

Notice of Admissibility

Independent Complaints Mechanism
12 November 2020

ICM complaint #20-01 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 in Uganda. 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 36 complainants from Kanyatsi Parish, Kasese District, Uganda. On 27 July 2020, a second Admissibility Note was issued by the Panel, declaring the second complaint admissible. The Panel further decided to join the two complaints and address them under one case.

On 11 August 2020, the Panel received an additional complaint from an individual complainant ("Third Complaint"). The Panel, through the FMO Complaints Office, informed the complainant that his complaint will also be joined to the same case as the other two complaints concerning the same project.

On 5 October 2020, the Panel received another complaint filed by an individual complainant ("Fourth Complaint"). On 14 October 2020, the Panel received a fifth complaint submitted by a local catholic church together with another individual complainant ("Fifth Complaint"). On 26 October 2020, a sixth complaint was received from an individual complainant, representing two others apart from herself ("Sixth Complaint"). She provided a written authorisation of representation on 4 November 2020.

All of the above complaints are related to the FMO-financed operation Nyamagasani 2 HPP project. The Complaints Office of FMO has confirmed the receipt of the complaints with letters of acknowledgment.

The FMO Complaints Office informed the members of Panel of the complaints 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 Complaints

The Complaints concern 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 usage due to the construction of the FMO-financed project and that adequate compensation was not provided by the company. In particular, the complaints contain the following allegations:

- (1) The Third Complaint was filed by a complainant whose land was allegedly acquired by the project. However, the project provided compensation to his son only for crops that were grown on that land by his son, despite him not being the legal owner of the land.
- (2) The Fourth Complaint relates to allegation of non-compensation for land acquired by the project, including a house in which the complainant's coffee milling machine was embedded. The complainant alleges that an early valuation found that his property was worth 23,500,500 Ugandan Shillings. Nonetheless, later valuations by the project liaison officer were much lower. He raises allegations of corrupt handling of the funds by the project's liaison officers, and seeks to have his property fully replaced.

- (3) The Fifth Complaint contains claims that the project activities have surrounded the local church's land with canal pipes and a winding road. It argues that the project has taken most of the local church's land, leaving only fourth of its original size. With the remaining diminished territory, the church is unable to carry out expansion and development activities, and cannot afford the construction of structures required as minimum standards to operate a church in Uganda.
- (4) The Fifth Complaint additionally consists of a complaint of an individual complainant arguing that the project has acquired her land, situated between the project access road and the canal pipes, but failed to deliver her a replacement housing.
- (5) The Sixth Complaint involves damages caused by the access road to the project carrying slit deposits into the complainant's land and resulting in damage to her home and to her land, including to her son's grave. She submits that earlier complaints through the project's grievance management office and the liaison officers were ignored. Additionally, she noted that two of her neighbours who she represents suffered the same type of damage to their land.

The Complainants seek appropriate compensation or replacement for their property and land in relation to damages they suffered due to the construction activities of the project. Additionally, they point to deficiencies and irregularities in the project's grievance management processes.

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 members of the Panel are satisfied that the Complaints fulfil the criteria for admissibility based on the information provided to the Panel. The members of the Panel are of the opinion that the Complaints 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.

Given the vast overlap of issues raised in the various complaints received in relation to the Nyamagasani 2 HPP project, in particular damages to land, properties or crops, the Panel decides that for interests of fairness and efficiency it is appropriate to join the Complaints and address them within a single ICM Case. The Panel thus proceeds to conducting a joint Preliminary Review addressing all the Nyamagasani-related Complaints.

Procedure

As this case is currently under Preliminary Review, the Panel notes that it will not publish any additional admissibility notices of future complaints related to the same project. Any such new complaints will be assessed by the Panel based on the admissibility criteria set out in the ICM Policy, and if found admissible, will be joined to the ongoing case. The public record of the case found under the "Status Update" page on the ICM website will be regularly updated to reflect the accurate number of admissible complaints in the case.



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