

September 21, 2018

Mr. Osvaldo L. Gratacós
Compliance Advisor Ombudsman
International Finance Corporation
2121 Pennsylvania Avenue, N.W.
Washington DC 20433

IFC Management Response to the CAO Investigation Report on Enso Albania (Project #30979)

Dear Mr. Gratacós:

Thank you for the opportunity to respond to the CAO compliance investigation report in relation to IFC's investment (#30979) in Enso Albania (Lengarica Hydropower Project).

We are gratified that the subsequent CAO compliance investigation acknowledges that no critical natural habitat has been adversely impacted by Lengarica HPP, and that the adaptive management approach to environmental flow has resulted in no measurable adverse impact on biodiversity. These issues were identified as key concerns in the complaint and have been at the center of IFC's supervision and monitoring of the project.

The due diligence performed in this project was consistent with IFC's general approach when investing in equity at the holding company level. Clients must demonstrate their commitment to build capacity to satisfactorily assess, manage, mitigate and monitor E&S issues across a future project portfolio. IFC verifies such commitment and implementation through review of the E&S documentation available at asset level (in this case the Lengarica project, and to some extent the Mati project).

The deficiency was in the environmental and social impact assessment (ESIA) for Lengarica HPP and IFC acknowledges its over-reliance on the report at the pre-investment stage, in 2011. IFC has since mainstreamed the use of early stage screening tools, including the Integrated Biodiversity Assessment Tool (IBAT) that give E&S specialists an opportunity to rapidly verify biodiversity and protected area mapping of a project site. If Lengarica HPP was part of a similar due diligence today, its presence in the Bredhi i Hotovës-Dangelli National Park would be noted.

IFC is aware of the touristic potential of the area around Lengarica HPP, and several actions were taken to reduce the impact of the project, including changes to project configuration and follow up studies on the thermal springs. IFC remains in discussion with its client to formalize its engagement policy with the local community, including the possibility of advance notification of days in the low flow season when Lengarica HPP will release sufficient water from the weir to allow the canyon to be used by kayakers and other water sports practitioners. Such a release already took place in May 2016, as referenced in the compliance investigation report.

We regret that a voluntary dialogue process, supported by CAO's dispute resolution function, could not move forward after the CAO Assessment Report had recommended this approach. We understand that the complainants felt it was too late in the project's development to have a productive dialogue. Nonetheless, IFC and our client remain committed to engage with the relevant project stakeholders regarding the Lengarica HPP project.

An itemized response to the key findings raised in the compliance investigation report are contained in the Annex. We look forward to continuing our dialogue with CAO during the monitoring phase.



Ethiopis Tafara
Vice President and General Counsel
Legal, Compliance Risk & Sustainability

Sincerely,



Stephanie von Friedeburg
Vice President and Chief Operating Officer

Annex. IFC Tabulated Management Response: Enso Albania (Project #30979)

	CAO Findings	IFC's Response	IFC Actions Taken or Proposed	Expected Timeline
	Endangered species and natural/critical habitat			
1.	<p><i>Pre-Investment E&S Review:</i> Gaps in the client's ESIA for the Lengarica HPP were overlooked in IFC's pre-investment E&S review. These included: (a) lack of appropriate information on endangered and endemic species in the area of impact; (b) lack of assessment of cumulative impacts considering other hydropower projects being developed in the Lengarica river system, especially the Pulita HPP immediately upstream from the Lengarica HPP; and (c) lack of assessment of the adequacy of proposed environmental flow metrics. IFC's review did not require additional assessments to close these gaps as required by the Sustainability Policy.</p> <p>CAO thus finds that IFC did not ensure that the client met the requirement that "the Assessment process will be based on current information, including an accurate project description, and appropriate social and</p>	<p>IFC acknowledges that there were information gaps in the ESIA for the Lengarica HPP sub-project and that IFC was overly reliant on this documentation during its pre-investment E&S review. Procedurally, the approach taken at the time met the existing E&S Review Procedure's requirements for equity investments.</p> <p>IFC took an equity stake at the holding company level and the scope of its due diligence reflected this, focusing on corporate level commitment and capacity to satisfactorily assess, manage, mitigate and monitor E&S issues across a future project portfolio and verifying implementation through review of the E&S documentation available at asset level (Lengarica and to a lesser extent Mati in this case).</p> <p>While IFC would not necessarily expect completed assessments of both environmental flow and cumulative risk issues at pre-investment E&S review stage, their inclusion in the</p>	<p><i>Project-level Response:</i> Deficiencies in the client's ESIA were subsequently identified during supervision and addressed.</p> <p><i>Systemic-level Response:</i> Since 2011, IFC's practices for pre-investment E&S review have evolved. Internal expectations on the assessment of cumulative impacts and environmental flows have increased, with both now benefiting from formal guidance (Good Practice Handbook on Cumulative Impact Assessment and Management: Guidance for the Private Sector in Emerging Markets, August 2013 and Good Practice Handbook on Environmental Flows for Hydropower Projects, March 2018).</p>	Addressed by current practices.

