

**MANAGEMENT RESPONSE TO
REQUEST FOR INSPECTION PANEL REVIEW OF THE
KOSOVO POWER PROJECT (PROPOSED, P118287) AND SECOND
ADDITIONAL FINANCING ENERGY SECTOR CLEAN-UP AND LAND
RECLAMATION PROJECT (P131539)**

Management has reviewed the Request for Inspection of the Kosovo Power Project (proposed, P118287) and Second Additional Financing for the Energy Sector Clean-up and Land Reclamation Project (P131539), received by the Inspection Panel on June 12, 2015 and registered on June 30, 2015 (RQ15/04). Management has prepared the following response.

July 27, 2015

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ABBREVIATIONS AND ACRONYMS

BEEPS	Business Environment and Enterprise Performance Survey
CLRP	Clean-up and Land Reclamation Project
CLRP-AF	Clean-up and Land Reclamation Project – Additional Financing
CLRP-SAF	Clean-up and Land Reclamation Project – Second Additional Financing
EPC	Engineering, Procurement and Construction
ESIA	Environmental and Social Impact Assessment
EU	European Union
GDP	Gross Domestic Product
GoK	Government of Kosovo
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IPN	Inspection Panel
KEK	Kosovo Energy Corporation
KPP	Kosovo Power Project
KRPP	Kosovo e Re Power Plant
LPTAP	Lignite Power Technical Assistance Project
MESP	Ministry of Environmental and Spatial Planning
MW	Megawatt
OP	Operational Policy
PDO	Project Development Objective
PISG	Provisional Institutions of Self Governance
PRG	Partial Risk Guarantee
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SDR	Special Drawing Rights
SESA	Strategic Environmental and Social Assessment
UNMIK	United Nations Interim Administration Mission in Kosovo
USD	United States Dollar

EXECUTIVE SUMMARY

Background

i. On June 30, 2015, the Inspection Panel registered a Request for Inspection concerning the *Second Additional Financing Energy Sector Clean-up and Land Reclamation Project (CLRP-SAF)*, financed by the International Development Association (the Bank), and the *proposed Kosovo Power Project (KPP)*. The Request was submitted by three representatives of communities in Kosovo that are located in Kosovo's New Mining Field, a lignite reserve of approx. 150 km² where mining is currently ongoing. They allege adverse impacts which they believe result from the technical advice provided by the Bank under the *CLRP-SAF*, as well as from the proposed KPP.

ii. ***The Second Additional Financing Energy Sector Clean-up and Land Reclamation Project (CLRP-SAF)***. The original Energy Sector Clean-up and Land Reclamation Project (CLRP) aimed at addressing environmental legacy issues that are unrelated to Bank-financed projects but which resulted from the operation of the 50 year old Kosovo A thermal power plant. This included support to make land covered by overburden materials available for community development, and support for clean-up operations and environmental good practices in the mining and energy sector. The Bank had no historic engagement in the construction of the Kosovo A or B power plants. After a first additional financing was approved in 2007, a Second Additional Financing (CLRP-SAF) provided additional support to build capacity in the Government of Kosovo (GoK) for environmental good practices in the mining and energy sector. The CLRP-SAF also includes financing for air monitoring equipment to measure baseline air quality data, soil and water monitoring to collect data on pollution, the Environmental and Social Impact Assessment (ESIA) for the proposed KPP, and monitoring of implementation of the Resettlement Action Plan (RAP) for the Shala neighborhood of Hade village.

iii. ***The CLRP and its additional financings have achieved significant environmental results (see Annex 5)***. This includes:

- Elimination of dry dumping of ash and almost full remediation of a huge ash dump;
- Reclamation of 650 hectares of land for natural habitats, agriculture or other land use;
- Safe removal and treatment of 20,000 tons of hazardous substances from coal gasification; and
- Installation of three continuous air quality monitoring stations in the municipality of Obiliq/Obilic. Air quality information is made publicly available.

iv. ***Proposed Kosovo Power Project.*** The proposed KPP aims at securing reliable energy supply for the Kosovo economy, energy affordability for citizens and businesses, and significant reduction of the environmental and social impacts of electricity generation. The proposed KPP would support the construction of a new 600 MW lignite-fired power plant, which would meet the European Union’s rigorous Industrial Emissions Directive. The Bank has not yet taken any decision as to whether or not to support the KPP. An extensive ESIA is currently being undertaken as part of the Bank’s due diligence to inform the decision on the KPP.

Management Response to the Request for Inspection

v. ***No Bank-supported project in the mining and energy sector in Kosovo has required resettlement.*** Management wishes to underscore that none of the resettlements cited in the Request result from a Bank-supported project but rather from ongoing mining activities in Kosovo. The Bank supports the GoK’s efforts to address environmental legacies from energy production and mining, and helps enhance its capacity to improve resettlement practices in the mining sector through the CLRP-SAF.

vi. ***Management does not agree that the harm cited in the Request results from the Bank’s noncompliance with its policies and procedures.*** Management has carefully reviewed the issues raised in the Request — which pertain to grievances resulting from resettlement related actions carried out by the GoK, and which are not related to Bank-financed projects — and has concluded that the Bank has followed the policies and procedures applicable to the matters raised in the Request. As a result, Management believes that the Requesters’ rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

vii. ***Management agrees that past resettlement practices in Kosovo, which pre-date Bank engagement, have caused adverse impacts on the affected population and the Bank is working to help the GoK improve its practices and to build capacity.*** Based on the foregoing, the Bank sees a developmental imperative in supporting the GoK to improve environmental and social practices to avoid or mitigate impacts on people and the environment, and Bank support to Kosovo has been geared towards this goal. For this reason, the Bank’s support includes technical assistance to address issues that could arise from such weaknesses of land acquisition and resettlement processes.

viii. ***The Bank’s support has helped to improve Kosovo’s capacity to manage mining-related resettlement, which has led to significant improvements in resettlement practices.*** This includes support for the development of a Resettlement Policy Framework to govern mining related resettlements in line with Bank policy, and its first application to the resettlement of the Shala neighborhood of Hade village. While this has led to substantial improvements in Kosovo’s resettlement practices, it is recognized that continuous improvements can be made in the course of future implementation.

ix. ***Management strongly disagrees that the adverse impacts cited in the Request result from the technical advice provided by the Bank, or that they are likely to result from the proposed KPP.*** On the contrary, the Bank’s technical assistance operations—

prepared in line with Bank policies and procedures to avoid or mitigate potential environmental and social adverse impacts—have mitigated adverse impacts by helping the GoK to improve resettlement policies and practices. Should the Bank support the proposed KPP in the future, relevant Bank policies would be applied to avoid or mitigate any adverse impacts.

x. ***The Request erroneously claims that ongoing and future mining activities are exclusively related to the proposed KPP.*** This is not the case. The Bank has not yet taken a decision whether or not to support the proposed KPP. Lignite mining in Kosovo, with the resulting need for land acquisition and resettlement, is ongoing, and will continue with or without the proposed KPP due to the demand from the two existing power plants, Kosovo A and B.

xi. ***The Request does not adequately differentiate between Government responsibilities and activities, and the Bank's responsibilities under Bank-financed operations.*** The Request often refers to Government decisions and practices that are related to ongoing lignite mining in Kosovo but unrelated to any Bank-supported project and over which the Bank has no control. Further the allegations of harm expressed in the Request concern mining-related activities that either: (i) pre-date the Bank's involvement in Kosovo's mining sector; or (ii) are exercises of the GoK's sovereign power that are unrelated to any Bank-financed operation. With respect to Bank-supported projects the Bank has continued to provide advice and technical assistance to the GoK in line with Bank policies.

xii. ***The Request inaccurately links the building restrictions that result from the establishment of the Zone of Special Economic Interest to the proposed KPP.*** This is not correct, as the Zone of Special Economic Interest is part of broader Government zoning decisions on phased mining of the lignite deposit in the New Mining Field, which will supply Kosovo A and B regardless of the proposed KPP. The Zone was established through a Government Decision in November 2004, predating the Bank's involvement in Kosovo. The GoK revised and enlarged the Zone to cover the entire New Mining Field in March 2009; this came into force in October 2011. The Bank did not finance technical assistance related to the Zone of Special Economic Interest.

xiii. ***A comprehensive ESIA is currently being undertaken as part of the Bank's due diligence to inform decision-making for the proposed KPP.*** Should the Bank decide to support the proposed KPP, the mine providing the lignite to the power plant would be considered a related activity and addressed as required under Bank policies. The ESIA is including a review of mine alternatives and mitigation measures and an analysis of relevant issues.

xiv. ***Since Management disagrees with the allegations of harm stemming from policy noncompliance, no actions to bring the projects into compliance are deemed necessary.*** Management does, however, recognize the adverse impacts that affected communities face in the New Mining Field due to the GoK's lack of adequate mine planning and pending land acquisition, even though they are not related to Bank-supported operations. Management is supporting the GoK in improving its capacity

related to land acquisition and resettlement policies and practices through the Bank's analytic and advisory services and project preparation and supervision activities. In these activities, we are ensuring that we maintain full compliance with Bank policies.

I. INTRODUCTION

1. On June 30, 2015, the Inspection Panel registered a Request for Inspection, IPN Request RQ 15/04 (hereafter referred to as “the Request”), concerning the Second Additional Financing Energy Sector Clean-up and Land Reclamation Project (CLRP-SAF), financed by the International Development Association (the Bank), and the proposed Kosovo Power Project (KPP).

2. The Request for Inspection was submitted by three representatives of the communities in Hade (Old and New) and Obiliq/Obilic, respectively, the head of the Shala community who resettled to New Shkabaj (New Hade), the head of the community still residing in Hade, and the head of a community related to the 2004 demolitions, residing in Obiliq/Obilic, in Kosovo. The Request was also signed by three Kosovar civil society organizations, namely the Initiative for Environment and Local Development, the Forum for Civic Initiatives and Kosovo Civil Society Consortium for Sustainable Development, hereafter referred to as the “Requesters.” The following documents were attached to the Request:

- A report entitled, “*Does the Kosovo Power Project’s proposed Forced Displacement of Kosovars comply with International Involuntary Resettlement Standards?*,” dated February 2014, by Theodore Downing (“Downing Report”); and
- A Letter from the World Bank Office Kosovo to the contact person appointed by the Requesters, dated February 5, 2015, providing some brief observations about the Downing Report, informing that the report was already included as a key document for analysis by the Environmental and Social Assessment (ESIA) for the KPP, and encouraging active participation in the ESIA consultation process.

3. Management notes that the Request does not contain specific descriptions of particular harm alleged to have happened or likely to happen to any particular individuals resulting from the Bank’s noncompliance with its policies and procedures. In Management’s view the Request is about: (a) the manner and the process in which the Government of Kosovo (GoK) carried and carries out involuntary resettlement for past, ongoing and future mining activities in Kosovo; and (b) restrictions on building and economic development for communities living in the Zone of Special Economic Interest, which may be resettled in the future.

4. Management also notes that the Requesters have attached to their Request the “Downing Report” without referring to it or otherwise explaining what status this report has vis-a-vis the Request, and specifically without referring to relevant sections of the Report. Since the Panel has accepted this attachment as part of the Request, Management has responded to the Report.

II. COUNTRY AND SECTOR CONTEXT

5. ***Kosovo’s outdated, highly fragile energy generation capabilities are threatening the country’s socio-economic development.*** Kosovo emerged as a fragile, post-conflict state of 1.8 million inhabitants after unilaterally declaring independence from Serbia in 2008. It is one of Europe’s poorest countries, with about one-third of its citizens living below the national poverty line, and the country needs to accelerate its growth potential to be able to reduce the high rates of unemployment and poverty sustainably. One major obstacle in this endeavor—and according to several surveys *the* major obstacle—is the inadequate, unreliable, and increasingly fragile supply of electricity. Frequent power outages disrupt business and manufacturing as well as education and health services, with associated annual costs to businesses estimated to represent about 5 percent of gross domestic product (GDP).¹ The most recent Business Environment and Enterprise Performance Survey (BEEPS) also found that Kosovo’s firms were experiencing unreliable electricity supply as a major obstacle to doing business. Correspondingly, the unresolved energy situation represents the principal impediment to attracting foreign investment of the scale, scope, and quality needed to increase productivity in key sectors of Kosovo’s economy and generate growth.

6. ***Demand for energy has been growing rapidly over the past decade, while energy generation has continued to rely on two outdated, highly polluting and increasingly unreliable power plants.*** During 2000–2013, energy consumption grew by nearly 95 percent, with peak demand increasing by 70 percent over the same period. About 97 percent of Kosovo’s domestic generation comes from the two lignite-fired power plants (Kosovo A and Kosovo B), with net operating capacity of about 730–770 MW. Both power plants are being supplied with lignite from the Sibovc South-West Mine. Both plants are highly polluting, with emissions in excess of the standards defined by the Large Combustion Plan Directive of the European Union (EU).

7. Damaged by an explosion in June 2014, which resulted in two fatalities and 13 injuries, the 50-year-old Kosovo A power plant operated at less than half its capacity (and for several months not at all) during the second half of 2014, necessitating emergency imports. The 25-year-old Kosovo B power station continues to experience frequent outages. The generation gap is covered by a combination of load shedding (blackouts) and electricity imports. Imports have amounted to 5-17 percent of annual consumption over the past decade. The availability of electricity imports for base power is constrained by regional supply conditions, especially during the winter months; and historically difficult political relations with some neighboring countries. With an estimated 11 billion tons of proven and exploitable reserves, Kosovo has the third largest lignite reserves in Europe. An Energy Options Study (2012) and its update (2015 forthcoming) carried out by the World Bank conclude that Kosovo will need to rely on lignite-fueled power generation for baseload supply in coming years, even as the country aggressively develops its energy alternatives.

¹ The Effect of Unreliable Power Supply and Quality on Kosovar Businesses, USAID 2012.

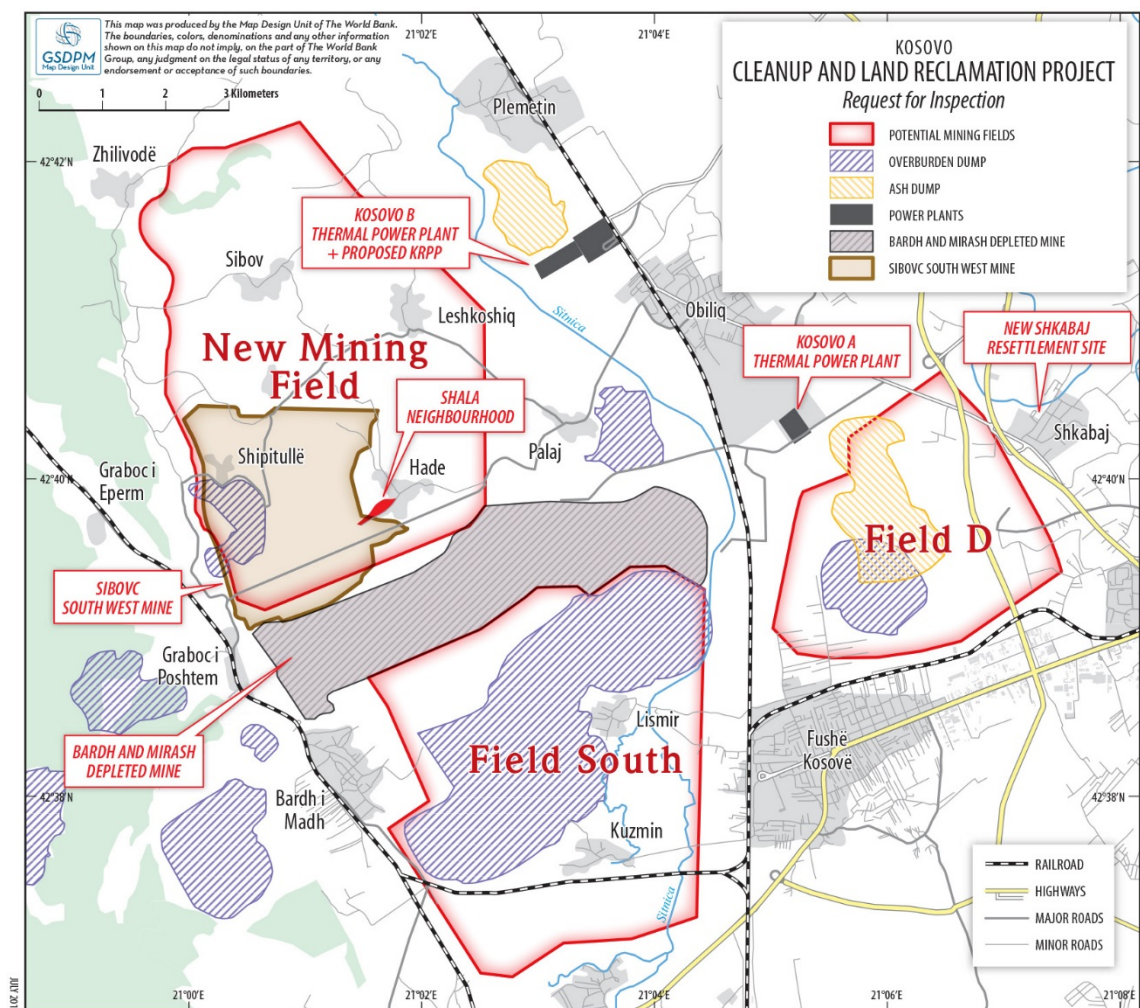
8. ***In this context, the GoK, with support from external partners (particularly the European Union and the United States), has proposed a multi-pronged strategy to address Kosovo’s energy crisis and related environmental issues.*** This approach seeks to: (i) decommission Kosovo A and replace it with a new, state-of-the-art, privately operated 600 MW “Kosova e Re” power plant (KRPP), to be compliant with the EU’s stringent Industrial Emissions Directive; (ii) rehabilitate and upgrade Kosovo B, including ensuring compliance with the EU’s Large Combustion Plant Directive; (iii) improve the efficiency of power distribution; and (iv) invest more resources in energy efficiency and increase the use of renewable energy. Implementing the above strategy is expected to reduce particulates, sulfur dioxide, and nitrogen oxide emissions to levels in line with EU Directives.

