

Date: April 5, 2007

1. About the affected group:

Name of members of the affected group: Mr. Gani Mezini, Mr. Muhamet Lazaj, Mr. Stefan Thanasko.<sup>1</sup>.

What the common interest of the group is:

The common economic and social interest of the group includes:

(i) preserving and protecting for tourism purposes the coastal area of Bay of Vlora at Treport Beach/Kavallona, - where a combined cycle thermo-power plant project is being financed by the EBRD - as well as the adjacent sand dunes, forest and the southwestern bank of the Narta Lagoon wetland.<sup>2</sup>

(ii) Ensuring safe access to the healthy fisheries resources of that the area;

2. Authorized representative:

Name of the authorized representative: Mr. Lavdosh Ferruni, environmentalist based in Tirana, Albania (adresa);

Your relationship to the group. Mr. Lavdosh Ferruni is originally from Vlora, Albania and has very strong ties with the community and the city. He spends considerable time there and is involved in numerous environmentally related activities.

If the authorized representative is not locally based, reason you are representing the affected group: Mr. Lavdosh Ferruni lives and works in Tirana, capital of Albania, in proximity with the EBRD office.

Native language of the affected group: Albanian.

Can you communicate effectively in the group's native language? Yes. We both are native speakers.

3. About the EBRD-financed project:

Project name: Vlorë Thermal Power Generation Project, Project #: 33833

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<sup>1</sup> Individuals who are members of the Affected Group are also either members or supporters of the Civic Alliance for the Protection of the Vlora Bay (hereinafter Alliance).

<sup>2</sup> This is an area of unique natural beauty and character and is a home to a number of endangered species and bird sanctuary. Treport Beach/Kavallona is also a historic beach. It is believed that there was the landing site in 1492 of Sephardic Jews escaping from Inquisition in Western Europe. In their quest towards East, Normans, Angevins and Crusaders landed there, too. The site's history and cultural heritage aspect is within the common interest of the affected group since the area could become a major tourist attraction benefiting local economy.

Country: Albania

Project Description: The building of a Thermo Power Plant at an historical sandy Mediterranean beach, within a de facto protected area, composed of a very delicate ecosystem made up of wetlands, sand dunes, Mediterranean forest, and inhabited by endangered species, including rare migratory birds.

Please state how the group's common interest is affected, likely to be affected and possibly harmed by this project:

The building of a power plant - with a lifespan of only 25 years - at this historic beach will have a permanent, direct adverse and material effect on the common interest of the affected group. From the economic social point of view, Treport Beach is widely used as a natural recreational park for locals as well as tourists. The nearby waters in Vlora Bay are extensively used for fishing. Coral colonies are also present in the Vlora Bay. Narta Lagoon, only 746 meters distant from the project location, is already a protected area under Albanian law. It is also an area with endangered species and a sanctuary of migratory birds.

The Affected Group supports the conversion of the entire Treport Beach/Kavallona area into a Historical Natural Park<sup>3</sup>. In addition, the area that lies approximately two miles south is intended to become a European Center for the Remembrance of the Victims of Genocide and Ethnic Cleansing in Europe (see relevant Council of Europe Resolution)<sup>4</sup>.

4. What the affected group has done so far to resolve the problem:

The group has made several efforts to resolve the problem individually and/or through the good faith efforts of the Civic Alliance for the Protection of the Vlora Bay. It has addressed both the EBRD and other relevant parties:

- It has complained to the EBRD with letters and emails asking for an internal inquiry or investigation, because we believed EBRD personnel who handled the loan agreement and relevant project paperwork was in breach of compliance with Albanian law and EBRD due diligence standards;
- It has worked through the domestic democratic process in numerous forms:
  - i. Made the protection of Treport Beach a campaign issue during 2005 general political elections as well as in the 2007 local elections. It secured promises and assurances by one political party to hold a local referendum on the issue, a promise later broken. Based on a platform to remove the power plant from the endangered Treport Beach, two local deputies of that party were elected in the National Assembly, thus ensuring the victory and governing majority for that party.
  - ii. Collected more than 14,000 signatures for holding a local referendum to

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<sup>3</sup> The relevant project-proposal has been presented to the government. Based on the U.S. – Albania Agreement on the Preservation of Cultural Heritage, a similar proposal to protect and preserve Treport Beach as the historical beach marking the landing of Sephardic Jews in 1492 has been presented to the U.S. Government by the Albania-Jewish Committee of New York.

