

## COMPLAINT

To the Compliance Advisory Ombudsman  
International Finance Corporation  
Washington, DC, U.S.A.

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I. Complainant's name, address, contact information:

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II. Identity and Nature of the Project:

Project No. 30979. Summary of the relevant Project Description  
(according to the IFC website) is here:

*"Lengarica hydropower project (a 8.9MW run-of-the-river type hydropower plant) will be built at the lower part of the Lengarica river basin in Permet district, Gjirokaster prefecture. It will be situated in a hilly and mountainous terrain, in Banja's Canyon zone at the elevation of 410m above sea level, about 7 km from Vjosa river. The project will consist of a regulator ("side intake" type, opening for ecological flow, about 13m height and 60m length), about 4 km tunnel (concrete lining, 2.4m width, 4m height), a forebay (concrete basin to collect the water coming from the tunnel), about 3.7 km penstock (6 river crossings), a power house (8.9MW), and about 6.5 km 35kV transmission line to Permet substation.1*

As revealed above, IFC is substantially involvement as an investor and shareholder at the Hydropower plant in the Lengarica

<sup>1</sup> From the IFC website, accessed on June 3, 2015  
<http://ifcext.ifc.org/ifcext/spiwebsitel.nsf/f451ebbe34a9a8ca85256a550073ff10/799a140eed7a6bcb852578fb005299a5?opendocument>



river project in Albania. However, we believe that this Project violates IFC's Articles of Agreement and relevant policies and standards. It also violates Albanian environmental legislation and has irreparable and irreversible negative impacts on the environment and the local population of the Përmet district.

### III. Our concerns:

The Organic Agriculture Association authorized by affected people Ms. Dorina Topoviti and Mr. Ilia Kondi (see the respective authorizations attached), both resident of from Lëngarica, Përmet, where a HPP is under construction on the Lëngarica Canyon, presents the complaint as follows:

1. The IFC has a duty and obligation to abide by and respect the national legislation of the countries it is investing in or advising.

The Overview of Performance Standards on Environmental and Social Sustainability, point 5, of IFC provides that "In addition to meeting the requirements under the Performance Standards, clients must comply with applicable national law, including those laws implementing host country obligations under international law".<sup>2</sup>

At National Registration Center IFC has received a share of 20% at the company named "ENSO HYDRO ENERGJI", which is constructing a HPP on Lëngarica.

However, the HPP Lëngarica 2. is being constructed inside the territory of protected area of National Park "Bredhi i Hotovës", declared as such by Decision of Council of Ministers No. 1631, dated 17.12.2008.

Article 4.b of that Decision provides that:

*" In this zone is permitted seasonal activities (like grazing, collection of medical herbs, secondary products of forest), which do not impinge on the ecological integrity of the ecosystem and is practiced only with environmental permit."*

This is the interpretation of other national parks in Albania. The Lëngarica HPP activity is not like grazing, or collection of medicinal herbs and forest products. It deviates the water of Lëngarica Canyon, which is natural protected according to the Law No.

<sup>2</sup> Performance Standard 6, IFC website, accessed Jun 3, 2015, at [http://www.ifc.org/wps/wcm/connect/bff0a28049a790d6b835faa8c6a8312a/PS6\\_English\\_2012.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/bff0a28049a790d6b835faa8c6a8312a/PS6_English_2012.pdf?MOD=AJPERES)



8906, dated 06.06.2002. "On Protected Areas" (Zonat e Mbrojtura) and it is protected as a 1st category area.

This law explicitly provides that in a "Strictly natural zone" or in a protected areas or 1st category "every kind of construction shall be prohibited". [Article 5.2(c)].

According to the HPP project in question as shown above, the waters of the Lëngarica Canyon will be shifted into tubes for more than 7 km of tunnels and pipes. Simply put, this activity will destroy the whole ecological system at the area in question. It will also seriously and negatively affect the local population, which lives in this ecosystem and utilizes its unique values in a sustainable way, including the growth of environmental, green tourism, which has rapidly developed in recent years.

We believe that the Project in question runs in complete violation of IFC's Performance Standard 6, whose number one Objective is "to protect and conserve biodiversity". Clearly, protection and conservation are not achieved by way of destruction.

More specifically, the Project violates paragraph 14 of Performance Standard 6, as it constitutes a "*significant conversion or degradation*" of the natural habitat in the protected area in question.<sup>3</sup>

According to the IFC Performance Standard 6 "*In circumstances where a proposed project is located within a legally protected area or an internationally recognized area*" the client will meet the requirements of paragraphs 13 through 19 of this Performance Standard, as applicable. In addition, the client will: "*Demonstrate that the proposed development in such areas is legally permitted.*"<sup>4</sup>

Moreover, the Project violates paragraph 17 of the Performance Standard 6, with respect to critical habitats. There is no question that the Project area is a critical habitat as defined therein

<sup>3</sup> See the definitions of 'significant conversion or degradation' at the same Performance Standard: Significant conversion or degradation is (i) the elimination or severe diminution of the integrity of a habitat caused by a major and/or long-term change in land or water use; or (ii) a modification that substantially minimizes the habitat's ability to maintain viable populations of its native species. [Ibidem, Supra Note 2].

<sup>4</sup> Performance Standard 6, Legally Protected and Internationally Recognized Areas, Paragraph 20, at IFC website, accessed on June 3, 2015, at [http://www.ifc.org/wps/wcm/connect/bff0a28049a790d6b835faa8c6a8312a/PS6\\_English\\_2012.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/bff0a28049a790d6b835faa8c6a8312a/PS6_English_2012.pdf?MOD=AJPERES)





[16.(iv) highly threatened and/or unique ecosystems; and/or (v) areas associated with key evolutionary processes].

An example are thermal water of Bënja inside the Canyon, which are seriously threatened by the projected construction activity, as well as the removal of fresh water of the river (at 97.5% of the volume) on into pipes, thus threatening the whole ecosystem of this protected zone.

In this complaint we attach also the document of refusal of the application for environmental permit by the Ministry of Environment, associated with the respective arguments of the refusal.

We believe that this is a major failure on the part of the IFC to apply international standards of environmental protection and sustainable development, relevant local laws, as well as its own policies, performance standards, and practices - including due diligence, or rather lack thereof.

Similarly, the Project violates PESS's "do not do harm" policy - another key IFC Commitment [PESS, II.9], due to the irreparable and irreversible harm that will be inflicted to the protected area and to the local communities. As such, the Project may also negatively affect human rights [PESS, II. 12] and the conditions of women in Albania [PESS, II. 13], because of the cascading and spillover effect of the project.

IFC has failed, also, to inform the public, as the law requires. The people of Përmet and Lëngarica have collectively expressed their will against the construction of HPP of Lëngarica by signing petitions and through other lawful activities.

#### IV. Desirable outcomes:

As an outcome, we urge the IFC to immediately withdraw its participation into this project and to exercise its influence for its immediate suspension and cancellation before the situation leads to irreparable and irreversible harm.

We urge the CAO to register the complaint, to declare it eligible and - in addition to the outcome suggested by us - to conduct a full compliance auditing and review of project, including either through the normal steps of CAO review, or via the discretionary powers of the CAO Vice President.