9. ***Within its partnership with the Bank, the GoK requested that IDA provide a Partial Risk Guarantee (PRG) for a proposed private-sector financed KPP.*** Initially in 2005, the proposed scope of the project encompassed: (i) the construction of a new 2,000 MW power plant; (ii) the rehabilitation of Kosovo B; and (iii) the development of the Sibovc lignite mine. The latter two components have been dropped from the proposed project design² to enhance the financing prospects for the proposed project. The impact of the mining activities required to supply the proposed KRPP are being reviewed in line with Bank policy.

10. ***Well-planned expansion of Kosovo’s lignite mines is essential to supply existing and future power plants.*** There are three different mining fields that could supply the current thermal power plants Kosovo A and B as well as the new KRPP: Field Sibovc (also known as the “New Mining Field”), Field D and Field South. The scope of the KPP ESIA process under way will include an up-to-date mining alternatives analysis, which will take into consideration environmental and social impacts. (See Map 1 below.)

² This decision was taken by the KPP project Steering Committee in early 2014. See <http://mzhe.rks-gov.net/?page=2,42,830>

Map 1. Location of mining fields, power plants and affected villages



11. ***Kosovo has weaknesses in land acquisition and resettlement processes, which predate the Bank's engagement in the country.*** These weaknesses include the inadequate planning of mine development, and hence the absence of adequate and timely land acquisition and resettlement processes. Mining practice in Kosovo involves mining in close proximity to settlements before such settlements are relocated, which causes a variety of adverse environmental and social impacts on the affected communities. In the past, this has also led to safety issues in some locations, resulting from slope instability and imminent risk of landslides from mining; and has led to emergency evictions, as in the case of the 2004 emergency evacuation in Hade (see Annex 2). The practice of mining close to inhabited areas also results in other potential adverse impacts, such as at the villages of Hade, Shipitulle and Grabovci I Poshtem. These impacts include noise

pollution, vibration and landslide risk, disruption of water resources, contaminated dust, increased heavy vehicle traffic passing through villages, and damaged infrastructure.³

12. *Kosovo's weaknesses in land acquisition and resettlement processes for mining, and the Bank's engagement in the country's energy sector, create the case for supporting the GoK to improve environmental and social practices related to mining, and to help improve Kosovo's capacity to manage mining-related resettlement in an environmentally and socially responsible manner.*

III. BACKGROUND TO THE PROJECTS

13. *The Request refers to activities financed and proposed under two different Bank-financed operations and preparation for a proposed project.* These include: (i) technical assistance provided under the Lignite Power Technical Assistance Project (LPTAP, closed in 2011); (ii) the CLRP-SAF, ongoing; and (iii) the proposed KPP, under preparation (see also overview in Table 2).

(i) Lignite Power Technical Assistance Project

14. The ***LPTAP*** was approved by the Bank's Board on October 12, 2006 with a total amount of SDR 5.8 million (USD 8.1 million equivalent). Additional Financing for the Project was approved by the Bank's Board on June 28, 2007 with a total amount of SDR 1.4 million (USD 2.0 million equivalent) and the LPTAP closed on December 31, 2011.

15. The Bank financed the LPTAP with the following objectives: (i) to help the GoK strengthen the enabling policy, legal and regulatory frameworks conducive to new investments in the energy sector; and (ii) to assist the GoK in attracting qualified private investors to develop lignite mines and build new capacity for lignite thermal power generation, guided by high standards of environmental and social sustainability.

(ii) Clean-up and Land Reclamation Project and Additional Financing (First and Second)

16. The original ***Energy Sector Clean-up and Land Reclamation Project (CLRP)*** was approved by the Bank's Board on June 13, 2006 with a total amount of SDR 3.8 million (USD 5.3 million equivalent). ***The first Additional Financing*** (CLRP-AF) was approved by the Bank's Board on June 28, 2007 with a total amount of SDR 3.3 million (USD 4.6 million equivalent). The Project has the following objectives: (i) address environmental legacy issues related to open dumping of ash on land from the Kosovo A thermal power plant belonging to the Kosovo Energy Corporation (KEK); (ii) enable KEK to make land currently covered by overburden materials available for community

³ These issues have been identified during Bank supervision missions and have been raised with the GoK. These impacts are being examined under the ESIA.

development purposes and to remediate the Kosovo A ash dump;⁴ and (iii) initiate structural operations in KEK for continued clean-up operations and environmental good practices in mining operations. CLRP and CLRP-AF closed on June 30, 2015.

17. *A Second Additional Financing (CLRP-SAF)* was approved by the Bank's Board on May 10, 2013 with a total amount of SDR 2.8 million (USD 3.9 million equivalent). The Closing Date of the CLRP-SAF has recently been extended to February 29, 2016.

18. The CLRP-SAF added capacity building for environmental good practices in the mining and energy sector in the Ministry of Environment and Spatial Planning (MESP) and therefore expanded the third item of the PDO to state "*support KEK and MESP to implement continued clean-up operations and environmental good practices in the mining and energy sector.*" The CLRP-SAF provided financing for additional tree planting in mine areas, removal of hazardous chemicals from KEK's site and a new component under the MESP for Environmental Monitoring and Management. It finances: (i) air monitoring equipment to measure baseline air quality data; (ii) soil and water monitoring to collect data on current pollution baseline data in soil and water; (iii) the ESIA for the proposed KPP; (iv) monitoring of the GoK's implementation of the Resettlement Action Plan (RAP) for the Shala neighborhood of Hade village; (v) the International Panel of Environmental and Social Experts; and (vi) a low carbon growth study

19. The CLRP and its Additional Financings have already achieved important environmental results, including elimination of dry dumping of ash, almost full remediation of the Kosovo A ash dump and covering it with soil, thereby fully eliminating the dust impact from the ash handling and dumping. In addition, 650 hectares of land have been reclaimed for natural habitats, agriculture or other land use purposes in KEK's overburden areas and 20,000 tons of hazardous substances from coal gasification have been safely removed and treated. Finally, three continuous air quality monitoring stations were installed in the area with air quality information made publicly available.⁵

(iii) Proposed Kosovo Power Project

20. The *proposed KPP* aims at securing: (i) reliable energy supply for the Kosovo economy; (ii) energy affordability for citizens and businesses; and (iii) significant reduction of the environmental and social impacts of electricity generation. Key objectives of the proposed KPP are providing a long-term solution to electricity needs in Kosovo, and introducing EU standards of efficiency and environmental protection in the operations of the proposed new plant.

⁴ The Kosovo A Ash dump contains the ash from the Kosovo A Power Plant, which has been stabilized, reshaped, and covered under the Project to eliminate the environmental impacts from the dump.

⁵ Its results have been documented, amongst others in the following results stories:

<http://www.worldbank.org/en/results/2012/10/06/cleaning-ash-and-chemical-waste-in-kosovo>.

The World Bank's Country Director spoke at the inauguration event for the new wet ash transport system that marked the end to the 50-year-old practice of uncontrolled dumping of dry-ash:

<http://www.worldbank.org/en/news/feature/2014/03/10/kosovo-open-ash-dumping-practice-ends>

21. The PRG for the proposed KPP would support the construction of a new lignite-fired power plant, the KRPP (see paragraph 7 and 8 above), which would use Best Available Techniques⁶ to meet the EU's rigorous Industrial Emissions Directive. The plant is also required to be built as a carbon capture and sequestration-ready facility to comply with another relevant EU Directive.⁷ Components that were included in earlier versions of the proposed project, namely: (i) rehabilitation of Kosovo B; and (ii) development of the Sibovc lignite mine, now have been dropped from the project design as per the KPP Steering Committee Decision in early 2014.⁸ While the mine development is no longer part of the proposed KPP, the KRPP would still need a mine to supply the required fuel, which could be located in the New Mining Field.⁹ The ESIA is looking at alternative locations for the mine supplying KRPP.

22. **Status of KPP preparation.** Several key areas of due diligence and determination of project efficiency and economy required for a PRG are underway. The MESP is revising and finalizing the draft ESIA for the proposed KPP and related activities. All phases of the ESIA preparation process, including the draft ESIA, are subject to extensive public consultations.

23. No decision has been taken by the Bank to proceed with a PRG for the proposed KPP. This decision will depend on, among other things, the economic, financial, environmental, and social assessment, and adherence to environmental and social safeguard policies.

Past Resettlement Activities Pre-dating Bank Engagement

24. **An emergency evacuation of 158 families (664 people) from Hade village was carried out by the United Nations Interim Administration Mission in Kosovo (UNMIK) and Provisional Institutions of Self Governance (PISG) in 2004 and 2005.** This evacuation was not the result of, or supported by, any Bank project. Rather, it was due to the imminent threat of land subsidence endangering some inhabitants of Hade village that was caused by a long legacy of poor mining and land acquisition practices. A total of 61 families were relocated temporarily to government-provided apartments and received rent, electricity and food allowances. About 30 families who refused to move were forcibly evacuated due to the imminent risk of landslides.

25. Following a June 2004 request from the PISG, the Bank sent a two-person mission to Kosovo on July 4-5, 2004 to share the Bank's experience in resettlement, provide policy advice, and assist in preparing terms of reference for resettlement consultants to be recruited by the authorities. This advisory mission constituted an emergency approach in response to the imminent danger of loss of lives and injury, as

⁶ "Techniques" include both the technology used and the way in which the installation is designed, built, maintained, operated, and decommissioned; (EU Industrial Emissions Directive).

⁷ Directive 2009/31/EC on the geological storage of carbon dioxide.

⁸ See <http://mzhe.rks-gov.net/?page=2,42,830>

⁹ See the Strategic Environmental and Social Assessment, see paragraph 42.

defined in the letter from the Country Director to UNMIK in August 2004. No further Bank missions occurred related to the emergency evacuation.

26. *Even though the 2004 Emergency Evacuation was not linked to a Bank operation, in view of continued Bank engagement in the sector, the Bank encouraged the GoK to engage with these resettled households in order to resolve outstanding issues.* Information about the progress of that process has been requested from the GoK on a regular basis. According to the GoK, the current status is that 98 percent of the affected families have received compensation, while the remaining 2 percent did not accept the compensation and instead chose to challenge it in court, a process which is still ongoing. Out of the 158 families that were affected, 98 opted for a plot at the resettlement site New Shkabaj, and 77 out of these have applied for and received titles for such plots (see more details in Annex 2).

27. The Government of Kosovo established a Zone of Special Economic Interest pursuant to Government Decision No 4/119 of November 3, 2004 as part of broader Government decisions on phased mining of the lignite deposit in the New Mining Field and predating the Bank's involvement in Kosovo. The Zone of Special Economic Interest originally covered the villages of Hade, Sibovc, Leshkoshiq and Cerkevna Vodice, and the Municipality of Obiliq/Obilic. The Government revised and enlarged the Zone to cover the entire New Mining Field pursuant to Government Decision No 2/57 dated March 13, 2009, which became effective upon the approval of the Government's Spatial Plan by the Kosovo Assembly in October 2011.¹⁰

Bank Engagement through Technical Assistance

28. *The weaknesses of land acquisition and resettlement processes, which predate the Bank's engagement in the country, highlighted the need for Kosovo to build capacity to handle these mining-related issues according to internationally recognized standards and good practices.* For its part, the Bank recognized the critical need to support the GoK in building this capacity regardless of its future engagement in the proposed KPP, given the priority of the energy sector and the environmental and social issues associated with its development associated with energy sector development. A decision was taken by the Bank to support Kosovo in strengthening its own resettlement policies and practices through technical assistance and advisory services, which are described below in (i) through (v).

(i) Resettlement Policy Framework (RPF)

29. The LPTAP financed the preparation of an RPF for involuntary resettlement in the New Mining Field, a large lignite mining area that includes the Sibovc South-West Mine which provides lignite to the two existing power plants (Kosovo A and Kosovo B) and which could also provide lignite to a proposed KRPP. The RPF was developed under

¹⁰ The Bank did not finance technical assistance related to the Zone of Special Economic Interest. Management notes that the New Mining Field, which covers an area of approximately 150 km², is far larger than the area likely to be required for the operation of the proposed KRPP (approx. 10 km²).

the LPTAP as part of the Bank's capacity building support to Kosovo, even though the LPTAP did not result in any resettlement. Development of the RPF included extensive consultations with local communities and key stakeholders.

30. ***The RPF is a technical assistance output financed under the now closed LPTAP. Development of the RPF was financed as part of the capacity building and technical support provided by the Bank to the GoK.*** However, because there is no resettlement resulting from a Bank supported project, the Bank is under no obligation to supervise the RPF or its applications.¹¹

31. The RPF was adopted by the GoK through Decision 10/22 of the Prime Minister of Kosovo on July 6, 2011. Decision 10/22 also states that "*Ministry of Environmental and Spatial Planning. Ministry of Economic Development and all other relevant institutions that are part of this [Resettlement Policy] Framework are obliged on implementation of this framework.*"

32. The GoK has committed to using the RPF to govern resettlement of people who may be displaced by the expansion of mining within the New Mining Field required to meet the lignite needs for electricity production, and to prepare specific RAPs for the subsequent resettlement phases, regardless of whether the Bank provides the PRG to the proposed KPP.

33. In 2011, the GoK developed and approved a Spatial Plan for the New Mining Field. The Spatial Plan analyzed different development strategies for the New Mining Field and the technical, economic, environmental and social impacts thereof, and provided a planning framework for mining. The Bank did not finance the Spatial Plan. It is worth noting that the Spatial Plan states that: "In the meantime is being finalized the draft 'Policy Framework for Relocation' (also known as the RPF), expected to be approved by the GoK, separately or along with this plan, to avoid concerns of residents relocating settlements. Therefore, the same provides that, for the realization of the process of relocation resettlement of population, should follow some concrete steps, such as the following." (Section 3.2.3). The Spatial Plan goes on to detail some of the key requirements of the RPF. The RPF was approved prior to approval of the Spatial Plan (October 2011).¹²

34. ***A number of factors and recent developments will require the GoK to update the RPF.*** First because mine development was removed from the proposed KPP, the institutional responsibility for development of the mine and related resettlement will remain with the public sector, instead of becoming the responsibility of the private investor as envisioned in the RPF. Institutional responsibilities among different public

¹¹ In the specific case of the Shala RAP, at the request of the GoK, the CLRP-SAF finances external monitoring of the Shala RAP implementation. As a result, the Bank is supervising its implementation and monitoring, even though this resettlement was not caused by a Bank-financed operation, but was a result of lignite mining to supply the existing power plants, Kosovo A and B.

¹² The Spatial Plan is outdated as it was based on a different and much larger lignite-fired power plant of 2,000 MW, while the proposed KRPP would have a capacity of 600 MW.

entities now need to be clearly assigned. The legislative framework has also evolved since the original RPF was drafted, and it will need to take into account the social impacts of those changes. Finally, the lessons learned from the first application of the RPF to the resettlement of the Shala neighborhood of Hade will need to be incorporated.

35. Issues relating to the RPF and the implementation of the Shala RAP were discussed in a workshop in May 2014, between GoK officials and international resettlement experts. The participants concluded that many aspects of the RPF and the RAP are working properly, but that some aspects need to be reviewed, including issues related to agriculture-based livelihoods, avoiding temporary relocation, criteria for rental allowance, and responsibilities for infrastructure and services at the resettlement site. The Bank agreed that these need to be addressed by the GoK. As explained below, this review also informed the implementation of the Shala RAP.

(ii) *Resettlement Action Plan for the Shala neighborhood of Hade village (Shala RAP)*

36. The Shala RAP was also a technical assistance output financed under the now closed LPTAP. However, at the request of the GoK, the Bank is providing financing through CLRP-SAF for monitoring of Shala RAP implementation, and supervising its implementation and monitoring, even though it is not related to resettlement resulting from a Bank-financed project.

37. The RAP for the Shala neighborhood of Hade village addressed the physical resettlement of 63 families and acquisition of land from 30 non-resident landholders. This resettlement resulted from lignite extraction required for ongoing electricity production at the Kosovo A and B plants. Depletion of coal reserves in the Bardh and Mirash mines has caused KEK to obtain coal from the New Mining Field in the southwest corner of the Sibovc mine, requiring resettlement of the Shala neighborhood, as it was closest to the mine edge and at risk for landslides. The GoK is responsible for implementing the Shala RAP.