	environmental baseline data” (PS1, para. 4).	<p>scope of any ESIA being undertaken by the client should be formally verified (and if missing, addressed through a supplementary ESIA package request).</p> <p>The deficiencies in the client’s ESIA were subsequently identified during supervision and addressed.</p>		
2.	<p><i>Pre-Investment E&S Review:</i> IFC did, however, require the client to retain a biodiversity expert to design and manage the implementation of a biodiversity monitoring program. Though not required by IFC, the client tasked the biodiversity consultant to conduct a gap analysis of the ESIA against the requirements of PS6. As a result, additional assessments of the biodiversity impacts of the Lengarica HPP were recommended.</p>	<p>The majority of the PS6 section of the ESRS and two of the six actions in the associated ESAP focus on biodiversity aspects of Lengarica HPP, including the requirement to retain <i>‘an independent biodiversity expert to design and manage implementation of a robust biodiversity monitoring program (detailed parameters, monitoring frequency, evaluation criteria) to confirm that the project’s impacts on biodiversity are minimized’</i>. (ESAP item #5).</p> <p>To develop a program to meet this expectation, an assessment of PS6 requirements would be necessary and therefore a gap analysis formed an implicit part of IFC’s stated requirements of the client.</p>	No non-compliance found.	
3.	<p><i>Supervision:</i> During supervision, the client conducted additional assessments, which addressed deficiencies</p>	<p>IFC welcomes CAO’s concurrence with IFC’s conclusion on critical habitat determination.</p>	No non-compliance found.	

	<p>identified in the 2011 ESIA in relation to potential impacts on endangered species. On the basis of available information, IFC's conclusion that the Lengarica HPP does not impacts critical habitats is consistent with the requirements of PS6.</p>	<p>Significant resources have been spent by IFC and its client to implement an appropriate biodiversity monitoring and adaptive management strategy as prescribed in paragraph 7 of PS6 (2012). This will be used as an example for other IFC projects where a similar circumstance arises.</p>		
4.	<p><i>Supervision:</i> While IFC requested from that the environmental flow be monitored once the Lengarica HPP is in operation, IFC did not require the client to undertake an assessment to confirm the suitability of the estimated environmental flow, thus not complying with the requirements of the Sustainability Policy, para. 15.</p> <p>Given the complexity and challenges of validating the environmental flow, IFC encouraged the client to adopt an adaptive management framework. Monitoring results to date do not suggest that the Lengarica HPP has led to measurable adverse impacts on biodiversity. In these circumstances, CAO finds that</p>	<p>IFC acknowledges that, in hindsight, the client's assessment may not have been detailed enough. IFC took comfort from the client's (updated) ESIA, which concluded that <i>'the residual water flow of 0.2 m3/s can protect different functions of the river, providing habitats for plants, wildlife and aquatic species'</i>. Together with the ESAP items #4 (maintenance of ecological flow) and #5 (biodiversity monitoring), there is evidence of IFC's focus and concern on this issue from pre-investment E&S review stage onward.</p> <p>IFC welcomes CAO's finding that the approach taken to assessing the adequacy of the environmental flow during the supervision stage has been adequate. As highlighted in IFC's response to 1. above, IFC's full verification of adequate E&S assessment by a holding company and its application at the individual asset</p>	<p><i>Systemic-level Response:</i> As noted in item 1, IFC has recently published good practice guidance for Environmental Flows (IFC, 2018) in order to provide better guidance to specialists and clients.</p> <p>No non-compliance found on adaptive management.</p>	<p>Addressed by current practices.</p>