<sup>4</sup> In the 1960s the then-Communist government of Albania built a chemical plant at this area with absolutely no regard for the natural environment, public health and cultural heritage. The site is currently under de-contamination procedures.

decide about the power plant. Unfortunately, the local referendum procedures were defeated on bogus claims by the Central Electoral Commission (CEC). The voting result within CEC that “defeated” our procedural steps for a local referendum was three votes for versus three votes against..., which in fact, was not a “no” vote. We believe that CEC refusal was based on political pressure.

- iii. Appealed CEC’s decision before the country’s Constitutional Court. This Court refused to hear the case citing lack of jurisdiction. We believe its refusal was based on political pressure as well. The Group is mulling the possibility to appeal the matter before the European Court of Human Rights in Strasbourg.
- iv. Supporters or members of the Alliance have corresponded with the World Bank and with the European Investment Bank, raising issues of violation of Albanian law and EU law, allegations of fraud, misconduct and conflicts of interests<sup>5</sup>.
- v. Supporters and members of the Alliance have had long correspondence with high-level officials of the World Bank, raising serious issues of non-compliance with Albanian law. The World Bank has thus far declined to change its position.
- vi. Considering that the Albanian Utility Corporation (KESH) and the World Bank have ignored our concerns and have signed a construction contract on February 9, 2007, and given the urgency of the matter the Alliance filed a complaint before the Ombudsman and is considering legal action at a local court.
- vii. We believe that at this stage further discussion with EBRD will not be

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<sup>5</sup>

The Thermo Power Plant was planned to be built at the wrong site. Harza consultants that chose the site and produced the EIA have misrepresented the true character of the site by stating that:

*“The selected site is a six hectare green field site adjacent to the offshore oil tanker terminal located on the Adriatic coast north of the Port of Vlorë. The site is situated on a relatively barren coastal area with little vegetation or wildlife.”*

Treport Beach is not:

- *a green field* but it is a unique, fine-sand, flat, Mediterranean beach;
- *adjacent to the offshore oil tanker terminal*, but it is in close proximity to a fishing harbor;
- *a barren coastal area with little vegetation of wildlife*, but a natural coastal beach, formed after thousands of years of geological activity, with significant presence of vegetation and forest as well as endangered floral and fauna species.
- *Two kilometers South of Narta Lagoon*, but less than 700 meters from the Lagoon’s Southwestern bank.

fruitful. The loan has been approved, the contract was signed, the government backed away from its promise to seek the opinion of the people, and the contractor is ready to break ground. All this might raise tensions significantly with the local population. Therefore we submit to you as a last resort within the EBRD.

5. Facts and evidence:

1. Your Project description at:

<http://www.ebrd.co.uk/projects/psd/psd2004/33833.htm>

2. Google map describing the exact distances of the site with the affected area of Narta Lagoon, the Kavalona Medieval site, and the city of Vlora;
3. Map of the projected power plant site and of the industrial park site. Map of the protected area, the current one and the first one, which would include the protected area as well.
4. UNEPS-funded study of the University of Marche in Italy on the cultural historic tourism potential of the area, with recommendations to preserve and protect the area, and not to allow industrial or other developments;

[www.univpm.it:7778/pagine/Upload/Economia/Novelli/Piano%20Valona.doc](http://www.univpm.it:7778/pagine/Upload/Economia/Novelli/Piano%20Valona.doc)<sup>6</sup>

5. Pictures and photos of the area;
6. Video of the area;
7. Ancient maps of the area
8. Project-Proposal of the Albanian-Jewish Committee of New York.
9. Relevant excerpts from the EIA.
10. Rebuttal to the EIA, by a group of local experts and scientists, and presented to the World Bank's.
11. Statement of the legal advisor to the Alliance before the Aarhus Compliance Committee XIV Meeting, Geneva, 15 December.
12. Statement of the Prime Minister before the Parliament, in September 2005.