38. The Shala RAP was prepared in line with the RPF, and through comprehensive consultations with affected families. The Shala RAP provides for compensation to adversely affected people, including for illegal structures that were constructed after 2004 when the Zone of Special Economic Interest came into effect. Specifically, the Shala RAP notes that “*there has been notable new construction since the November 2004 Declaration of Special Interest, which took place without legal building permits*” and that affected people would be compensated for these new structures. Under the implementation of the Shala RAP, affected people were in fact compensated for structures built in breach of the restrictions introduced through the Zone of Special Economic Interest. The RAP was approved in 2011 and updated in 2013. The Bank has provided additional technical support to enhance the mining-related resettlement capacity of the GoK by supervising the implementation and monitoring of the Shala RAP.

39. Two monitoring reports on the implementation of the Shala RAP, covering the period October 2013 to September 2014, have been prepared by an international

resettlement firm, financed under the CLRP-SAF. These reports have been publicly disclosed in English and Albanian and made available at the Municipality of Obiliq/Obilic.¹³ Additionally, a Resettlement Completion Report is being prepared, and is expected to be publicly disclosed during the last quarter of 2015. The monitoring reports, and early findings from the Completion Report, provide evidence that all 63 physically resettled families and the 27 out of 30 non-resident land holders have received compensation¹⁴ and that the 52 families who opted for a plot at New Shkabaj have received titles to their new property. These reports also found that the site was ready to start construction of homes in December 2013, as indicated by the Verification Committee, and that as of July 2015, 48 construction permits had been requested and issued, 21 homes are under construction and 12 families have moved in (see photos in Annex 3). Overall, living conditions at the new site are better as people are no longer exposed to impacts from mining activities. They are also now much closer to Pristina (5 km), as compared to Hade (14 km). Also, most household heads are employed in permanent jobs, predominantly at KEK. Experience with implementing the Shala RAP has indicated some areas that need to be strengthened in future RAPs, such as clarifications on the entitlement matrix, clearer resettlement timelines, and more detailed assessment of government implementation capacity.

40. ***Challenges that arose during implementation of the Shala resettlement have been identified in the monitoring reports, as well as during Bank supervision. They have been brought to the attention of the GoK and are being addressed by GoK.*** Key issues and the GoK's progress in addressing them are set out in Table 1 below. Maintaining a more systematic engagement with the affected community during the final stages of RAP implementation is a point that has also been raised, and some measures to achieve this have been taken. A resettlement Completion Report is being prepared and is scheduled for public disclosure in the last quarter of 2015. An update to the Resettlement Completion Report could be prepared by the newly extended Closing Date of the CLRP-SAF (February 29, 2016) if more people from Shala decide to move to the resettlement site at New Shkabaj by that time.

Table 1. Shala RAP: Key Issues Raised by the Bank during Supervision and Response by GoK (2013-2015)

Issue	Solution/Status
Uneven pedestrian walkways and issues with main drainage pipe at the site	The issues were raised by the community and resolved in May 2013 after an extension of the construction contract.
Plot allocation delays at	In July 2013, after over one year of stalled negotiations among families

¹³ Shala RAP 1st Monitoring Report (October 2013 – April 2014) http://mmph-rks.org/repository/docs/rePlan_-_Shala_ME_Report_1_-_final_345581.pdf

Shala RAP 2nd Monitoring Report (May 2014 – September 2014) http://mmph-rks.org/repository/docs/rePlan_-_Shala_ME_Report_2_869903.docx

¹⁴ As of July 2015, three non-resident land holders who signed a land agreement have not claimed their payments, which are available to them.

Issue	Solution/Status
New Shkabaj	regarding plot allocation, the GoK and the Municipality of Obiliq/Obilic facilitated a solution which allowed families to start collecting their new land titles.
Delays in construction of basic infrastructure	Construction activities for the basic infrastructure at New Shkabaj (i.e., main road, main sewage and drainage systems, and main electricity and water connections) were delayed, but after continuous communication with the GoK, works were intensified and basic infrastructure was verified to be complete for construction of the houses by the Technical Verification Committee in December 2013. This basic infrastructure, which was required for house construction activities, will later be complemented by additional communal infrastructure, which will be needed as more families move to the new site.
Suspension of rental allowances for eligible Shala families	<p>In early 2013 the Bank learned about the GoK's intention to suspend payments in May 2013 of rental allowances to 21 eligible families from the Shala neighborhood living in temporary accommodations. However, as per the RAP, the GoK had to provide such allowances up to four months after access to the replacement plots was declared effective. Such declaration of effective access to the plots took place when the following conditions were met: (i) plots were allocated, (ii) families had access to property titles, and (iii) the Verification Committee verified that the basic infrastructure was completed. The Bank raised the issue with the GoK and a first partial extension of payments from May until November 2013 was provided. The CLRP-SAF was only declared effective after evidence of retroactive and continuing payments of rental allowances was received by the Bank.</p> <p>A second five-month extension, from December 2013 to April 30, 2014, including retroactive payments to ensure compliance with the provisions of the Shala RAP, was also provided after the Bank issued a Threat of Suspension letter, dated January 29, 2014, related to the need to bring implementation back into compliance. All obligations to pay rental allowances ended on April 30, 2014 as the conditions established in the Shala RAP had been met by then.</p>
Connection of sewage pipes of the site to the main sewage pipe	In December 2013, the Bank learned from the affected community and through monitoring reports and Bank supervision that the sewage system at New Shkabaj was not yet connected to the main sewage pipe. This did not affect home construction activities, but would be required for families to be able to move in. These works were included as a separate contract jointly with the finalization of the external main access road upgrade and the issue was resolved by April 2014.
Clogged drainage affecting three homes	During a supervision mission in June 2015 the Bank learned about problems in a small section of the drainage system at New Shkabaj, which affected three newly built homes. In response to the issues raised by the Bank, the GoK is arranging that the contractor undertakes the required repairs as the sewage system is still under the contractor's warranty. These works are scheduled to start at the end of July 2015.
Completion of secondary roads	The secondary roads will be completed once the construction activities for the houses are completed. Otherwise the heavy construction vehicles would likely damage the secondary road pavement, which is technically different from that of the main access roads. This is not a concern for the main roads, which are built for heavier traffic.
On-site availability of	Dedicated community infrastructure for the resettlement site at New Shkabaj

Issue	Solution/Status
community infrastructure	<p>has been planned and will be implemented in phases, as appropriate. The functionality of some infrastructure (e.g., school) requires a minimum population that it would serve at the site, which has not been met yet (to date 12 families have moved to New Shkabaj). Such infrastructure will be built once sufficient number of families have relocated. It is clear that more public infrastructure, such as a cemetery, park, etc., will be needed as more families relocate to the site.</p> <p>In any case such community infrastructure is available and accessible to the 12 families that have moved already to the site. The site is adjacent to Shkabaj village, which allows accessing the primary school and the health post (both located within 1 km distance).</p>

(iii) Preparation of the Strategic Environmental and Social Assessment

41. *The LPTAP financed the preparation of a SESA in 2008*, which provided the GoK with advisory services to support development of the sector in an environmentally and socially sustainable manner. The SESA was also explicitly designed to strengthen Kosovo's environmental and social safeguards regulatory capabilities for similar infrastructure transactions in the future and to improve the capacity of the relevant Kosovo authorities.

(iv) Draft New Mining Field Development Plan

42. *A Draft New Mining Field Development Plan (December 2008)* was also prepared under the LPTAP as a regional energy sector development plan, aimed at describing the geographic implications of the development of a new mine and current and future power plants. The Draft New Mining Field Development Plan refers to the need to amend the Law on Expropriation and the need to develop an RPF for the New Mining Field to ensure that land acquisition and involuntary resettlement is undertaken in a manner consistent with OP 4.12.¹⁵

43. A spatial Plan for the New Mining Field was prepared by the GoK and approved in October 2011 to analyze different development strategies for the New Mining Field and their technical, economic, environmental and social impacts. The development of the Spatial Plan was an independent process conducted and financed by the GoK, informed by the Draft New Mining Field Development Plan and the SESA, among other inputs.

(v) ESIA for the proposed KPP

44. *The CLRP-SAF is also financing the ESIA for the proposed KPP.* The KPP ESIA is analyzing the amount of lignite needed for current and proposed electricity

¹⁵ The RPF for the New Mining Field has been adopted by the GoK; however, the advice provided through LTPAP was largely not incorporated in the final expropriation law. See also *Draft New Mining Field Development Plan*, page 18; page 22.

production and the corresponding potential mining alternatives and possible development of mine contours. It is identifying potential environmental and social impacts—through, among others, a socio-economic survey and public consultations—and defines mitigation measures and monitoring requirements. In addition, it is reviewing the country’s relevant legal framework and assessing relevant issues, including issues from the establishment of the Zone of Special Economic Interest. The 2014 Downing Report attached to the Request is one of the reference documents being analyzed as part of the ESIA process. The draft ESIA will be disclosed and subject to public consultations as required by Bank policy.

Possible Future Resettlements

45. *The Bank has continued to work with the GoK to strengthen its capacity to undertake mining-related resettlements in line with international good practices, regardless of future Bank involvement in the proposed KPP.* The Bank’s contribution to improve Kosovo’s previous poor resettlement practices is evidenced by the following results achieved: (i) an RPF for the New Mining Field, which pays particular attention to and includes adequate measures for proper planning, conducting socio-economic baselines, providing resettlement support, and ensuring a participative process, as opposed to the previous practice of applying administrative expropriation procedures that do not take into account these aspects; (ii) the Shala RAP is serving as a pilot application of the RPF and has provided adequate compensation and assistance required to the affected families, 12 of whom have already decided to move to the new resettlement site; and (iii) the Bank has promoted dialogue on resettlement within the GoK, raised awareness among high-level government officials and trained key staff on international resettlement practices in order to support continuous improvement in resettlement practices over the longer run.

46. *Lignite mining in Kosovo, with the resulting need for land acquisition and resettlement, is ongoing and will continue with or without the proposed KPP due to the lignite demand of the two existing power plants, Kosovo A and B.* The Bank has made no decision whether to support the proposed KPP through a PRG. As noted, the ESIA is assessing the impacts of mining from the proposed KRPP and the existing power plants and will include an analysis of relevant issues. Should the Bank decide to provide a PRG for the proposed KPP, applicable resettlement issues would be addressed through appropriate safeguard instruments for the proposed project.

47. *Resettlement of Shipitulle village.* The Bank was informed in early 2014 that the GoK plans to resettle Shipitulle village as the mine expands. This mine expansion is not related to a Bank-supported operation, but will supply ongoing power generation at Kosovo A and B. Since Shipitulle is situated within the New Mining Field, the GoK has committed to prepare a RAP consistent with the RPF for any resettlement that takes place. The GoK has recently started conducting a census in anticipation of future resettlement. This effort is hampered by the refusal of some residents to provide access to their premises. The GoK is making efforts to secure the services of an international resettlement firm to help prepare, implement and monitor the new Shipitulle RAP.

Table 2. Overview of Bank-supported Projects, Project Outputs, and Government Actions and Decisions

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Bank-financed projects			LPTAP (10/06 – 12/12)										
			CLRP (6/06-06/15)	CLRP-AF (6/07-06/15)					CLRP-SAF (5/13-02/16)				
Bank-financed outputs					- SESA - RPF - Draft amendments to Law on Expropriation - Draft New Mining Field Development Plan			RAP of Shala neighborhood of Hade Village		Supervision of RAP implementation and financing of RAP monitoring reports (ongoing)	ESIA preparation (ongoing)		
GoK actions and decisions	- Hade Emergency Evacuation - Zone of Special Economic Interest established					- Kosovo Expropriation Law - Zone of Special Economic Interest revised		- RPF adopted by GoK - Spatial Plan	Implementation of RAP of Shala neighborhood of Hade village			Census for RAP for Shipitulle	Foreseen Shipitulle resettlement

IV. MANAGEMENT'S RESPONSE

48. The Requesters' claims, accompanied by Management's detailed responses, are provided in Annex 1. Annex 4 provides the detailed responses to the report titled "Does the Kosovo Power Project's proposed forced displacement of Kosovars comply with International Involuntary Resettlement Standards."

49. *Management wishes to underscore that none of the resettlements cited in the Request result from a Bank-supported project.* No Bank-supported project has been carried out in the mining and energy sector in Kosovo that has required resettlement.

50. *Management is aware that past resettlement practices in Kosovo, which pre-date Bank engagement, have caused adverse impacts on the affected population.* The Bank sees a developmental imperative in supporting the GoK to improve environmental and social practices related to mine expansion in order to avoid or mitigate impacts on people and the environment. As indicated previously, the Bank's support has helped to improve Kosovo's capacity to manage mining-related resettlement according to international good practice. Management also recognizes that sustained efforts will be required by the GoK to meet international resettlement standards.

51. *Management disagrees that the adverse impacts cited in the Request result from the technical advice provided by the Bank, or that they are likely to result from the proposed KPP.* On the contrary, the Bank's technical assistance operations—prepared in line with Bank policies and procedures to avoid and mitigate potential environmental and social adverse impacts—have mitigated adverse impacts by helping the GoK to improve on past resettlement policies and practices. Should the Bank support the proposed KPP in future, relevant Bank policies would be applied to avoid, minimize and mitigate any adverse impacts.

52. *The Request erroneously claims that ongoing and future mining activities are exclusively related to the proposed KPP.* This is not the case. As indicated, the Bank has not yet taken a decision whether or not to support the proposed KPP. Lignite mining in Kosovo, with the resulting need for land acquisition and resettlement, is ongoing, and will continue with or without the proposed KPP due to the demand from the two existing power plants, Kosovo A and B.

53. *The Request does not adequately differentiate between Government responsibilities and activities, and the Bank's responsibilities under Bank-financed operations.* The Request often refers to Government decisions and practices related to ongoing lignite mining in Kosovo that are unrelated to any Bank-supported project and over which the Bank has no control, and alleges harm from mining-related activities that either: (i) pre-date the Bank's involvement in Kosovo's mining sector; (ii) are exercises of the GoK's sovereign power that are unrelated to any Bank-financed operation. The Bank has provided advice and technical assistance to the GoK in line with Bank policies, in particular to address issues, including those raised by the Requesters, which stem from weaknesses in land acquisition and resettlement processes in Kosovo.

54. ***The Bank has supported the development of an RPF for mining-related land acquisition, specifically to help improve resettlement planning and implementation in Kosovo's New Mining Field.*** The GoK has adopted the RPF and has committed to undertake resettlement in the New Mining Field in accordance with the RPF. Development of the RPF was part of the Bank's capacity building support to Kosovo. This has led to improvements in resettlement practices, as demonstrated by the Shala resettlement process, and it is recognized that further improvements should be made going forward. However, because there is no resettlement resulting from a Bank supported project, the Bank is under no obligation to supervise the RPF or its applications.

55. ***In the specific case of the Shala RAP, at the request of the GoK, the CLRP-SAF finances external monitoring of the Shala RAP implementation. As a result, the Bank is supervising its implementation and monitoring, even though this resettlement was not caused by a Bank-financed operation,*** but was a result of lignite mining to supply the existing power plants, Kosovo A and B. The Bank supported the development of the RAP through the LPTAP. Through the CLRP-SAF, the Bank is financing and supervising the monitoring of RAP implementation. The Shala RAP was prepared through a participatory process and includes, among others, a socio-economic baseline, a clear entitlement matrix, compensation at replacement value, and ongoing monitoring. As with any resettlement effort, practices and capacity require further adjustments and improvements as the process unfolds. Issues arising during resettlement have been identified through the monitoring reports and the Bank's supervision and have been raised with the GoK. Corresponding measures have been applied by the GoK to address such issues. This is part of a normal process of continuous improvement in implementation.

56. ***The Request inaccurately links the building restrictions that resulted from the establishment of the Zone of Special Economic Interest to the proposed KPP. This is not correct, as the Zone of Special Economic Interest is part of broader Government decisions on phased mining of the lignite deposit in the New Mining Field.*** The Zone was established through a Government Decision in November 2004, predating the Bank's involvement in Kosovo. The GoK revised and enlarged the Zone to cover the entire New Mining Field in March 2009. According to the terms of the 2009 Decision, the 2004 Zone remained in force until the approval of the GoK's Spatial Plan by the Kosovo Assembly, which occurred in October 2011. At that point, the enlarged Zone, covering the entire New Mining Field, came into force.

57. ***The Shala RAP provides for compensation to adversely affected people, including for illegal structures that were constructed after 2004 when the Zone of Special Economic Interest came into effect.*** Specifically, the Shala RAP notes that "there has been notable new construction since the November 2004 Declaration of Special Interest, which took place without legal building permits" and that affected people would be compensated for these new structures. Under the implementation of the Shala RAP, affected people were in fact compensated for structures built in breach of the restrictions introduced through the Zone of Special Economic Interest.

58. ***Should the Bank decide to support the proposed KPP, the mine supplying KRPP would be considered a related activity.*** A comprehensive ESIA is currently being undertaken as part of the Bank's due diligence to inform decision-making for the proposed KPP. The ESIA currently under preparation includes a review of mine alternatives and mitigation measures and is also covering analysis of relevant issues. The analysis will also inform updates to the RPF. Should the Bank decide to support the proposed KPP the Bank would require that, in addition to any measures described in the ESIA: (i) sufficient provisions are in place to finance potential resettlement associated with the proposed KPP and related activities; (ii) an updated RPF is prepared based on lessons from the Shala RAP and the ESIA analysis; (iii) RAPs are prepared and implemented for the affected villages/neighborhoods sufficiently in advance of any mining activities impacting such villages/neighborhoods; and (iv) the economic analysis of the proposed KPP includes the cost of resettlement activities.

