strominvest did not submit a construction site master plan, and they informed CAO that a current and valid Land Allocation Certificate would be required for Strominvest to develop the site. The Land Allocation Certificate became void on October 8, 2016 (two years after the original issue date of the Certificate)³. Strominvest also provided a redacted copy of the Land Allocation Certificate to CAO, which can be found in Annex B to this Report.

Therefore, Strominvest does not consider the complainants as "affected people". Nonetheless, Strominvest informed CAO of their willingness to meet with the complainants under CAO auspices to try to clear up any misunderstandings and successfully resolve the complaint.

4. NEXT STEPS

As noted above, the complainants and Strominvest stated their preference to engage with one another through CAO-facilitated discussion to try to resolve the complaint. Therefore, in accordance with CAO's Operational Guidelines, the complaint is being referred to CAO's Dispute Resolution function.

² While the original complainant, Mr. Skripchenko did not request confidentiality, three of the other local residents did request CAO to keep their identities confidential.

³ Presidential Decree #667, dated December 27, 2007, "ON SEIZURE AND ALLOTMENT OF LAND PLOTS", <http://www.pravo.by/main.aspx?guid=3871&p2=1/9264>

ANNEX A. CAO COMPLAINTS HANDLING PROCESS

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective and constructive and to enhance the social and environmental outcomes of those projects.

The initial assessment is conducted by CAO's Dispute Resolution function. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the complainant(s); (2) gather information on how other stakeholders see the situation; and (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function, or whether the case should be reviewed by CAO's Compliance function.

This document is a preliminary record of the views heard by the CAO team, and explanations of next steps depending on whether the parties choose to pursue a CAO Dispute Resolution process or prefer a CAO Compliance process. *This report does not make any judgment on the merits of the complaint.*

As per CAO's Operational Guidelines,⁴ the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgement** of receipt of the complaint

Step 2: **Eligibility:** Determination of the complaint's eligibility for assessment under the mandate of the CAO (no more than 15 working days)

Step 3: **CAO assessment:** Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function, or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 120 working days.

Step 4: **Facilitating settlement:** If the parties choose to pursue a collaborative process, CAO's dispute resolution function is initiated. The dispute resolution process is typically based or initiated by a Memorandum of Understanding and/or mutually agreed upon ground rules between the parties. It may involve facilitation/mediation, joint fact-finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the parties affected⁵.

OR

⁴ For more details on the role and work of CAO, please refer to the full Operational Guidelines: http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines_2013.pdf

⁵ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has closed the complaint and transferred it to CAO Compliance for appraisal.

Compliance Appraisal/Investigation: If the parties opt for a Compliance process, CAO's Compliance function will initiate an appraisal of IFC's/MIGA's environmental and social due diligence of the project in question to determine whether a compliance investigation of IFC's/MIGA's performance related to the project is merited. The appraisal time can take up to a maximum of 45 working days. If an investigation is found to be merited, CAO Compliance will conduct an in-depth investigation into IFC's/MIGA's performance. An investigation report with any identified non-compliances will be made public, along with IFC's/MIGA's response.

Step 5: **Monitoring** and follow-up

Step 6: **Conclusion/Case closure**

ANNEX B. REDACTED LAND PLOT SELECTION CERTIFICATE

APPROVED

October 8, 2014

LAND ALLOCATION CERTIFICATE

for residential reconstruction within the boundaries of Griboyedova, Panfilova, Timiriazeva, and Tatarskaya Streets including the construction of supporting infrastructure

Citizen, private entrepreneur, or legal entity requesting a land plot: *Strominvest-Ratomka, Private Unitary Construction Enterprise*

Drafted at *86 Kazintsa St., building 3, c. Minsk*

September 30, 2014

The Commission set up for land allocation purposes by MCEC resolutions #635 dated 03/01/2012, #1073 dated 03/29/2012, #2217 dated 07/12/2012, #3105 dated 10/09/2012, #896 dated 04/11/2013, #66 dated 01/16/2014, #2243 dated 09/12/2014 and composed of:

as well as Director of Strominvest-Ratomka
Korzhovnik

V.V.

examined the cadastral documentation on the allocation of a land plot for residential reconstruction within the boundaries of Griboyedova, Panfilova, Timiriazeva, and Tatarskaya Streets including the construction of supporting infrastructure.

1. The project is envisaged by Order of the President of the Republic of Belarus #09/760-317П997 dated 07/15/2014 and MCEC Order #1/2-17/УИ-3098 dated 07/25/2014 and substantiated by production needs.

2. Having examined the cadastral documentation (architectural planning specifications and technical specifications related to utility infrastructure required for the site in case of land allocation in the city of Minsk or a regional center) and taken into account requirements of technical regulations in the area of architecture, urban planning, construction, sanitary and epidemiological well-being of the population, and environmental protection, the Commission deems it appropriate to accommodate the site on the requested land plot encompassing the land of Minsk City land users and recommends it for approval.

3. It is proposed to grant the land plot for use.

4. Profile of the selected land plot:

#	Parameters	Unit of measure	Value
1	Total area of the land plot	ha	5.9862

5. The time frame for the preparation of project design documentation including its state expert review shall not exceed 2 years.
6. The time frame for submitting a construction site master plan (including M&E and utility systems) elaborated as part of the project design documentation to the land use planning organization shall not exceed one year.