PART B: Other information to support your complaint: (Par. 9 of Rules of Procedure)

Why do you think the Bank has not followed the Environmental Policy and/or Public Information Policy on the project:

Name and description of the specific Bank operation, if known, or if different from the project name above.

Same as above. Operation Contact: Georgios Giaouris: As an interim measure during the handling of this complaint we seek from the relevant IRM official that Mr. Giaouris recuses himself from all relevant decision-making and follow-up procedures.

Why you think the Bank has not followed its policies in the course of preparing, processing or implementing the project:

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<sup>6</sup> Also at <http://www.univpm.it/pagine/Upload/Economia/Novelli/imp.%20Turismo.pdf> - page 127

1. We believe that the Project violates EBRD's environmental policies and sustainable development because while attempting to fulfill current needs, it seriously compromises those of the future (tourism, fishing, natural habitat, ecosystems, cultural heritage and property, all within the broader meaning of "environment" adopted by the Bank);

2. We believe that the Project was flawed in its inception, and that misrepresentation played a major role in presenting a "rosy" Environmental Impact Assessment (EIA). Contrary to the requirements for such Category A Project, EIA's authors avoided several factors (such as tourism (its beach location), safe fisheries, coral colonies, cultural property, proximity with the Narta Lagoon, which per se would simply represent "fatal" flaws to the Project. Obviously, any "mitigating" measures proposed would be completely insufficient and irrelevant. In this regard, we would call the attention of Section II.4 of EBRD's Environmental Policy (hereinafter Policy) whereby:

*The EBRD also clearly establishes the principle that a proposed project can be rejected on environmental grounds, when there are major environmental problems, or when a proposed project fails to address environmental issues in a satisfactory way.*

3. We consider that the Project violates Section II.6 of the Policy (precautionary approach in natural biodiversity resources).

4. We believe that the Project violates Section II.11 and 26 of the Policy (more specifically Public Information Policy). The right of the local people to public participation in projects of this magnitude and impact has been severely violated. The site selection process – decided in June 2001 - was a secretive procedure. There was absolutely no public participation at this stage. We argue that there was no access to information at this stage for the people concerned. The EIA and its results were not presented to the public in a meaningful way. EIA authors and KESH claim that there was also a public consultation meeting (the first one) in November 2001 in Vlora, but they have not produced any evidence of such meeting because such meeting simply did not take place. The remaining two meetings were a mere rubber stamp of a decision already taken. Therefore, there was no meaningful public participation at an early stage for the project. We believe Annex II Procedures have not been properly followed.

The Alliance submitted a complaint to the Aarhus Convention Compliance Committee [ACCC] at UNECE in Geneva. Based on the Aarhus Convention, the Alliance argued that it was prevented from public participation at an early stage, in violation of Articles 5 and 6 of the Aarhus Convention. It is EBRD's firm policy to "support the spirit, purpose and ultimate goals of the Aarhus Convention." On 15<sup>th</sup> December 2006 ACCC considered our complaint as formally "admitted". Their Draft Findings and Recommendations were delivered on March 29, 2007. A copy of them was sent to Mr. Anthony Marsh, Director of Power and Energy Utilities with EBRD. **With respect to the proposed thermo power plant, which is funded by the EBRD, the ACCC found violations of Article 6, paragraph 3, 4 and 8 of the Aarhus Convention.**

5. We therefore believe that the Project violates Section II. 21, because it contravenes Albania's obligations under the Aarhus Convention as well as IFC OPN 11.03 on cultural property, which is also followed by the EBRD.