Conclusion

59. ***Management has carefully reviewed the issues raised in the Request and does not agree that the harm cited in the Request results from the Bank's non-compliance with its policies and procedures. As a result, Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.***

60. ***While Management recognizes that the RPF and the Shala RAP could be strengthened in certain areas, this did not contribute to the harm alleged by the Requesters. On the contrary, in Management's view, the support provided by the Bank has helped to address and mitigate adverse impacts from mining activities even though these do not result from any Bank-supported project.***

61. ***Since Management disagrees with the allegations of harm stemming from policy noncompliance, no actions to bring the projects into compliance are required.*** Management does, however, recognize the adverse impacts that affected communities in the New Mining Field face due to the lack of adequate mine planning and pending land acquisition, even though these impacts are not related to Bank operations. Management continues to see the importance of supporting the GoK in improving its capacity related to land acquisition and resettlement policies and practices and will continue to seek opportunities to do so within the context of the Bank's engagement in Kosovo's energy sector, specifically:

- ***Shala Resettlement Completion Report.*** The preparation of this report by the international resettlement firm is currently underway and is scheduled for disclosure by the last quarter of 2015. The Report will be based on findings from regular monitoring visits conducted to date, as well as field research, surveys and in-depth interviews with affected families. This Report will compare the current situation with the pre-resettlement socio-economic baseline of 2011 and it will provide evidence for, and assess the effectiveness of, the Shala RAP in terms of process and outcomes. It will also provide specific recommendations to enhance and refine the RPF and the preparation of future RAPs.

- ***Potential new Environmentally and Socially Sustainable Mining Project.*** Since the decision was taken in 2014 to keep the mine in public hands rather than privatizing it, the Bank has been discussing with the GoK a possible Bank-financed Environmentally and Socially Sustainable Mining Project. Such a project could focus on the following investments and support for modern mining practices: (i) development of New Shkabaj public infrastructure to prepare another 400-600 plots for the resettlement needs for the next 10-15 years as well as capacity building, planning and monitoring for mining-related resettlement; (ii) economic growth and community development in the mining Municipality of Obiliq/Obilic; and (iii) restoration of the depleted Bardh/Mirash mines to bring the land back into productive use (such as agriculture). The GoK has not yet formally requested such a project, but discussions are ongoing.

ANNEX 1

CLAIMS AND RESPONSES

No.	Claim	Response
1.	<p>We, citizens of Hade (Old and New) and Obiliq, Kosove respectively Haqif Shala (Shkabaj), Ragib Grajcevc (Old Hade), Avni Grajcevc (Obiliq) have, are and will suffer loss of our lands, livelihoods, and well-being as a result of the World Bank's non-compliance with its own policies in its technical assistance program to assist the Government of Kosovo prepare a policy, regulatory and legal framework designed to forcefully resettle us to make way for a Bank financed New Coal Power Plant.</p>	<p><i>Management does not agree with the claim that the Requesters are suffering or will suffer harm from Bank-supported Projects as a result of noncompliance with Bank policy and procedures.</i></p> <p><i>The resettlement related impacts cited by the Requesters are associated with the exploitation of the Sibovc South-West Mine for the current electricity production of Kosovo A and B and are not caused by any Bank financed project or in anticipation and preparation of the proposed KPP. Moreover, resettlement for mining expansion would take place with or without the proposed KPP.</i></p> <p>Kosovo's challenges regarding mining-related land expropriation long predate the Bank's engagement, including the 2004 emergency evacuation of some Hade village residents by UNMIK and PISG due to landslide risk. See also Annex 2 and Management's Response to the 2012 Request for Inspection of the proposed KPP.</p> <p>The LPTAP financed the 2008 SESA, which analyzed existing resettlement practices and regulations and related impacts, and also supported the preparation of an RPF for the New Mining Field in order to help the GoK improve mining-related resettlement practices and strengthen the enabling policy, legal and regulatory framework conducive to new investments in the energy sector. The RPF was formally adopted by the GoK in July 2011.</p> <p>The GoK has committed to using the RPF to govern the resettlement of people who may be displaced by the expansion of the mine over time, as opposed to relying solely on its expropriation law, which gives less attention to participation and mitigation of adverse social impacts. As per the RPF, the GoK should prepare and apply specific RAPs to subsequent resettlement phases, regardless of whether the proposed KPP is financed by the Bank or not.</p>

	<p>LPTAP also financed and provided advice for the preparation of the Shala RAP, required for resettlement caused by mine expansion to meet ongoing electricity requirements. The Shala RAP was prepared in line with the RPF with the support of an internationally recognized resettlement firm, and included a comprehensive and iterative consultation process with project affected people.</p> <p>The Bank is financing the monitoring of the Shala RAP through the CLRP-SAF and hence providing supervision for the implementation and the monitoring. Without the Bank's advice and financing for the development of the RPF and the Shala RAP under the LPTAP and supervision of the Shala RAP implementation and capacity building activities under the CLRP-SAF, it is likely that progress in improving resettlement practices in Kosovo would have been much slower. The active and regular supervision of the Bank and monitoring by the international resettlement firm has allowed for the identification of issues and these have been communicated to the GoK, which has addressed relevant concerns. The lessons learned during the implementation of the Shala RAP will help improve future practices and further refine the RPF.</p> <p>None of the resettlement set out in the complaint is a result of activities financed under Bank-supported Projects. Ongoing resettlement in the Sibovc South-West Mine will continue with or without the proposed KPP for the current and future needs of the existing Kosovo A and B power plants.</p> <p>The Bank has not yet made a decision regarding the possible PRG for the proposed KPP and preparation of the proposed project is still underway. Should the Bank's Board decide to provide a PRG for KPP, construction of the plant is estimated to take about 4 years and would not need lignite before 2020, at the earliest. Earlier components of the proposed KPP (the rehabilitation of the Kosovo B plant, and the development of the Sibovc South lignite mine) were dropped from the proposed project by the</p>
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		<p>KPP Project Steering Committee in early 2014, due to anticipated difficulties in securing the required financing. Nevertheless, the ESIA under preparation for the proposed KPP will analyze the amount of lignite needed for current and proposed electricity production and the corresponding potential mining alternatives. The ESIA is identifying potential environmental and social impacts—including through a socio-economic survey and public consultations—and define mitigation measures and monitoring requirements. The ESIA is also assessing relevant issues, and undertaking a gap analysis with Bank policy, including for impacts from the established Zone of Special Economic Interest.</p>
2.	<p>The Bank's non-compliance has exacerbated the social risks both to us and their proposed project by designing and implementing, in the case of Shala, an involuntary resettlement that will circumvent the required planning and due diligence.</p>	<p><i>It is not clear what specific non-compliance with Bank policy and attendant harm are being referred to in the Request. In any case, Management disagrees with the claim that the preparation of the Shala RAP circumvented required planning and due diligence.</i></p> <p>As mentioned in Item 1 above, the ongoing resettlement of the Shala neighborhood of Hade village is taking place as a result of mining for lignite needs for the current operation of the Kosovo A and Kosovo B power plants, not for the proposed KPP.</p> <p>It must be clarified that the GoK is responsible for implementing the Shala RAP, not the Bank. That said, the Bank is actively supervising the implementation and monitoring of the Shala RAP through the CLRP-SAF.</p> <p>The preparation of the Shala RAP was conducted based on required due diligence and with the support of an internationally recognized resettlement firm. It involved the preparation of a detailed social baseline and included active and iterative consultation with affected families throughout the process.</p> <p>The Shala RAP provides extensive information about comprehensive consultations with, and participation of, affected families in the decision-making process. Discussions specific to the Shala RAP preparation began in 2009, almost three years before actual displacement</p>

	<p>occurred, and continue to date. Consultations during the planning phase included formal open house meetings, focus groups tailored to specific populations (e.g., women), extensive informal dialogue, and extensive one-on-one negotiations with families.</p> <p>In 2011 alone, community level meetings to discuss the RAP involved more than 100 people. The Shala RAP also notes the active use of the grievance mechanism by the affected households, with more than 50 applicable grievances registered at the MESP's grievance commission.</p> <p>These multiple discussions and consultations resulted in tangible decisions being made with the participation of affected people from Shala, such as: the collective resettlement and selection of the resettlement site; housing design; arrangements for temporary displacement; review of entitlements and resettlement options; inclusion of additional households in the census, etc.</p> <p>Bank supervision has been conducted on a regular basis. The CLRP-SAF has provided financing of regular monitoring by an internationally recognized resettlement firm that has produced two monitoring reports covering the period October 2013 to September 2014.¹ These reports have been publicly disclosed in English and Albanian, at the Public Information Office established at the Municipality of Obiliq/Obilic and in the Bank's InfoShop. Key issues that occurred during implementation have been identified through the reports mentioned above, Bank regular supervision, and capacity building efforts such as the Workshop on International Good Practices in Resettlement (Pristina, May 2014); these have been communicated to the GoK, which subsequently addressed them.</p> <p>Thus, even though the resettlement of Shala was not caused by any Bank-financed project,</p>
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¹ Shala RAP 1st Monitoring Report http://mmph-rks.org/repository/docs/rePlan_-_Shala_ME_Report_1_-_final_345581.pdf
Shala RAP 2nd Monitoring Report http://mmph-rks.org/repository/docs/rePlan_-_Shala_ME_Report_2_869903.docx

		the Bank's involvement in the process has helped to strengthen resettlement design and implementation at Shala.
3.	As a result, the proposed KPP project is moving ahead without incorporating full involuntary resettlement planning and financial due diligence that should have accompanied a large scale involuntary resettlement.	<p><i>The Bank has not yet made a decision regarding a PRG for the proposed KPP and preparation of the proposed project is ongoing.</i></p> <p>The ESIA for the proposed KPP (including related mining activities) is analyzing the amount of lignite needed for current and proposed electricity production and the corresponding potential mining area alternatives, possible development of mine contours. This will determine the needs and options for land acquisition and resettlement.</p> <p>The ESIA is also identifying potential environmental and social impacts—on the basis, among others, of a socio-economic survey—and define mitigation measures and monitoring requirements. It is also considering relevant resettlement issues, including as a result of the declaration of a Zone of Special Economic Interest. The draft ESIA will be disclosed for extensive public consultations as required by Bank policy.</p>
4.	<p>As a result of the Bank's improper technical assistance, parts of our community have been forcefully displaced by a resettlement action plan that is not compliant with international standards and Bank policies.</p> <p>The Bank's concealment of this noncompliance has masked the need for corrections. It creates a false certainty in the Government that they are in compliance with international standards. It creates huge uncertainty in our communities – as we watch for over a decade our neighbors who we have witnessed undergo impoverishment, including homelessness, food insecurity, landlessness, insecurity, unemployment, and stress. We are informed that the Shala forced displacement will be our future forced resettlement.</p>	<p><i>Management notes that the resettlement and uncertainty cited in the Request have occurred as a result of mining expansion for current electricity production for Kosovo A and B power plants, and are not the result of a Bank Project.</i></p> <p><i>Management disagrees that the Bank has "concealed" any noncompliance. On the contrary: Bank supervision of implementation of the Shala RAP has contributed to enhanced transparency about issues that emerged in the implementation process, and has ensured that these issues have been and are communicated to the GoK, and, hence, facilitated their being addressed.</i></p> <p>The preparation of the SESA, the RPF and the Shala RAP are based on significant due diligence and comprehensive and multi-stakeholder consultation processes, including directly affected communities, particularly in the case of</p>

	<p>the Shala RAP.</p> <p>As noted in Item 1, Bank supervision has been conducted on a regular basis and the CLRP-SAF has provided financing of regular monitoring by an internationally recognized resettlement firm that has produced two monitoring reports covering the period October 2013 to September 2014. These reports have been publicly disclosed in English and Albanian, at the Public Information Office established at the Municipality of Obiliq/Obilic and in the Bank's InfoShop. As noted in Item 2, key issues that occurred during implementation have been identified, communicated to the GoK and subsequently resolved. In addition, during the May 2014 Workshop, in brainstorming sessions between international experts and GoK officials, the participants found that many aspects in the RPF Entitlement Matrix are working properly, but that some aspects may need to be reviewed and re-assessed in the monitoring program and further resettlement planning, such as: issues related to agriculture-based livelihoods must be better assessed and mitigated; temporary relocation must be avoided and the rental allowance criteria must be clarified; responsibilities for infrastructure and services at the resettlement site need to be clarified; and impacts on those remaining in areas where people are being displaced should be better considered.</p> <p>The preparation of a Resettlement Completion Report for the Shala RAP is underway and its results will also inform an RPF update.</p> <p>The Shala RAP has clear livelihood restoration objectives. Supervision and monitoring of the Shala RAP to date does not indicate any instances of homelessness or loss of employment caused by the resettlement process, and in fact those who have moved to New Shkabaj have better living conditions away from the mine pit, good quality housing, increased access to basic infrastructure, such as sewage and water supply, and closer distance to Pristina.</p> <p>The Shala RAP included a socio-economic survey</p>
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		<p>that found that most people resettled from Shala derived their income from permanent or temporary employment, remittances and pensions, none of which are dependent on, or affected by, being resettled. Additionally, in the case of the Shala RAP, no households reported earning income from agricultural activities (Shala RAP, p. 30). Finally, there were no specific cases identified requiring specific vulnerability assistance. (Shala RAP, p. 12)</p> <p>The new resettlement site at New Shkabaj provides for better and safer living conditions, is connected to main roads by a newly built road and has areas for gardens to grow fruits and vegetables for household consumption. As of June 2015, at least five of the 12 families who have relocated to New Shkabaj have small scale (ranging from 50 to 150 square meters) agriculture activities for their own consumption. (See Pictures 1, 2 and 3.)</p> <p>It is evident that more public infrastructure is needed at the New Shkabaj resettlement village to allow for future resettlement phases.</p> <p>Since the decision was taken in 2014 to keep the mine in public hands rather than privatizing it, the Bank has been discussing with the GoK a possible Bank-financed Environmentally and Socially Sustainable Mining Project. Such a project could focus on the following investments and support for modern mining practices: (i) development of New Shkabaj public infrastructure to prepare another 400-600 plots for the resettlement needs for the next 10-15 years as well as capacity building, planning and monitoring for resettlement related to the mine required for KRPP; (ii) economic growth and community development in the mining Municipality of Obiliq/Obilic; and (iii) restoration of the depleted Bardh/Mirash mines to bring the land back into productive use (such as agriculture).</p> <p>Such a project could be implemented irrespective of a potential PRG for the proposed KPP. Discussions with the GoK are still ongoing.</p>
5.	The Bank encouraged and provided the	<i>The Government decision on the establishment</i>

