

Notice of Admissibility

Independent Complaints Mechanism
27 July 2020

ICM complaint #20-03 re: FMO-financed operation Nyamagasani 2 HPP

On 18 May 2020, the Complaints Office of FMO received a complaint concerning the FMO-financed operation Nyamagasani 2 HPP project (complaint #20-001). An Admissibility Notice declaring it admissible was issued by the Independent Expert Panel (hereafter "Panel") on 20 June 2020. On 6 July 2020, a second complaint was lodged by two individuals, representing a group of complainants from Kanyatsi Parish, Kasese District, Uganda.

The Complaints Office of FMO has confirmed the receipt of the complaint with a letter of acknowledgment, and requested the two representatives to provide a signed authorisation for representation signed by all the members of the represented group, in accordance with para. 3.1.4 of the ICM's Policy. On 21 July 2020, an authorization for representation signed by 16 complainants was provided by the complainants. On the same day, the Complainants also provided a list of 20 additional individuals affected by the project whom they claim to represent. FMO's Complaints Office requested that the complainants provide an additional representation form with respect to these individuals.

The FMO Complaints Office informed the members of the Independent Expert Panel ("Panel") of the complaint and confirmed that the Nyamagasani 2 HPP project is indeed an FMO-financed operation, involving the construction of the 6 MW Nyamagasani 2 run-of-the-river hydro plant.

The Complaint

The complaint concerns issues of resettlement and damages to properties caused by the project's construction activities. The complainants argue that their properties were damaged or rendered unsuitable for living due to the construction of the FMO-financed project and that, nonetheless, adequate compensation or appropriate replacement housing were not delivered despite earlier commitments made by the client company. In particular, the complainants contend that:

- (1) As a result of the construction activities, 13 houses remain located at a steep edge of the constructed canal in areas that present significant risk for the residents' lives, and should thus be replaced by houses in safe locations. Furthermore, the complainants argue that guard rails and fences offered by the client company as protection do not satisfy the need for safe housing.
- (2) In relation to replacement houses that were provided by the client company for relocated persons, the complainants assert that the project failed to install kitchens and latrines. Instead, the property owners were given a sum of 2,000,000 Ugandan shilling, which is insufficient to properly construct these fixtures.
- (3) Eight of the complainants assert that they suffered damages to their land or crops due to the construction works during the years of 2017, 2018 and 2019, and were not compensated adequately for these damages.
- (4) Two of the complainants claim that due to the construction activities their land became "orphaned", *i.e.* of no value, and thus should be acquired from them, in line with the commitments made by the client company.

The complainants therefore seek appropriate compensation and replacement housing in relation to damages they suffered due to the construction activities of the project.

Admissibility

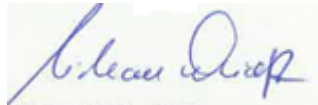
The complainants provided information which indicate that they have been affected by an FMO-financed operation, and that they suffered direct adverse impacts as a result of the financed operation. The Panel is satisfied that FMO has an active financial relationship with the client; there is an indication of relationship between the project and the alleged impacts and the complaint relates to substantial direct or indirect and adverse impacts or risks. Therefore, the admissibility criteria listed under para. 3.1.4 of the ICM's Policy were met.

The Panel notes that receipt of a second authorization form signed by the 20 additional complainants whose names were communicated to FMO's Complaints Office on 21 July 2020 is still pending. Once the authorization of representation will be provided, these individuals will be formally added to the complaint.

The members of the Panel are satisfied that the complaint fulfils the criteria for admissibility based on the information provided to the Panel. The members of the Panel are of the opinion that this complaint therefore should proceed to the Preliminary Review phase in order to determine the appropriate next steps, in accordance with the terms of the ICM's Policy.

The Panel observes an overlap between the issues raised in the two complaints received in relation to the Nyamagasani 2 HPP project (complaints no. 20-01 and 20-03) in particular concerning damages to land or crops (see point 3 of the complainants' arguments above). In this light, the Panel decides that for interests of fairness and efficiency it is appropriate to join the two complaints. The Panel will thus proceed to conducting a joint Preliminary Review addressing both complaints.

Yours sincerely,



Michael Windfuhr



Arntraud Hartmann



Inbal Djalovski