	IFC's supervision of the environmental flow issue has been adequate.	level occurs during supervision for an equity investment.		
Impacts on tourism-based livelihoods				
5.	<p><i>Pre-Investment E&S Review:</i> IFC did not ensure that the client's E&S assessment of the Lengarica HPP considered "the differing values attached ... by specific stakeholders, as well as identify impacts on ecosystem services" (PS6, para. 4), in particular impacts on ecotourism. Measures to minimize, mitigate and/or offset project impacts on the touristic value of the area were not included in the ESAP.</p>	<p>IFC acknowledges that the client's E&S assessment did not contain a specific section pertaining to ecotourism impacts.</p> <p>However, IFC notes that several steps were taken to consider the differing values attached by specific stakeholders, and to identify impacts on ecosystem services. While not explicitly labelled as ecotourism mitigation steps, the ESRS and ESAP include three specific actions to address the CAO finding:</p> <p>(1) '[the Lengarica] area includes an existing hot spring (Benja Thermal Waters). Enso is designing the project to minimize impacts on the existing hot spring by adjusting the location of the power house'.</p> <p>(2) '[A] hydrological study was conducted to assess project's impacts on the existing hot spring. Further strengthened hydrological study was recommended by the updated ESIA and enso will carry this out prior to IFC's investment (ESAP No.4)'.</p>	No follow-up action proposed, based on CAO's finding described in item #6 below.	

		(3) '[The] Lengarica river has a natural canyon of high natural scenic value. Enso designed the Lengarica project to avoid impacts on the canyon. The location of the regulator was adjusted to avoid impacts on the natural canyon'.		
6.	<p><i>Supervision:</i></p> <p>While IFC's supervision of the project has captured the issue of Lengarica HPP impacts on ecotourism, CAO finds that IFC's did not ensure that stakeholders were consulted, assessments disclosed, and measures to minimize, mitigate and/or offset impacts were added to the ESAP.</p>	<p>IFC acknowledges that additional measures related to ecotourism were not added to the ESAP. IFC does not always modify ESAPs during supervision unless there is lender group involved that formally requests this. Corrective actions identified during IFC supervision are generally communicated to the client directly and follow up is performed by IFC during subsequent supervision.</p> <p>As part of its supervision of the project, IFC has routinely verified stakeholder engagement processes by its client. These were detailed in documents shared with the CAO (e.g. a project FAQ) and included large multi-stakeholder meetings (e.g. October 2014 in Tirana) and smaller, routine meetings in the project area. In September 2012, enso established a project office in Permet and appointed a full time Community Liaison Officer in April 2013. A log of interactions and grievances (and their resolution) has been maintained.</p>	<p><u>Project-level Response</u></p> <p>IFC will continue to actively supervise the project, including with regards to stakeholder engagement.</p>	Ongoing

Protected areas and natural monuments				
7.	<p><i>Pre-Investment E&S Review:</i> IFC's review did not identify the Lengarica HPP as being located in the <i>Bredhi i Hotovës-Dangelli</i> National Park. As a result, IFC did not trigger PS6, para. 11, which sets out client requirements when planning a project in a legally protected area.</p> <p>Similarly, IFC did not consider issues related to the application of Albanian law on protected areas.</p>	<p>IFC acknowledges this finding. IFC was over-reliant on the ESIA document during the pre-investment E&S review. It was during the supervision stage that IFC identified a material gap in the client's ESIA on this issue (and sought to rectify).</p> <p>IFC considered application of Albanian law through its review of Section 3.2 of the ESIA which lists the legislative and regulatory frameworks in Albania that were included as part of the update. This has 26 specific citations and includes Law No. 8906 dated June 06, 2002 '<i>On protected areas</i>' as amended.</p>	<p><i>Systemic-level Response:</i> The initial version of the Integrated Biodiversity Assessment Tool (IBAT) was available in 2011 but it was not used systematically by E&S specialists (particularly on equity stakes in holding companies – see 1.). Since that time, IBAT has been upgraded several times (including continuous updates to mapping layers) and its application at project level is now systematic (often being run initially at concept review stage). IFC has also established a biodiversity focal point and regional champion network to ensure that all specialists have ready access to biodiversity support. Current IFC tools and practices are therefore likely to identify protected areas (and changes to them) and avoid the situation that occurred in this case.</p>	Addressed by current practices
8.	<p><i>Supervision:</i> In 2014, after public concerns were raised in relation to the Lengarica HPP's location in a national park, IFC reviewed a legal opinion commissioned by the client. This provided assurance that the client had obtained necessary permits for the construction of the Lengarica HPP.</p>	IFC concurs with this statement.	No non-compliance found.	