<p>Government to prepare for the KPP financing by providing technical assistance, including very specific technical recommendations. Among these, the Bank encourage or assisted the Government of Kosovo designate a area of special economic interest area [zone], within which our rights to economic and land development are left in limbo, effectively taking of our lands, limiting our lives and livelihoods without compensation, restoration of livelihoods, due process, meaningful and timely notification and participation.</p> <p>The impact of this step, done in the name of a preparation for a Bank financed project and with their technical assistance, has triggered negative regional social and economic impact without an impact assessment avoidance, mitigation, planning or financing. It is causing a depopulation of our area because we cannot accommodate our families and grow our livelihoods. This is part of the process of forcing a displacement without compliance and attention to the objectives of Bank involuntary resettlement policy.</p>	<p><i>of a Zone of Special Economic Interest, which puts in place construction limitations on certain villages/municipalities, was taken on November 3, 2004 (predating the Bank's early involvement in Kosovo through the LPTAP).</i></p> <p><i>The GoK enlarged the Zone to include all areas within the New Mining Field by its decision dated March 13, 2009. The enlarged zone came into force on approval of the Spatial Plan by the Kosovo Assembly in October 2011.</i> The Spatial Plan for the New Mining Field was prepared by the GoK to analyze different development strategies for the New Mining Field and the technical, economic, environmental and social impacts thereof, and to provide a planning framework. Management notes that the Bank did not finance the Spatial Plan. <i>The ESIA for the proposed KPP will analyze relevant issues, including those related to the Zone of Special Economic Interest.</i></p> <p>The LPTAP financed, among others: (i) the preparation of the SESA; (ii) a Draft New Mining Field Development Plan; (iii) an RPF for the New Mining Field; (iv) the preparation of the RAP for the resettlement of the Shala neighborhood of Hade village; (v) a report on Mining Legislation and Licenses; and (vi) proposed amendments to the expropriation law.</p> <p>The objective of the SESA was to provide the Project Steering Committee with environmental and social safeguard advisory services necessary to develop the sector in an environmentally and socially sustainable manner.</p> <p>The SESA was also designed to facilitate similar infrastructure transactions in the future, primarily by strengthening Kosovo safeguard regulatory capabilities and secondarily by improving the capacity of the relevant Kosovo authorities.</p> <p>A Draft New Mining Field Development Plan was prepared as a regional energy sector development plan, aimed at describing the spatial implications of the development of a new mine and current and future power plants.</p> <p>In addition the LPTAP financed a report on</p>
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	<p>Mining Legislation and Licenses (April 2008) and provided technical assistance, consistent with OP 4.12, for the drafting of amendments to the expropriation law. However, the advice provided through the LPTAP was largely not incorporated in the final expropriation law.</p> <p>Both the SESA and New Mining Field Development Plan informed the Spatial Plan, however the Spatial Plan was not financed under a Bank project. It was prepared by the Institute of Spatial Planning and was drafted in cooperation and consultation with a large number of spatial planning professionals, various scientific institutions, and representatives of civil society, and with the support of international organizations and ministries and municipalities.</p> <p>The New Mining Field covers an area of 150 km², whereas the proposed KRPP would only require an area of around 10 km² for lignite needs during its lifetime (including those of Kosovo B and Kosovo A until its closure).</p> <p>The GoK has committed to using the RPF to govern resettlement of people who may be displaced by the expansion of the New Mining Field over time required to meet the lignite needs for electricity production, and to prepare specific RAPs for the subsequent resettlement phases, regardless of whether the Bank provides the PRG to the proposed KPP.</p> <p>It is worth noting that the GoK's Spatial Plan states that: "In the meantime is being finalized the draft 'Policy Framework for Relocation' (also known as RPF), expected to be approved by the GoK, separately or along with this plan, to avoid concerns of residents relocating settlements. Therefore, the same provides that, for the realization of the process of relocation resettlement of population, should follow some concrete steps, such as the following." (Section 3.2.3). The Spatial Plan goes on to detail some of the key requirements of the RPF. The RPF was approved prior to approval of the Spatial Plan (October 2011).</p> <p>Both the RPF and the Shala RAP provide for</p>
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		<p>compensation to adversely affected people, including for illegal structures. Specifically, the Shala RAP notes that “there has been notable new construction since the November 2004 Declaration of Special Interest, which took place without legal building permits” and that these new structures would be compensated for. Under the implementation of the Shala RAP, affected people are in fact being compensated for these illegal structures notwithstanding any prohibitions against construction in the Zone of Special Economic Interest.</p>
6.	<p>The Bank failed to inform Kosovo or the affected Kosovars that the proposed involuntary resettlement does not comply with its policies, including incorporation of its objectives (OP 4.12, para 2) that call for an involuntary resettlement in which</p> <ul style="list-style-type: none"> a) <i>Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.</i> b) <i>Where involuntary resettlement is unavoidable, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share in project benefits. Displaced persons should have opportunities to participate in planning and implementing resettlement programs.</i> c) <i>Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to beginning of project implementation, whichever is higher.</i> 	<p><i>No resettlements in Kosovo have resulted from a Bank-supported project to date.</i></p> <p><i>The objectives of OP 4.12 are addressed explicitly or implicitly in the RPF for the New Mining Field, as well as the Shala RAP, and any RAPs prepared under the RPF will also achieve such objectives.</i> Both the RPF and the Shala RAP, as well as the corresponding monitoring reports of the latter, have been publicly disclosed in English and Albanian.</p> <p>The policy objectives cited in the Request are fully incorporated in the RPF. The first two are explicit under the “Principles and Objectives” section (p.5): “<i>the primary objective of the Government is to minimize land acquisition and displacement in the development of necessary infrastructure and activities. Such objectives are consistent with international standards, specifically the World Bank’s Operational Policy OP 4.12 (...). Where displacement or the loss of economic assets and means of livelihood are unavoidable, the objective of this policy is to ensure that affected people can improve or at the very least recover their standard of living and livelihoods in the shortest possible time.</i>” (RPF p. 5).</p> <p>A third objective related to consultation is explicit under the section on “Special Procedures for Lignite Power Project and Public Consultations” (p. 18) and the “Public Consultation and Grievance Procedures” section of “Annex A: Outline of a Resettlement Action Plan” (p. 23)</p>

		<p>A fourth OP 4.12 objective on conceiving and executing resettlements as “sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits” is implicit and operationalized through different components of the RPF, including, but not limited to: i) “Entitlement Matrix” and “Resettlement Options” sections (p. 8-15), which describe different resettlement benefits; and ii) the section on “Timetable and Budget” (p. 19).</p> <p>Similarly, the Shala RAP incorporates the objectives set out in OP4.12.</p> <p>A summary of the comprehensive process for the Shala RAP is provided under Item 2 above.</p> <p>The Shala RAP has clear livelihood restoration objectives and in all monitoring activities and consultations with the affected community to date, it has been confirmed that no one has been rendered homeless as indicated in the claim.</p> <p>The Shala RAP includes a section on Livelihood Restoration (p. 57), which states that people from 20 households were offered employment at KEK. It also includes additional possible measures that could be implemented if needed. Most household heads in affected households derive income from permanent jobs, predominantly at KEK.</p> <p>The Resettlement Completion Report for the Shala RAP currently underway focuses on providing documented evidence of livelihood restoration and will identify any further corrective actions, if required. The Resettlement Completion Report will be an input to the GoK’s effort to improve its resettlement practices and update of the RPF. The ESIA is also assessing the current resettlement practices and will recommend adjustments, as needed.</p> <p>See also Items 3 and 4.</p>
7.	Failure to incorporate these objectives, including not providing “sufficient investment resources” to meet these objectives, reduces	<p><i>As explained previously, no resettlement has occurred to date in the New Mining Field as a result of a Bank-supported project.</i></p>

	<p>the overall costs of the KPP at our expense or the expense of our fellow Kosovo ratepayers. As has happened in previous Hade displacements, full consideration of these required objectives are not being programmed or financed. The economic, social and stressful burden of the KPP is put on our backs.</p>	<p>Should the Bank decide to support the proposed KPP, the Bank would need to be satisfied that, in addition to any measures described in the ESIA: (i) sufficient provisions are in place to finance potential resettlement; (ii) an updated RPF is prepared based on lessons from the Shala RAP and the ESIA analysis; (iii) RAPs are prepared and implemented for the affected villages/neighborhoods sufficiently in advance of any mining activities affecting such villages/neighborhoods; and (iv) the economic analysis of the proposed KPP includes the cost of resettlement activities.</p> <p>The RPF also explicitly requires that the resulting RAPs adequately plan for and provide information about the budget needed for the resettlement.</p> <p>As noted earlier in Item 1, the scope of the proposed KPP was adjusted in 2014 to exclude mining development activities, which would remain the responsibility of the public sector. However, the ESIA is covering analysis of the environmental and social impacts from the related mining activities, including relevant issues.</p> <p>Mining-related resettlement would remain in the public sector, and would follow the RPF, including any additional measures identified during the KPP ESIA and lessons from the Shala RAP. The public sector would also decide how the cost of resettlement associated with its ongoing mining activities is to be reflected in the cost of the fuel for the existing and proposed power plants, or otherwise.</p>
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ANNEX 2 2004 EMERGENCY EVACUATION

- i. An **emergency evacuation of 158 families (664 people) from Hade village** was carried out by the United Nations Interim Administration Mission in Kosovo (UNMIK) and Provisional Institutions of Self Governance (PISG) **in 2004 and 2005** pursuant to UNMIK's order number 2004/6 (March 29, 2004). This evacuation was not part of any Bank project and the order was issued following a major landslide in late 2002 and subsequent completion of a technical evaluation that indicated an imminent threat of land subsidence endangering some inhabitants of Hade village (within the safety zone of the Bardh-Mirash mines). This threat was the result of a long legacy of poor mining practices resulting in unstable mine slopes and a danger of landslides and land subsidence, particularly during the rainy season. A special resettlement committee for Hade was established by UNMIK and the PISG to plan for, and execute, an emergency relocation of at-risk households.
- ii. Between November 2004 and February 2005, 61 families that had agreed to move were relocated temporarily to apartments in nearby urban centers with rent, electricity and food allowances. Subsequently (May and June 2005), about 30 families that had refused to move had to be forcibly evacuated in light of the coming rainy season and the attendant risk of severe landslides. Most of these families were relocated to pre-identified shelter relocations and their belongings stored in a warehouse of the Municipality of Obiliq/Obilic.
- iii. The resettlement actions described above were carried out by UNMIK and PISG and were not part of any Bank project. However, in response to a June 2004 request from the PISG to provide urgent advice on the resettlement process, the Bank sent a short two-person mission (July 4-5, 2004) to Kosovo to share the Bank's experience in resettlement, provide policy advice, and assist in preparing terms of reference for resettlement consultants to be recruited by the authorities. The Bank mission recognized the emergency situation and recommended that the Hade resettlement committee simplify its processes, supplement compensation, explore ways to reconstitute the community, improve information dissemination, and conduct a new census. These recommendations constituted an emergency approach in response to the imminent danger of loss of lives and injury, as pointed out in the letter from the Country Director to UNMIK in August 2004. No further Bank missions occurred related to this emergency evaluation.
- iv. A year later, in June 2005, a pre-identification mission for a proposed Kosovo Lignite Mining and Energy – Social and Environmental Support Project (later folded into the LPTAP), *inter alia* undertook a preliminary evaluation of the adequacy of Kosovo's resettlement practices in relation to the Bank's OP/BP 4.12. As part of its work, the mission reviewed the experience of the Hade resettlement in 2004, identifying several deficiencies that it brought to the attention of the GoK. Through its review of the Hade resettlement, the mission concluded that the legal, regulatory, and institutional frameworks for resettlement were inadequate, pointing to the need for development of a comprehensive RPF. As explained above, the LPTAP later supported the development of such a framework, which has been in place since 2011.
- v. Even though the 2004 Emergency Evacuation is not linked to a Bank operation, as per the Management Response to Request for Inspection Panel Review of the KPP (Proposed) of

May 21, 2012, the Bank continued to encourage the GoK to engage with these resettled households in order to resolve outstanding issues. Information about the progress of that process has been requested and obtained from the GoK on a regular basis.

- vi. As per information from the GoK, as of July, 2015, 98 percent of the affected families have received compensation, while the remaining 2 percent did not accept the compensation and instead chose to challenge it in court, which is still ongoing. Additionally, to accommodate 61 families that required temporary accommodation, the GoK built apartments and provided rental, food and electricity allowances since the relocation. The Bank is aware that some people from the 2004 Emergency Evacuation group have raised complaints through the local courts for issues related to the stoppage of the allowances in 2012, when the GoK determined that it had met its obligations. Out of a total of 98 families who applied for a plot at New Shkabaj, 77 have already received titles to their new land, while others have decided not to apply, given that they contest the GoK's decision of stopping the payments of rental allowances, as indicated above. The GoK has engaged with the affected families regularly, and more recently, high level officials from the newly elected Government met with them in May and July 2015 to explore solutions to the outstanding issues. The Bank does not interfere in issues being resolved through the local courts.

ANNEX. 3
PICTURES OF RESETTLEMENT SITE AT NEW SHKABAJ



Picture 1. New Shkabaj (May 2015)



Picture 2. New Shkabaj (May 2015)



Picture 3. New Shkabaj - Main road and pedestrian walkway to nearby school (approx. 1 km)



Picture 4. New Shkabaj Verification Committee site visit (2013)



Picture 5. New Shkabaj – new home (2014)

ANNEX 4
RESPONSE TO THE REPORT BY THEODORE DOWNING
“DOES THE KOSOVO POWER PROJECT’S PROPOSED FORCED DISPLACEMENT OF KOSOVARS
COMPLY WITH INTERNATIONAL INVOLUNTARY RESETTLEMENT STANDARDS?” (FEBRUARY 2014)

No.	Issue / Claim	Response
1.	<p>ISSUE: <u>Magnitude of resettlement</u></p> <p>CLAIM: “The proposed Kosovo Power Project (KPP) requires an expansion of an open pit mining operation. The expansion will cause a sizable and complex forced displacement of over 7,000 people living on 16 km² of land in 26 agricultural settlements, mostly in the rural Municipality of Obiliq, close to the capital of Pristina.”</p>	<p>Clarification. The resettlement process associated with lignite mining for power production in Kosovo is in fact sizeable, challenging and will take place over decades. This is one of the reasons the Bank decided to support the GoK on this issue.</p> <p>It is highlighted that resettlement will occur with or without the proposed Kosovo Power Project (KPP) as a result of the current and future lignite needs of the Kosovo A power plant (until its closure) and Kosovo B power plant (up to its anticipated end of life date of 2050).</p> <p>The Kosovo e Re Power Plant (KRPP) under the proposed KPP will require lignite from a mine. An analysis of the environmental and social impacts of mining in this area, together with an analysis of relevant issues, is being conducted under the ESIA for the proposed KPP.</p> <p>Regarding spatial and land use planning of the broader New Mining Field please see response #18 on <u>Zone of Special Economic Interest</u>.</p>
2.	<p>ISSUE: <u>Policy Objectives. Whether preparation for the Resettlement Policy Framework is inconsistent with the four primary policy objectives of OP 4.12</u></p> <p>CLAIM: “Third, the preparations fail to align the project with the international policy’s prime objectives of assuring involuntary resettlement is a development project, with livelihood restoration, benefit sharing, meaningful consultation and participation.” (p.3)</p> <p>[The Resettlement Policy Framework for the New Mining Field (2011)] selectively incorporated parts of the Bank’s objectives, allowing them</p>	<p>Disagree. All the objectives of OP 4.12 are addressed explicitly or implicitly in the Resettlement Policy Framework (RPF) for the New Mining Field, and any Resettlement Action Plans (RAPs) prepared under the RPF are required to operationalize and achieve such objectives.</p> <p>The OP 4.12 objectives referring to avoidance, livelihood restoration and consultations are explicitly addressed in the RPF. The first two are explicit under the “Principles and Objectives” section (p.5) “<i>the primary objective of the Government is to minimize land acquisition and</i></p>

No.	Issue / Claim	Response
	<p>to claim they are “consistent” with the Bank’s objectives. A closer examination reveals that consistent does not mean compliant.” (p.20)</p> <p>“The second primary objective is part of key international standards, including the involuntary resettlement policy of the OECD. Involuntary resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. This objective is not addressed in any of the LPI policies, the institutional structures, or the model Shala RAP” (p. 23)</p> <p>“International policies and process also assure the project restores and improves not only livelihood, but also living standards” (p. 34)</p>	<p><i>displacement in the development of necessary infrastructure and activities. Such objectives are consistent with international standards, specifically the World Bank’s Operational Policy OP 4.12 (...). Where displacement or the loss of economic assets and means of livelihood are unavoidable, the objective of this policy is to ensure that affected people can improve or at the very least recover their standard of living and livelihoods in the shortest possible time.” (RPF p. 5).</i></p> <p>A third objective related to consultation is explicit under the section on “Special Procedures for Lignite Power Project and Public Consultations” (p. 18) and the “Public Consultation and Grievance Procedures” section of “Annex A: Outline of a Resettlement Action Plan” (p. 23)</p> <p>A fourth OP 4.12 objective on conceiving and executing resettlements as “sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits” is implicit and operationalized through different components of the RPF, including, but not limited to: i) clear “Entitlement Matrix” and “Resettlement Options” sections (p. 8-15), which describe different resettlement benefits; and ii) the section on “Timetable and Budget” (p. 19).</p> <p>In terms of additional benefits, as per the Shala RAP, employment opportunities at KEK were extended to 20 resettled households, as agreed with community representatives in 2011. However, it must be clear that providing direct employment at KEK is not mandatory. Additionally, people will benefit from a better location and living conditions at New Shkabaj as well as overall better air quality.</p> <p>It is expected that the ESIA for the proposed KPP, which is considering the impacts of the mining activities required to support KPP, will provide recommendations to update and</p>

No.	Issue / Claim	Response
		improve the existing RPF.
3.	<p>ISSUE: <u>Avoidance</u>. Whether there was a failure to avoid involuntary resettlement where feasible, or minimize involuntary resettlement, exploring all viable alternative project designs (para 2(a) OP 4.12).</p> <p>CLAIM: “The KPP has not adjusted its mining planning, designs or operations to avoid or minimize involuntary resettlement.” (p.20)</p> <p>“Viable, alternative project designs that would have minimized forced displacement were rejected in favor of the siting of future motorways and a slight improvement in coal quality.” (p. 20)</p> <p>“Resettlement was one of 12 criteria considered in the evaluation of 6 mining development alternatives; the process chose the option involving the most extensive involuntary displacement (Sibovc Variant 1.1) over an option that involved no resettlement (Variant 2). Government selected the scenario with 10% higher quality coal and a higher annual yield (EuropeAid Main Mining Plan Sibovc, Part III, Environmental Impact Study. 2005, Page 77-102).</p> <p>The Spatial Plan considered these alternatives again, but the least resettlement scenario was not considered.” (p. 20)</p> <p>“Finally, project planning showed a preference reaching targets that set lignite production ahead of mitigating the impacts of involuntary resettlement. Viable, alternative project designs that would have minimized forced displacement were rejected in favor of the siting of future motorways and a slight improvement in coal quality. Resettlement was one of 12 criteria considered in the evaluation of 6 mining development alternatives; the process chose the option involving the most extensive involuntary displacement (Sibovc Variant 1.1) over an option that involved no resettlement (Variant 2)..... Another rejected scenario would have delayed resettlement of the largest population scheduled for relocation for decades (Variant 1.2). Four years later, the Spatial Plan considered these alternatives again, but the least Resettlement scenario was not considered.” (pp. 20-21).</p> <p>Examination of the engineering planning documents revealed the Bank</p>	<p>The Bank did not finance development of the EuropeAid Main Mining Plan cited in the complaint, the “Main Mining Plan for Sibovc” (2005) or the “Spatial Plan for the Area of Special Interest New Mining Field” (March 2011, approved October 2011)</p> <p>The SESA (2008) reviewed the criteria used by the previous studies to rank three different mining fields: Field South, Field D and Field Sibovc (also known as New Mining Field) for a 2,000 MW lignite power plant. The results of this analysis was the following:</p> <ul style="list-style-type: none"> • The Sibovc Mine contains adequate coal reserves to supply the current thermal power plants until the end of their productive lives and the proposed Kosovo Re Power Plant with up to 2,000 MW capacity for in excess of 40 years; • Field South has the most unfavorable geological conditions and the large overburden thickness would make this the most expensive and least favorable option for development; • Field D would be the most favorable site in terms of environmental and social impact, as well as for post mining use. The stripping ratio is comparable to that of the New Mining Field. However, the field does not contain enough coal reserves to supply the proposed increased power plant capacity and the net calorific value is lower than in Sibovc. In addition there would be conflict with the spatial planning proposals for the area, as there is a proposal to construct a motorway through the area, which could effectively sterilize part of the minable lignite. <p>Based on these considerations, the SESA concluded that all indications concurred in pointing out the Sibovc mine as</p>