- (i) We suspect that private economic interests outside of the EBRD may have played a negative and decisive role for pushing this project. We note that EBRD intended initially to finance environmental friendly energy projects in Albania. We note that the opinion of Albanian experts expressed to the World Bank as of December 12, 2001 was to seek funding only for the rehabilitation of the existing Fier Power Plant<sup>7</sup>.

We believe that the EBRD has been under strong pressure by the World Bank to become a co-lender in this project<sup>8</sup>.

2. How you would like the problem to be solved:

- a. *Compliance review:* to fully review as to how and why EBRD environmental policy failed to detect that the proposed construction site contained fatal flaws and how it was allowed to be presented before the Board while being in violation of Albanian law, International Law and EBRD's own internal guidelines<sup>9</sup>.
- b. *Problem solving:* in addition to EBRD's own internal procedures, we would like to see (and seek) that the Bank engages an independent group of experts to review and assess the cultural, historical aspect of the Project site (something which was completely ignored by the EIA authors). We would like to see in such group the following experts if possible:
- i. Prof. Pëllumb Xhufi; University of Tirana;
  - ii. Prof. Neritan Ceka; University of Tirana;
  - iii. Prof. Alain Ducellier; University of Toulouse
  - iv. Prof. Giuseppe Roma, University of Calabria.
  - v. Dr. Anna Kohen, Albanian-Jewish Committee of New York;
  - vi. Dr. Vasil Bereti; Albanian historian based in Athens.
  - vii. Dr. Novruz Bajrami, historian based in Vlora.
  - viii. Agron Alibali, legal expert based at the University of Massachusetts in Boston.

Moreover, we would like to see that the Bank engages as soon as possible a new, independent team of experts in order to review and produce an alternative Environmental Impact Assessment or otherwise **cancel the loan** (see below).

- c. Moreover, the Bank should conduct a Compliance Review to determine why

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<sup>7</sup> <http://www.eec.org.al/newsletter%2019.pdf>

<sup>8</sup> It was made known to a representative of the Vlora Alliance at a UNECE meeting in Geneva, Switzerland in December 2006, that EBRD personnel had discussed with the U.N. agency in Geneva non-public information related to the cultural significance of the power plant site, which was contained in letters exchanged between Dr. Anna Kohen of the Albanian-Jewish Committee of New York and high-level officials of the World Bank. Apparently such information had filtered from the World Bank offices in Washington, D.C. to the EBRD's London office.

<sup>9</sup> Compliance review may also address the issue as to why public participation procedures were implemented at such late stage of the project, especially after the site selection and the EIA were already completed.

Bank policies, guidelines and procedures were violated throughout the stages of this project.

Please say what you would like to see as an outcome to the problem:

We would like to see a positive implementation of Rule 10 of the Rules of the Procedures. More specifically we would like to see an interim recommendation to stop commencement of the project and/or suspend further work or disbursement. [Part 3, 10, of the Rules of Procedure]. We believe that Power Plant relocation at Fier is the best and only alternative at this stage. Otherwise we believe that the Bank has the right to suspend and/or cancel the loan as a final measure and we hope that the Bank will undertake such step if necessary.

3. Previous Complaints: Please refer to Part A. 4.

4. Preferred language for receiving communications from the IRM.

English.

6. Confidentiality for group members: N/A

Declaration and signatures

I am/we are making this complaint as the authorized representatives of the affected group.

If there are two authorized representatives:

Please tell us how the group has authorized you to act for them:

Must act together \_\_\_ May act individually \_\_\_X

First authorized representative

Second authorized representative

Your signature

Your signature

Your name

Your name

Lavdosh Ferruni

Not Applicable

Address for correspondence

Address for correspondence

Daytime telephone number

Daytime telephone number

Fax number

Fax number

E-mail

E-mail