9.	<p><i>Supervision:</i> CAO finds, however, that ongoing supervision is required to ensure compliance with PS6 requirements in relation to: (a) alignment of the Lengarica HPP with the National Park's management plans; and (b) consultation with protected area stakeholders.</p>	<p>IFC acknowledges this finding. IFC was not aware that the management plan (which is marked as 'draft final') had entered into force and appreciates CAO's confirmation of its legal status.</p>	<p><i>Project-level Response</i> IFC shared the management plan for the <i>Bredhi i Hotovës-Dangelli</i> National Park with enso on 27 August 2018 and confirmed its legal status. Once the CAO report is disclosed and can be shared with the client, IFC will discuss and agree with enso the role it can play in supporting the implementation of the management plan and its underlying objectives.</p> <p>Specific actions will be agreed with enso and disclosed as an update to the ESAP.</p> <p>As part of an existing commitment to help management tourism impacts in the project area, enso met the Mayor of Permet on June 7, 2018 and requested a meeting with the National Agency for Protected Areas. This will provide the opportunity to discuss other aspects of the plan, for instance the sharing of biodiversity monitoring data.</p>	<p>Oct 31, 2018</p>
Disclosure, consultation and stakeholder engagement				
10.	<p><i>Pre-Investment E&S Review:</i> At pre-investment stage, CAO finds that IFC did not comply with relevant disclosure requirements. In particular, (1) IFC did not ensure that the client "publicly disclose[d] the</p>	<p>IFC acknowledges the finding in relation to its institutional disclosure. IFC's practice in 2011 was not to disclose asset level impact assessment documentation for category B, early stage equity investments. This was</p>	<p><i>Systemic-level Response</i> IFC has changed its practice on disclosure of asset level ESIA's for category B early stage equity projects since 2011. The current presumption is for their inclusion in the disclosure package. This change</p>	<p>Addressed by current practices</p>

	<p>Assessment document [and] Action Plan to the affected communities” (PS1 para. 20), including the 2011 ESIA on which IFC based its E&S review;</p> <p>and (2) IFC did not “make available electronic copies of, and where available, web links to ... relevant social and environmental impact assessment documents” (Disclosure Policy, para. 13).</p>	<p>determined by operational level guidance to E&S specialists and in this case, neither the documentation for Lengarica HPP nor Mati HPP were disclosed on the IFC website.</p> <p>On client disclosure, the 2011 ESIA was made available to Affected Communities through the Lengarica HPP project office in Permet and/or by request of the Community Liaison Officer.</p>	<p>was implemented as part of the introduction of the Access to Information Policy in 2012 (and its focus on greater disclosure at asset level e.g. for high risk sub-projects of IFC investments through private equity funds).</p> <p><i>Project-level Response</i> IFC has posted the original (2011) Lengarica ESIA via its Project Information Portal.</p>	<p>Sept 14, 2018</p>
<p>11.</p>	<p><i>Pre-Investment E&S Review:</i> Pre-construction consultation was limited to stakeholders directly affected by land acquisition and access to irrigation, excluding broader stakeholder groups such as those working in the tourism industry in the area. IFC did not ensure that the client undertook a process of consultation that provided these groups “with opportunities to express their view on project risks, impacts, and mitigation measures” (PS1, para. 21).</p>	<p>As noted in item 5 above, IFC acknowledges that the client’s E&S assessment did not contain a specific section pertaining to ecotourism impacts. Nonetheless, a number of public consultation activities were undertaken for (and detailed in) the ESIA. Those directly affected by the project – namely land owners and farmers dependent on the Lengarica for irrigation – were indeed key, but not exclusive, stakeholders. Landowners were approached individually (a common practice) but public consultations were ‘open invitation’ to all interested stakeholders and participants included those engaged in the tourism sector (e.g. a hotel owner in Petran).</p>	<p><i>Project-level Response</i> Once the CAO report is disclosed and can be shared with the client, IFC will agree on specific actions with enso by October 31, 2018 regarding the engagement with the kayak community. Agreed actions will be disclosed as an update to the ESAP.</p> <p>Enso has already started discussions with the Mayor of Permet on this topic, with an agreement of a minimum of two weekend days in low flow season when Lengarica HPP will release sufficient water from the weir to allow the canyon to be ‘ridden’ from top to bottom.</p>	<p>Oct 31, 2018</p>

12.	<p><i>Supervision:</i> IFC did not ensure that the client met its disclosure requirements in relation to E&S monitoring (PS1, para. 26).</p> <p>During project supervision, however, CAO acknowledges IFC's efforts to ensure that the client prepared a Stakeholder Engagement Plan and scaled up its engagement with broader stakeholder groups, such as tourism operators.</p>	<p>On disclosure requirements, IFC's supervision scope included inquiry on the methods the client was using to share information on Lengarica HPP with stakeholders. As detailed in responses to #6 and #10, this primarily took place through the Lengarica project office in Permet and the Community Liaison Officer based there.</p> <p>IFC welcomes the CAO's acknowledgement of IFC's efforts to sharpen its client's engagement with specific stakeholder groups such as the kayaking community.</p>	<p><i>Project-level Response</i> IFC will continue to actively supervise the project, including with regards to stakeholder engagement.</p>	Ongoing
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