No.	Issue / Claim	Response
	<p>and Government were aware that less profitable, alternative mining development scenarios would mitigate, if not avoid altogether the need for extensive involuntary resettlement.” (p. 21)</p>	<p>the optimal one for exploitation.</p> <p>The scope of the KPP ESIA process underway will include an up to date mining alternatives analysis which will take into consideration environmental and social impacts, including resettlement avoidance and minimization as a high value criteria. This analysis will help to inform future mining planning by KEK for ongoing electricity planning and the proposed KRPP.</p> <p>The siting of the KRPP itself will not require land acquisition or involuntary resettlement as the proposed site, which was selected through an alternatives analysis described in previous studies and the upcoming KPP ESIA, is located within premises belonging to KEK.</p> <p>In addition, the technical assistance provided by the Bank has consistently highlighted the importance of avoiding and minimizing resettlement as per OP 4.12. The RPF highlights the specific objective of minimizing resettlement and requires that any resulting RAPs include “analysis of alternatives for each component (...) showing that the alternatives have been chosen to minimize resettlement, but without jeopardizing public safety.” (RPF p. 20)</p> <p>Similarly, the Shala RAP includes a description of efforts to minimize resettlement. It also states that “Project design alternatives were considered that would minimize first phase land take. KEK’s 2008 application for expropriation included the western two-thirds of the Shala neighborhood, leaving intact the parts of the neighborhood that do not fall within the zone of first phase mine development. Through consultation with Shala community leaders and members, it was determined that the Shala neighborhood (defined as a contiguous geographic area occupied by related families) be resettled as a whole.” (Shala RAP p. 4). This decision was taken as good practice, and based on the will of the affected people to avoid breaking the Shala community.</p> <p>The KPP is still under consideration and mining operations</p>

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		are not included under the current project structure for the Bank's Partial Risk Guarantee (PRG), although for safeguard purposes, the ESIA consider related mining activities. It should be noted that the GoK has committed itself to implement the RPF in the New Mining Field.
4.	<p>ISSUE: <u>SMELT</u> as a deliberate resettlement strategy</p> <p>CLAIM: "The KPP is planning to forcefully displace those in the way by using the same displacement strategy that it has used for decades. I shall call this the stepwise mining expansion and land take strategy, or SMELT. Unlike hydropower displacements that forcefully relocate entire villages at once, the KEK mining slowly amputates parts of settlements, a few houses and sometimes a neighborhood at a time. Operating in a densely populated area, aerial photos show this <i>SMELT mining development strategy</i> has been to move mining operations in close proximity to settlements, sometimes within a few hundred meters." (p. 8)</p> <p>"Within that area, the plan also adopts the SMELT model of mining operations, land acquisition, maximizing lignite production and the cost of dismantling living communities. A significant, obvious and missing step in compliance with this primary objective would be to consider the advantages and disadvantages of reprogramming an early fully safeguard compliant involuntary resettlement as opposed to a 30 year SMELT like displacement. This project-design option has not yet been done." (p. 21).</p> <p>"From the perspective of this primary objective, Shala displacement is not much better than the 2004-05 in Hade operation. Mocking the avoidance/minimization primary objective, the Shala RAP claims to be minimizing resettlement by boasting it is only taking "a part" of the neighborhood. They are full aware that the SMELT strategy will continue and another neighborhood's displacement will follow" (p. 22)</p>	<p>Disagree. Phased expansion as described in the Downing Report is not a planned strategy by the GoK for the purpose of disadvantaging affected persons. Phased mine expansions are a common occurrence in the mining industry across the world. However, the Bank acknowledges that there are critical issues in terms of the GoK's capacity to adequately plan mine expansions and corresponding resettlements in a timely manner, as required by good practices and the RPF. This is also related to unclear allocation of responsibilities between KEK and the Ministry of Environment and Spatial Planning (MESP) regarding resettlement planning and implementation.</p> <p>The Bank has financed technical assistance to help the GoK address these issues through the development of the RPF and the organization of multiple capacity building events as described below in Response #18, Capacity. The urgency and importance of these issues has been raised on multiple occasions with the GoK through meetings, Aide Memoires and Management Letters.</p> <p>Issues also were discussed in detail during the Workshop on International Good Practices in Resettlement in May 2014 (See details in #18 Capacity) organized by the Bank. During the Workshop, and during a follow up meeting with high level government officials, international experts and the Bank highlighted the urgent need to clearly define a longer term planning horizon for the land acquisition and resettlement required for mine expansion. Based on international practices, it was recommended that RAPs be prepared in accordance with multi-year</p>

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		<p>mine plans and that they should envision adequate timelines between planning, commencement (and associated cut-off date) and actual move. Interdiction cut-offs (no residence, land transactions or changes to existing structures allowed after a certain deadline) could be declared in coherence with the RAP time frame. Once such a planning scheme has been discussed and agreed with relevant parties, it should be reflected in a revision to the RPF.</p> <p>In April 2014, the Bank learned that KEK had plans to expand the Sibovc South-West Mine towards the village of Shipitulle. The GoK has committed to implement resettlement in the New Mining Field, including Shipitulle, in accordance with the RPF. The Bank has repeatedly alerted the GoK to the critical importance of ensuring that resettlement of the Shipitulle village is conducted in a timely manner and in line with the RPF, to avoid any adverse impacts on the population. It has been highlighted to the GoK that temporary resettlements like those necessary for the 2004 Emergency Evacuation and the Shala RAP are not good practice and should be avoided. The GoK has recently started conducting a census at Shipitulle but progress on the census has been slowed by the refusal of some residents to allow necessary access to their properties. As per Bank recommendation, the GoK is making efforts to secure the services of an international resettlement firm to help prepare, implement and monitor a new RAP for Shipitulle.</p> <p>Similarly, in early July 2015, during regular Bank supervision activities for the CLRP, it was learned that the community of Grabovci I Poshtem had expressed concerns about impacts associated with its proximity to mine operations. This issue as well as other issues related to disruption of water resources, dust, increased heavy vehicle traffic passing through villages, damaged infrastructure, etc., was also communicated earlier by</p>

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		<p>residents remaining in Hade. The issue of the buffer zones and avoidance of impacts on communities located in proximity of the mine pit is also being highlighted and assessed under the KPP ESIA and has also been communicated to the GoK.</p> <p>In addition to the efforts described above, the KPP ESIA includes an analysis of mining alternatives with the objective, among others, of informing mining plans so that they can avoid and minimize environmental and social impacts including resettlement, or, if not avoidable, provide information to support earlier planning of mitigation measures.</p> <p>In the specific case of the Shala RAP, as a result of consultations with the affected families, instead of resettling part of the community, the whole of the Shala neighborhood was resettled collectively. See Response # 3 above.</p>
5.	<p>ISSUE: <u>Temporary resettlement</u></p> <p>CLAIM: Temporary resettlement is not an acceptable practice.</p>	<p>Agree. While temporary resettlement does not constitute non-compliance with OP 4.12, it is not a recommended practice.</p> <p>The Bank has alerted the GoK on numerous occasions to the crucial importance of planning and implementing in advance any future resettlement. With regard to Shipitulle, see Response #4 on SMELT above.</p>
6.	<p>ISSUE: <u>Consultation.</u> Whether there was a failure to ensure that displaced persons were meaningfully consulted and had opportunities to participate in planning and implementing resettlement programs pursuant to para 2(b) of OP 4.12</p> <p>CLAIM: "With its checkered history of conflict and unsuccessful involuntary resettlements, Government and Management should have placed this primary objective front and center in the project. A procedure to meeting these provisions is supposed to be laid out and approved by the Bank during the identification phase of the project.</p>	<p>Disagree. The preparation of all the studies and plans financed by Bank technical assistance have been developed with comprehensive and substantive consultation on behalf of the GoK with the communities and other stakeholders.</p> <p>Between 2006 and 2012, more than 50 consultations with members of the community were carried out during the preparation of the SESA, RPF, and the RAP for the Shala neighborhood of Hade village. In fact, consultations in</p>

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	<p>Unfortunately, the KPP project paid minimal attention to the meaningful consultation, participation and grievance standards. While evidence of meetings was provided, the LPI structure and Shala model resettlement should have left some footprint. It does not.” (p. 25)</p> <p>“The Kosovo Resettlement Policy Framework with its proposed outline of a RAP devote less than a page public consultation and grievance procedures, listing topic headings. And the model Shala resettlement action plan did not include the process detailed above. Instead, the focus is upon their land acquisition through compensation objectives.” (p. 25)</p> <p>“Grievances are permitted to challenge land valuations but a process was not provided for recognizing claims to legal rights to land, including claims that derive from customary law and traditional uses, a requirement to avoid hampering the improvement of livelihoods lost by too narrowly defined eligibility. “ (p. 25)</p> <p>“The KPP project is being designed to avoid substantive consultations with the project affected people until after Board presentation” (p. 25)</p> <p>“The LPI structure also lacks provisions for the civil sector monitoring of the effectiveness of consultation, participation and grievance process, as occurs in other Bank investments” (p. 26)</p> <p>“Lack of attention to the consultation objective is also evident at the Shala neighborhood displacement.... Between January and August 2011, KEK and MESP report they held four open house meetings in which they summarized the resettlement planning process. Community input at these meeting was limited by the way the input was structured ahead of time. Input was invited on whether to resettle the neighborhood in part or as a whole, compensation entitlement packages, procedures, and designs for the new community, replacement housing, and the option of the affected people accepting temporary resettlement. Livelihood restoration was not part of these consultations, but was planned to take place after the RAP’s publication. Nor were those at the meetings informed of the correct objectives of an internationally compliant involuntary resettlement. Consequently, those being displaced were not meaningfully informed. The time allotted was truncated, offering the displaced only a few</p>	<p>Kosovo regarding the energy sector and related environmental and social issues have been ongoing since 2005. In October 2007, community meetings were held with nine villages in the mine development area; and more than 50 consultations were carried out in 2008 in which more than 900 people participated, including 10 separate meetings with over 100 women in total.</p> <p>The preparation of the RPF included a meeting on January 2011 which was attended by 41 people, most of them from affected villages. The Shala RAP provides extensive information about comprehensive consultations with, and participation of, affected families in the decision-making process, in line with the RPF, the stated objective in the Shala RAP and OP 4.12. Engagements with the broader Hade village began in 2004, including meetings to identify the resettlement site, and in 2006 for the preparation of an Urban Regulatory Plan for the resettlement site. The consultations for the preparation of the Shala RAP, conducted by the GoK with the support of an internationally recognized resettlement firm and technical advice from the Bank, began in 2009, almost three years before actual displacement. The process was conducted based on community-level and one-on-one engagement forums, including a series of formal open house meetings, focus groups tailored to specific populations, extensive informal dialogue and one-on-one negotiations with families.</p> <p>Formal community-level meetings with affected families took place during the RAP planning phase between June and July 2011 and again for consultation on the draft RAP in August 2011, with more than 100 people in attendance. Community designs for the new site were again subject to consultations in 2011, including designs for houses. These engagements served to: provide information about the resettlement process to affected people and other stakeholders; provide information regarding the resettlement planning process, including international best</p>

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	<p>weeks possible consultation" (p. 26)</p> <p>"A properly managed mine should know where and when the next land acquisition will take place, thereby allotting adequate lead time for meaningful consultation." (p. 26)</p> <p>Project affected people are not aware about international standards. (Refer p. 26)</p>	<p>practice and compliance commitments; provide updates of key decisions made in the resettlement planning process; and respond to questions and record concerns. Focus groups specific to female members of affected households were held but poorly attended. In response, personnel from the Hade Resettlement team undertook dedicated informal consultation and disclosure with women in Shala. In addition to the different forums described above, there were multiple informal interactions during the duration of the planning process.</p> <p>The Shala RAP also notes the active use of the grievance mechanism by the affected households with more than 50 applicable grievances registered by the MESP's grievance commission. Nearly all grievances related to asset survey data and compensation valuations. Affected people from Shala also had access during the planning period to the Hade resettlement office.</p> <p>These multiple instances of engagement resulted in tangible decisions being made with the participation of affected people, such as: the collective resettlement and selection of the resettlement site; arrangements for temporary displacement; review of entitlements and resettlement options; inclusion of additional households in the census, etc.</p> <p>Further evidence of the consultative nature of the resettlement process is the dialogue that MESP and KEK established with affected families to solve the issue of allocation of plots during the implementation of the Shala RAP. This process lasted over a year between 2011 and 2013 because the families couldn't agree about distribution of the plots among them.</p> <p>In terms of grievance redress for the Shala RAP, the affected people have had continuous access to MESP's Expropriation Office (which is a different channel from the Grievance Commission), where all information related to</p>

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		<p>the process of resettlement is available. A public information center also has been established since January 2014 at the Municipality of Obiliq/Obilic, and it is open to the public. In addition to information about the proposed KPP, the office also makes available copies of the RPF, Shala RAP and the Resettlement Monitoring Reports, and it receives complaints and communications from the public and directs these to MESP or KEK for further information as required. The monitoring reports of the Shala RAP indicate that during implementation systematic and documented engagement and grievance redress between the GoK and affected people have decreased, even though there is evidence that there are ongoing interactions and people have access to the GoK's expropriation office.</p> <p>Between 2013 and 2015 regular visits and engagement activities were conducted by the local specialists of the international resettlement firm as part of its monitoring activities, and additional surveys and interviews have been conducted to prepare the Monitoring Reports (see response #14 Monitoring). More recently, between May and July 2015, additional interviews and visits are being conducted for the preparation of the Resettlement Completion Report currently underway.</p> <p>Since the inception of the Bank financed technical assistance projects in 2004, Bank resettlement specialists have conducted regular support and supervision visits. Between 2012 and 2015 alone, 13 such visits have taken place. In approximately six of the most recent visits (May and September 2013, February and May 2014, June and July 2015) there have been engagements with representatives of the Municipality of Obiliq/Obilic and/or the Shala community. During these meetings Bank staff has explained the role of the Bank, the objective of ensuring that living conditions and standards are improved, or at least restored, and concerns of the participants have been discussed in order to communicate them to the GoK</p>

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		<p>and help identify corrective actions. During the supervision period, the Bank also visited the resettlement site at New Shkabaj on at least 11 occasions to monitor progress of infrastructure and home building.</p> <p>During the final stages of RAP implementation, engagement by the GoK has become less systematic and more based on addressing issues as they arise. However, affected people maintain access to the GoK's Expropriation Office in Pristina and the Municipality of Obiliq/Obilic. As of January 2014, they also have access to the Public Information Office established at the Municipality. Maintaining active and systematic engagement throughout the process has been identified as an area that needs to be improved in future resettlement processes.</p> <p>The KPP ESIA also involves a comprehensive consultations process on behalf of the GoK with support from the ESIA consultants. Public consultation meetings with affected communities and civil society organizations (CSOs) for the Scoping Report were held in Obiliq/Obilic municipality on October 16, 2014. The ESIA consultation process has included the presentation of the international environmental and social standards being applied to the proposed KPP. The Draft ESIA will also be subject to comprehensive consultations. It must be noted that the during the ESIA social survey process in Obiliq/Obilic, those interviewed were informed directly about the proposed project. The ESIA is also including a Stakeholder Engagement Framework for future community engagement efforts, which should help inform mining planning and the consultation process associated with future resettlements to be undertaken in a timelier manner.</p> <p>Finally, it must be noted that the Bank has engaged extensively with Kosovar and international CSOs. Between 2012 and 2015, there have been approximately 20 meetings with Bank staff and Management in Washington DC and Kosovo with over 20 CSOs, many of them</p>

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		including Requesters, to discuss the proposed KPP, including the terms of reference for the ESIA process and resettlement issues. This is without taking into account multiple written and email communications.
7.	<p>ISSUE: <u>Livelihood Restoration</u>. Whether there was a failure to assist displaced persons in their efforts to improve their livelihoods and standards of living, or at least restore them, in real terms, to pre-qualification levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p> <p>See also Table 2, page 33.</p> <p>CLAIM: "The Kosovo LPI structure does not comply with OP 4.12's livelihood restoration objectives by:</p> <ol style="list-style-type: none"> 1. Ignoring mandatory livelihood restoration and improvement steps. 2. Setting more restrictive definitions of who is eligible for benefits than Bank policy. 3. Restricting the livelihood impact area to a narrow footprint, basically the house and house lots of the displaced. 4. Setting a more restricted definition of what is and is not livelihood. 5. Unduly limiting what lands are available for rebuilding and improving livelihoods. 6. Placing restrictions on the selection of a resettlement site that does not provide space for rural agricultural livelihood reconstruction or improvement. 7. Offering fewer land-for-land livelihood restoration options than are provided for wealthier Kosovo landowners whose lands are expropriated under the Expropriation law. 8. Proposing unfeasible, nonviable livelihood restoration options. 9. Lacking specific provisions for financing livelihood restoration. 10. Leaving cash compensation as the only real alternative 	<p>(Also see Response #2 above regarding OP 4.12 Objectives and #16 on Capacity)</p> <p>Disagree. Livelihood restoration is a core objective stated in the RPF and site-specific measures are to be defined according to the needs of the resettled people.</p> <p>The Shala RAP has clear livelihood restoration objectives and to date in all monitoring activities and consultations with the affected community it has been confirmed that no one has been rendered homeless as indicated in the claim.</p> <p>The Shala RAP includes a socio-economic survey that found that most people resettled from Shala derived their income from permanent or temporary employment, remittances and pensions, none of which are dependent on being resettled. Additionally, in the case of the Shala RAP, no households reported earning income from agricultural activities (Shala RAP, p. 30). Finally, there were no specific cases identified requiring specific vulnerability assistance. (Shala RAP, p. 12)</p> <p>The new resettlement site at New Shkabaj provides for better and safer living conditions, increased access to basic infrastructure such as sewage and better water supply, is closer to Pristina and connected to main roads by a newly built road, and has areas for gardens to grow fruits and vegetables for household consumption. As of June 2015, at least five of the 12 families who have relocated to New Shkabaj have started planting small scale gardens (ranging from 50 to 150 m²) on their properties.</p> <p>The Shala RAP includes a section on Livelihood Restoration (p. 57), which states that people from 20</p>

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	<p>11. Failing to address the livelihood improvement and restoration objectives in the model involuntary resettlement at Shala neighborhood in Hade.” (p. 28)</p> <p>“Management does not have studies showing their model RAP at Shala is restoring lost and disrupted livelihoods” (p.19).</p> <p>“More restrictive definition of livelihood. The Shala RAP claims that there is no evidence of the inhabitants gaining an income from “commercial agriculture.”.... In the international involuntary resettlement policies, land based livelihood systems are not limited to commercial agriculture. This overly restrictive criterion excludes subsistence food and fuel. A full analysis of this question must also determine the land-based benefits to the displaced derived from the agricultural surroundings within the context of a rapidly transforming land tenure in which land ownership, especially socially owned enterprises are being redefined” (p. 30)</p> <p>“The Shala RAP survey reports that two-thirds of the displaced supplement their household’s livelihood with fruits or vegetables grown on their land, all for household consumption (2011 socio-economic survey). New Hade-Shkabaj, will have sufficient space for accommodating the housing demand of Hade population but does not provide space for rural agricultural activities.” (p. 30)</p> <p>“Restrictive Project Footprint. Use of a restricted project footprint underestimates livelihood disruption..... The Shala resettlement action plan limits the project’s responsibility to livelihood activities reliant on affected immovable assets or access in narrowly defined Project Footprint, excluding the livelihood support contributions of surrounding areas” (pp. 29-30)</p> <p>“The [Shala] RAP further restricts the need for livelihood restoration by narrowing the definition of livelihood to mean only wage employment, cash earned, or commercial agriculture within the project footprint area. While wages play a crucial role in two-thirds of the Shala neighborhood - 93 households, other sources of livelihood play an important role in this mixed economy. However, nineteen households receive financial assistance via remittances from family members abroad, pensions and social assistance payments. Ten households</p>	<p>households were offered employment at KEK, and also includes possible additional measures that could be implemented if needed.</p> <p>The need for implementation of additional measures during the Shala resettlement process is being assessed as part of the Resettlement Completion Report. The report confirms that a majority of household heads are still employed by KEK in permanent positions.</p> <p>The claim regarding Restrictive Project Footprint is not clear. The socio-economic survey for the Shala RAP included all livelihood elements declared by the families and those findings, in addition to consultations, were the basis for designing the Entitlement Matrix and additional measures.</p> <p>During the Workshop on International Good Practices in Resettlement (May 2014) (See Capacity #14 organized by the Bank and the MESP, a brainstorming session with staff from the GoK and international experts found that many aspects in the RPF Entitlement Matrix are working properly, but that some aspects may need to be reviewed and re-assessed in the monitoring program and further resettlement planning, such as: i) issues related to agriculture-based livelihoods must be better assessed and mitigated; ii) temporary relocation must be avoided and the rental allowance criteria must be clarified; iii) responsibilities for infrastructure and services at the resettlement site need to be clarified; and iv) impacts on those remaining in areas where people are being displaced should be better considered. It was recommended therefore to revisit the Entitlement Matrix in the next phase of resettlement to accommodate the above-mentioned amendments and consider an update to the RPF accordingly.</p> <p>The Resettlement Completion Report currently underway focuses on providing documented evidence of livelihood</p>

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	<p>identified remittances as their sole source of income. About the same number of households cultivate other crops outside the household garden or orchard” (p. 31).</p>	<p>restoration and will identify any further corrective actions, if required. The Completion Report will be an input to the GoK’s effort to improve its resettlement practices. The ESIA is also assessing current resettlement practices and will recommend mitigation measures, as needed. Additionally, the ESIA is assessing the current resettlement practices in Kosovo in the New Mining Field, including the experience with the Shala RAP and will propose mitigation and monitoring measures.</p>
8.	<p>ISSUE: <u>Community Fund</u></p> <p>CLAIM: “Nor is does “sharing in the benefits” mean gift giving. Caution must be exercised not to confuse the proposed US\$ 10 million community development fund referenced in the Spatial Plan and EISA as meeting the resettlement benefit-sharing obligation. This corporate responsibility fund is not targeted to the displaced, but designated to “help the community to improve their lives, improve social and physical environment in (sic) their training and participation in decision-making process.” The Spatial Plan is clear that the community fund is for around 55,000 people in the NMF area over a 20-year period. This works out to an average of US\$9.09 per person, per year” (p. 23)</p> <p>“The simple earmarking a fund or amount is also not a development project. The Bank, including IFC, has extensive experience in benefit-sharing programs that was not brought into this project preparation. These require careful study and planning for assuring a sustained flow of benefits to the displaced.” (p. 23)</p> <p>“These benefits are distinct from a project’s broader social and economic benefits accruing to the nation or overall community or a company’s corporate responsibilities. Sustainable, benefit-sharing programs must specifically target those displaced, hopefully over the lifetime of the project. The costs for replacement of land, lost housing and infrastructure should not be tabulated as a benefit, since compensation for what is lost is neither development nor a benefit” (p. 23).</p>	<p>Disagree. The RPF and the Shala RAP are clear about the obligations regarding compensation and livelihood restoration and in the case of the proposed KPP, general economic benefits and the proposed Community Development Fund (CDF) do not substitute for such obligations.</p> <p>However, the CDF is an element proposed to be part of the KPP as a good practice, even though it is not mandatory under OP 4.12, and would also be part of the benefit-sharing mechanisms used by the project that could benefit those directly affected by resettlement as well the population in the project’s area of influence.</p> <p>The KPP ESIA and corresponding socio-economic survey will help in the design of the CDF which will also integrate good international practice.</p>

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9.	<p>ISSUE: <u>Land tenure</u></p> <p>CLAIM: “The [SESA] survey did not consider the instability of land tenure that exacerbates a forced resettlement, particularly while previous social property of the former regime is being privatized or reorganized....The lack of assessment of tenure or usufruct rights to social property, even for subsistence purposes, adds significant uncertainty to post-displacement livelihood restoration and improvement” (pp. 7-8).</p>	<p>Consistent with OP 4.12, the SESA, RPF and the Shala RAP state that affected persons who do not have secure land tenure prior to displacement should be provided with secure land tenure post displacement for their own plot, whose size and quality should ensure that they are not worse off compared to their pre-displacement conditions. Apart from this, an assessment of the country-wide privatization or reorganization of “social properties” and their impacts on the Kosovar population as a whole would be beyond the scope of the SESA for the mining area.</p>
10.	<p>ISSUE: <u>Land-based livelihoods</u></p> <p>CLAIM: Initial planning recommended locating additional resettlement sites with opportunities for many of the affected households engaged in agricultural activities. This critical, livelihood restoration recommendation was subsequently abandoned. (The World Bank/ LPTAP ESSAS, Draft of the Spatial Development Plan 26 May 2008, page 37.) Aerial photos and the SESA survey show the need for assessment of the importance of the agricultural land surrounding the project footprint to the displaced. The lost, equivalent nutritional value from this land-based subsistence production, if it had to be purchased, may exceed the 20% Bank threshold. (p. 30)</p> <p>Over half of the 14,986 hectares in the New Mining Field (NMF) are agricultural, with the remaining in forest (16%), residential (11%), wasteland or ash dumps from previous mining (10%), zoned for mining (7%), and the power plant areas themselves (1%).</p>	<p>(See Response #7 on Livelihood Restoration)</p> <p>Agree. This issues has been identified as a potential medium and long term risk for mining-related activities in the New Mining Field and therefore has been included in the scope of the KPP ESIA to further analyze it and identify mitigation measures.</p> <p>Proposed restoration of the depleted Bardh/Mirash mines to bring the land back into productive use (including agriculture) will address the issue of making rehabilitated lands available. This was originally an obligation of the private investor; however, after the decision was taken to remove the mine from the proposed KPP, the Bank has been discussing with the GoK the benefits of a public sector development project to address such issues. An Environmentally and Socially Sustainable Mining Project could focus on the following investments and support for modern mining practices: (i) development of New Shkabaj public infrastructure to prepare another 400-600 plots for the resettlement needs for the next 10-15 years as well as resettlement planning and monitoring for mining-related resettlement; (ii) economic growth and community development in the Municipality of Obiliq/Obilic; and (iii) restoration of the depleted Bardh/Mirash mines to bring the land back into productive use (including agriculture).</p>

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11.	<p>ISSUE: <u>Resettlement Site - Shkabaj</u></p> <p>CLAIM: “Those being displaced are offered a housing restoration choice, which turns out to be no choice, comparable to the false choices offered for replacement land (see 96). The policy offers the displaced either a “basic standard replacement” or cash compensation at replacement cost. This option is only offered to recognized owners who have fully unchallenged, titled rights to the property and to homeowners who fled the area as a result of the last war. Tenants with formal tenancy agreements get compensation (6 months’ rent), squatters get a transitional and compensation (3 months’ rent). The standard replacement house may be of less value to the displaced than the lost asset. And, the resettlement area lacks its infrastructure of the previous house site. This leaves cash compensation as the only “choice.”” (p. 34)</p> <p>“By March 2013 the Shala community was still not been relocated to a new site at Shkabaj. Replacement housing, plots and infrastructure at Shkabaj were not ready for the commencement of construction at the conclusion of individual negotiations. Both displaced groups are living temporary housing in the same high rise apartment. Many worried that this assistance might stop, leaving them helpless and perhaps homeless” (p. 35)</p> <p>“In place of livelihood restoration and improvement analysis, planning and programs, the LPI structure offers displaced people unfeasible restoration options, leaving cash compensation as the only choice” (p. 35)</p> <p>“Under the KRPF, cash compensation has been distributed many years ago. The livelihood and living standard changes are not being monitored. It is also evident that major lost assets, like housing and agricultural resources have not been replaced. Five years later, I walked the empty streets and incomplete infrastructure of Shkabaj, devoid of people, structures with only wooden stakes marking house lots” (p. 36)</p>	<p>Disagree. The Downing Report is dated February 2014, and its findings regarding the resettlement site at Shkabaj are from March 2013; these are now outdated.</p> <p>The compensation options offered to the Shala community were designed based on the results from the socioeconomic survey and comprehensive consultations with the affected families (see Response #6, Consultations). The same approach is expected to be applied to future resettlements as per the RPF.</p> <p>Out of the 63 families physically displaced under the Shala RAP, 52 opted to move to New Shkabaj and all of them have received compensation and titles to their new plots. By April 2014, 18 houses of good quality and materials were under construction and as of June 2015, 12 families had moved in, and 21 houses were under construction. A total of 48 construction permits have been requested and issued to date, but the responsibility and decision if or when to start building lies with the families. Some may decide not to build a new home as they have already found permanent housing elsewhere and could instead leave the serviced plot at Shkabaj as an investment. Also, the children who have moved in into the site have continued access to nearby schools.</p> <p>The basic infrastructure (i.e., main road, water, sewage connections and electricity) for the section of New Shkabaj required for people under the Shala RAP to start house construction was completed in December 2013 and accepted by a Verification Committee composed of engineers from KEK and MESP, who assessed the works against the construction contract. This also included the participation of the Municipality of Obiliq/Obilic and, as per request from the Bank, community representatives were invited as observers. As per the Shala RAP: “Access to the replacement plots at Shkabaj and house construction – by individual households or on their behalf by MESP – will proceed once basic infrastructure are in place.” (Shala</p>

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		<p>RAP, p. 35) House construction started subsequently.</p> <p>In December 2013 it was identified that the resettlement site was not yet connected to the main sewage system. The issue was again raised with the GoK, additional works were contracted and the issue was resolved in April 2014.</p> <p>During the monitoring activities by the international resettlement firm and Bank supervision, the following issues have been identified as pending as of July 2015:</p> <ul style="list-style-type: none"> • Sewage problems are affecting three households for which the GoK has already initiated actions for repair. • Current plots have electricity, but a connection to another substation with major capacity is needed to accommodate all future resettlements. This can also affect the host community. • Plots for the 2004 Emergency Evacuation group have sewage, but water still needs to be connected should people from that group decide to start building homes. • Those who have already moved in to New Shkabaj have secured places for their children at the nearest school, located approximately 1 km away, but a long term agreement with the local school is needed to ensure accommodation of the children of future resettlement phases until enough households move into the new site to justify the construction of a new school by the Ministry of Education.
12.	<p>ISSUE: <u>Quality of Shala RAP</u></p> <p>CLAIM: “The Bank uncritically accepted the Government’s claim that the NMF Shala RAP and resettlement (beginning in December 2011) not only complied with its involuntary resettlement standards, but that it would be the model for future RAPs of unspecified thousands who would be displaced.” (p. 17)</p>	<p>Disagree. The Bank and the resettlement consultant provided advice throughout the process to support the good quality of the Shala RAP, including validation with the communities through comprehensive consultations. Supervision of implementation of the Shala RAP is ongoing through the CLRP-SAF. The experience of supervising implementation of the Shala RAP has pointed to some areas that could be strengthened in future RAPs, such as</p>

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		<p>analysis of relevant issues, clearer resettlement timelines, and detailed assessment of government implementation capacity.</p> <p>The GoK has committed to implementing the RPF throughout the New Mining Field. Should the Bank decide to provide a PRG for the KRPP, resettlement issues identified in the ESIA would be addressed through the safeguard documentation for the Project.</p> <p>In early 2014 the Bank learned about the intention of KEK to expand the Sibovc mine toward the village of Shipitulle. Since then, the Bank has proactively encouraged the GoK to encourage that any future resettlement related to this expansion is conducted in accordance with the RPF. Other potential impacts on villages located near the mine, such as Hade, Shipitulle and Grabovci I Poshtem, related to noise pollution, vibration, landslide risk, disruption of water resources, contaminated dust, damaged public infrastructure, etc., have been identified during Bank supervision missions and are raised with the GoK. These impacts are also examined under the ESIA.</p>
13.	<p>ISSUE: RPF vs RAP The use of a Resettlement Policy Framework (RPF), instead of a Full Resettlement Action Plan (RAP) for the New Mining Zone (NMZ), for the Kosovo Power Project (KPP) is not compliant with OP 4.12.</p> <p>CLAIM: “First, as prerequisite for their Board’s approval, The Bank’s Operational Policy on Involuntary Resettlement (OP 4.12) requires a resettlement plan. In very limited situations, this due diligence may be relaxed and substituted with an abbreviated, resettlement policy framework. This shortcut is not applicable and a resettlement plan for the entire displacement is not being prepared.” (p.3)</p> <p>“The first weakness of the KPP is that the Bank and Government have selected the wrong policy instrument for the involuntary resettlement”. (p.17)</p>	<p>Disagree. As per OP 4.12, paragraph 28, an RPF is required when “(a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise siting alignments cannot be determined.” Conversely, a RAP is prepared whenever the exact location of the impact is known. In this particular case, the general area of the New Mining) may have been established, but the exact location and timing of future mine expansions requiring land take and resettlement over the next decades are not known.</p> <p>The RPF was approved by Government decision no. 10/22 on July 6, 2011 and applies expressly to “Ministry of Environmental and Spatial Planning. Ministry of Economic Development and all other relevant institutions that are part of this [Resettlement Policy F]ramework. It is worth noting</p>

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	<p>“The Bank does less due diligence when this special exception [namely, approval of RAPs by government or private concessionaire without prior Bank review] to its safeguard policy is allowed. Such delegation of responsibility and the use of a WBRPF may only be granted if the implementing agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Such is the case, for example, for mature governments that have demonstrated past institutional capacity in involuntary resettlement policy and processes. Management due diligence on the KRPF was lacking: the quality and comprehensiveness of the Kosovo resettlement policy framework falls far short of those developed by other Bank projects in this region.” (p. 18)</p> <p>“Consequently, no reference is made in the ESIA for the preparation of a full resettlement plan for the project, a most unusual omission for a project that intends to displace thousands of people. The TOR leaves uncertain whether or not additional RAPs, apart from the Shala model, will need to be prepared. In the place of a RP, the LPI structure transfers the responsibility for preparing and executing future RAP to the concessionaire as an option (they may prepare a RAP) not a policy requirement” (p. 18)</p> <p>“The KPP requires a full draft resettlement plan conforming to OP 4.12, its Annex, and IFC PS5 before appraisal (see Annex A, paras. 23-25), not the Kosovo RPF and with the Shala RAP as an example that should be used for the displacement of thousands of future Kosovars” (p.19)</p> <p>““The Kosovo Power Project is a single project at a single site which should require a Full Resettlement Action Plan (RAP) compliant with OP 4.12 and IFC PS5 for the whole mining area before appraisal by the WB, not just a Resettlement Policy Framework (RPF) with posterior RAPs for specific expansion areas.” (p. 19)</p> <p>“The Resettlement Policy Framework is a ministerial regulation approved by an MESP minister that has not been approved by the Assembly nor is it binding on other Ministries.” (p. 40)</p> <p>“Development of a Full RAP for the whole NMZ was omitted from the</p>	<p>that the Government’s Spatial Plan restates this commitment: “In the meantime is being finalized the draft ‘Policy Framework for Relocation”, expected to be approved by the government, separately or along with this plan, to avoid concerns of residents relocating settlements. Therefore, the same provides that, for the realization of the process of relocation resettlement of population, should follow some concrete steps, such as the following.” (Section 3.2.3). The Spatial Plan goes on to detail some of the key requirements of the RPF.</p> <p>As per the RPF, site-specific RAPs are required for any new land take that generates resettlement, once that need has been defined and the precise affected area is known. In accordance with this requirement, a site-specific RAP was prepared for the Shala Neighborhood in 2011, which was updated in 2013, and further RAPs will be prepared as needed. This approach is consistent with OP 4.12 and international practices in the mining sector.</p> <p>The ESIA for the proposed KPP will study the mining development alternatives in terms of scale, locations and phasing over the next 30 years. The ESIA is also analyzing environmental and social impacts, mitigation and monitoring measures of mine development alternatives</p> <p>The ESIA’s survey of a sample of 20% of people in KPP’s area of influence is to help identify key social issues, impacts, opportunities and concerns, including, but not limited to, resettlement. This survey is not intended to be the specific census and socio-economic survey required for the preparation of a site-specific RAP.</p> <p>The purpose of the ESIA is to identify general environmental and social impacts and opportunities, and propose corresponding management measures to inform the decision-making process by international financial institutions, including the Bank. The ESIA is not intended to include specific RAPs, which will need to be prepared once</p>

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	<p>ToRs for the ESIA. The ESIA asks for a 20% sample survey of those to be displaced, omitting the need for a definitive full census as required by international policy.”</p>	<p>site specific resettlement needs are known, based on analysis of mine alternatives and discussions thereof.</p> <p>In the case of the KRPP, the preparation of more detailed ESIA's and corresponding mitigation plans will be the responsibility of the private investor. In the case of the mine, GoK will be responsible for preparing and implementing mitigations plans, including RAPs, as required by the RPF.</p> <p>If the Bank decides to provide the PRG to the proposed KPP, further and more detailed ESIA's and mitigation plans for both KPP and the mine will be required in line with national legislation and Bank policies.</p>
14.	<p>ISSUE: <u>Monitoring</u>. The resettlement process is not adequately or openly monitored and evaluated as per OP 4.12</p> <p>CLAIM: “The civil sector and those being displaced have no way of telling whether or not the Shala consultation and participation process has met policy objectives, since it has not been monitored or evaluated. Internal bank reports were requested and kept secret.” (p. 26)</p> <p>“The LPI structure also lacks provisions for the civil sector monitoring of the effectiveness of consultation, participation and grievance process, as occurs in other Bank investments.” (p. 26)</p> <p>“The KPP makes no provisions, as are found in other Bank sponsored, involuntary resettlement projects, for the training and funding of independent NGOs to monitor compliance to national and international guidelines.” (p. 38)</p>	<p>(Also see Response #6 on Consultations)</p> <p>The RPF, as per OP 4.12, requires socioeconomic baselines and monitoring. Under the Second Additional Financing for the Clean-up and Land Reclamation (CLRP-SAF) project, the GoK has engaged an internationally recognized resettlement firm to monitor the implementation of the Shala RAP and conduct a Resettlement Completion Report. The two monitoring reports produced by the consultants covering the period October 2013 to September 2014 were publicly disclosed in English and Albanian, locally and in the Bank's InfoShop, and they identified gaps and corresponding measures to address them.¹⁷ The 1st Monitoring Report was presented to the Inter-ministerial Steering Committee for the CLRP-SAF composed of the Ministry of Economic Development (MED), MESP, KEK, and the Municipality of Obiliq/Obilic, among others, on October 14, 2014. Copies of the 1st Monitoring Report were provided in a public meeting for the</p>

¹⁷ Shala RAP 1st Monitoring Report http://mmph-rks.org/repository/docs/rePlan_-_Shala_ME_Report_1_-_final_345581.pdf
Shala RAP 2nd Monitoring Report http://mmph-rks.org/repository/docs/rePlan_-_Shala_ME_Report_2_869903.docx

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		<p>presentation of the ESIA Scoping Report at the Municipality of Obiliq/Obilic on October 16, 2014, which was attended by approximately 60 people, including KOSID and representatives from the Shala community.</p> <p>According to findings from the Monitoring Reports and from regular supervision activities by the Bank under CLRP-SAF, to date the implementation of the Shala neighborhood of Hade has been carried out in accordance with the RAP. Throughout implementation there have been some delays and challenges, which have been identified and communicated by the Bank to the GoK in a timely fashion. The GoK has worked to correct these, although there are still areas of improvement, such as documenting the grievance redress process, enhancing communications with affected people and addressing issues related to a clogged sewage affecting three homes. These, and other areas of improvement, have been documented and made public through the disclosure, locally and through the InfoShop, of the two Monitoring Reports conducted to date.</p> <p>These reports provide evidence that all families have received compensation and that the 52 families who opted for a plot at New Shkabaj have received titles to their new property. It also found that the site was ready to start construction of homes in December 2013 and that as of July 2015, 48 construction permits have been issued, 21 homes are under construction and 12 families have moved in.</p> <p>Issues that were identified in the monitoring reports, as well as during Bank supervision, were brought to the attention of the GoK, which has addressed the most substantive ones. For example, in early 2013 the Bank learned about the GoK's intention to suspend payments in May 2013 of rental allowances to 21 eligible families from the Shala neighborhood living in temporary accommodations. However, as per the RAP, the GoK had to provide such allowances up to four months after access to the</p>

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		<p>replacement plots was declared effective. The Bank raised the issue with the GoK and a first partial extension of payments from May until November 2013 was provided. The CLRP-SAF was only declared effective after evidence of retroactive and continuing payments of rental allowances was received by the Bank.</p> <p>A second five-month extension, from December 2013 to April 30, 2014, including retroactive payments to ensure compliance with the provisions of the Shala RAP was also provided after the Bank issued a Threat of Suspension letter, dated January 29, 2014, related to the need to bring implementation back into compliance with the Shala RAP.</p> <p>In December 2013, the Bank learned from the affected community and monitoring reports that New Shkabaj was not yet connected to the main sewage system, which didn't affect home construction activities but was required for families to be able to move in. These works were included as a separate contract with the road upgrade and the GoK resolved the issue by April 2014.</p> <p>More recently, the issue of clogged sewage affecting three homes was raised, and in response to the issued raised by the Bank, the GoK is arranging that the contractor undertakes the repairs as the sewage is still under warranty. These works are planned to start late July 2015.</p> <p>A Resettlement Completion Report is being prepared and is scheduled for public disclosure in the last quarter of 2015. An updated Resettlement Completion Report could be prepared by the newly extended Closing Date of CLRP-SAF (February 29, 2016) if more people from Shala decide to move to the resettlement site at New Shkabaj by that time.</p> <p>Participation of civil society in monitoring activities is not an OP 4.12 requirement. Going forward, the Bank could recommend to the GoK to consult with the affected people</p>

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		about this point.
15.	<p>ISSUE: <u>Legal Framework</u>. WB arranged and financed a ‘legal, policy and institutional structure (referred to as the ‘LPI structure’) that is not consistent with OP 4.12. Such LPI consists of 1. Key Planning Studies (including the EuropeAid investigation, the SESA and the Draft Sibovc Development Plan), 2. Special Constitutional Provisions for Mining (5 June 2008), 3. Law on Expropriation (8 May 2009), 4. A refined area of special interest and a spatial plan, 5. An RPF for the NMF, and 6. The Shala “model” RAP.</p> <p>CLAIM: “[WB] arranged and financed technical assistance to hastily build a new and acceptable legal, policy, and institutional structure (referred throughout this paper as the “LPI structure”). The structure is exogenous to Kosovo, a product of almost a decade of expatriate policy advice and financing, primarily from the World Bank” (p. 10)</p> <p>“First, a series of studies, most funded by The World Bank through a technical assistance grant helped provide data and policy development assistance to the fledgling project. The LPTAP arranged a planning document entitled the Draft Sibovc Development Plan (May 2008)” (p.11)</p> <p>Second, less than four years after the Hade evictions, the new Constitution (effective 5 June 2008) circumscribed what would otherwise be a Kosovar’s fundamental right from the arbitrary taking of private property (Chap II, Art. 46).... Article 122 designated natural resources, including mining, to be of “special interest” to the Republic, meaning they shall enjoy special protection in accordance with law” (p.12)</p> <p>“Third, the Law of Expropriation of Immovable Property (Law 03/L139, 8 May 2009) details the rules and conditions for taking a person’s ownership of or other rights to immovable property, including their right to prompt payment, compensation, and legal remedies. Without defining specific values, Ministry of Economy and Finance sets compensation at market value, excluding the cost or value of any</p>	<p>Disagree: Management disagrees strongly with the allegation that the Bank ‘arranged and financed’ a legal, policy and institutional framework that was inconsistent with OP 4.1.2.</p> <p>The Bank has provided technical assistance in relation to the following documents: the SESA, the RPF for the New Mining Field, and the Shala RAP amongst others. The scope of the Bank’s involvement in the development of these instruments is set out fully elsewhere in this response.</p> <p>Additionally, the Bank provided technical assistance for the <i>Final Draft New Mining Field Development Plan</i>, which was a regional energy sector development plan, aimed at describing the spatial implications of the development of a new mine and power plants. The Development Plan is outdated to the extent that the size of the proposed KPP was reduced substantially from 2,000 MW to 600 MW and the mine will remain in the public sector rather than being privatized.</p> <p>Contributing amendments to the draft expropriation law were prepared by consultants financed under LPTAP to address issues identified in the Interim Diagnostic Report and to facilitate compliance with World Bank and IFC safeguard requirements. This included advice to bring the law into full compliance with OP 4.12, particularly on the issues of replacement value, compensation for those with no formal title to land, meaningful consultation and the importance of avoiding or minimizing harm. However, as the drafting of legislation and its enactment are sovereign matters, the Bank has no control over the final form of legislation enacted. It is noted that much of the Bank’s technical assistance on Law on Expropriation was not incorporated by the GoK in the final amendment.</p>

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	<p>improvements to the property, constructed or enlarged facilities, trees and crops subsequently planted, or change in market value after the published cutoff date (Art.15).</p> <p>Challenges to expropriation decisions may be made in the court of competent Jurisdiction (Art. 35). The land acquisition policies in the Constitution and Law of Expropriation focus on compensation, not livelihood loss, restoration or improvement.” (p.12)</p> <p>“The same month in 2009 that the MESP started to prepare this spatial plan, the Minister approved the fifth component of policy, legal, and institutional structure, Kosovo Resettlement Policy Framework (KRPF)..... In contrast to the detail of its entitlement matrix, the KRPF postpones setting timetables and budgets until future RAPs are drafted.</p> <p>36. The KRPF distributes institutional responsibilities for implementation, monitoring, and oversight, defines a grievance process, and delegates the Government’s right of expropriation to the yet-to-be designated private concessionaire.” (pp.14-15)</p> <p>“Together, the KRPF and the SP create a policy framework that facilitates the use of the pre-independence, SMELT, incremental expansion-expropriation for taking land in the New Mining Field displacement” (p.16)</p>	<p>Notwithstanding this law, it should be noted that the RPF applies to the entire New Mining Field. The GoK has committed to implementing the RPF, both through its adoption of the RPF on July 6, 2011 and subsequently in its Spatial Plan, approved October 2011.</p>
16.	<p>ISSUE: <u>Capacity</u>. The World Bank overestimated institutional capacities of those responsible for implementation of the resettlement.</p> <p>CLAIM: “Second, the preparation [of the RPF?] overestimated the institutional capacities of the Government.” (p.3)</p> <p>“The newly formed Kosovo government cannot demonstrate its experience or capacity to oversee a Bank-compliant RPF, particularly while they are overseeing two previous, incomplete, noncompliant involuntary resettlement and hundreds of people living in temporary housing in the project area (Shala and the 2004-05 displacement)” (p. 19).</p>	<p>Disagree. The Bank has always recognized the weak capacity of the GoK to manage resettlement issues and that is precisely the reason why the Bank’s engagement has been focused on strengthening the institutional framework and awareness and capacity of the relevant agencies, through ongoing advice and training, in order to avoid or mitigate impacts on the community.</p> <p>In addition to regular support and advice regarding the preparation of the RPF and the monitoring of the Shala RAP, the Bank has organized various capacity building activities.</p> <p>On May 13-14, 2014 the Bank organized a Workshop on</p>

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	<p>“A compliant analysis of the institutional capacity should include a) the identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation, b) an assessment of their institutional capacity, and c) any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation and d) steps needed and taken to bridge the gaps between the national and international standards. Of particular importance to the KPP, the responsible institutions (in this case, the Government and the private concessionaire) must show the capacity to identify and prepare relocation sites for which a combination of productive potential, locational advantages, and other factors at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources. Thus far, only half of step “a” has been taken, since no Kosovo NGO has been incorporated as part of the project.” (p. 37)</p> <p>“The KPP seriously challenges Kosovo’s key agencies. KEK is the government organization with the most experience in mining-related land acquisition and displacement and resettlement. The Project intends to dismantle KEK, de-institutionalizing this knowledge. It is uncertain whether or not key staff will be retrained in the international standards.” The other official loci of knowledge, Ministry of the Environment and Spatial Planning (MESP) will be responsible for approving and monitoring the private concessionaire’s implementation of the RAP and receiving public comments. MESP is unprepared to deal with thousands of new KPP-NMF project-affected-people. Its small staff is aware of, but untrained in internationally compliant involuntary resettlement standards and methods and has other national responsibilities. This staff has been unable to resolve the ongoing, legacy issues in the two unfinished, involuntary resettlements in Hade neighborhoods.” (p. 38)</p> <p>“A sizable cohort of displacement and resettlement specialists will be necessary to plan and implement this sizable involuntary resettlement</p>	<p>International Good Practices on Resettlement for 25 key staff from MESP, KEK, MED, Ministry of Finance and the Municipality of Obiliq/Obilic. During this Workshop, the international firm in charge of monitoring the Shala RAP presented the findings of the 1st Monitoring Report and internationally recognized experts shared international good practices and provided recommendations to the GoK regarding institutional arrangements, need for medium and long-term resettlement planning, and enhancements to the RPF. The workshop was also used to brainstorm with the GoK around actions and organizational structures for future resettlement planning and implementation.</p> <p>Another, more comprehensive, three-day training workshop for 30 staff from KEK and MESP by international experts, and including a study tour to resettlements related to lignite mining in Germany, was conducted in December 2014. That experience was scaled up by the Bank, in partnership with other stakeholders, into a two week-long international practical course on “Land Acquisition, Resettlement and Social Sustainability”¹⁸ in Groningen, The Netherlands (July 6-17, 2015). The course is delivered by internationally recognized experts, includes 30 experienced practitioners (including 5 from Kosovo) from over 10 countries and also has a study tour to the lignite mine in Germany. This course will be offered every six months. The objective is to expose staff from KEK and MESP, among others, to experiences from developed and developing countries and enhance their technical skills.</p> <p>Institutional capacities to deal with resettlement will be reviewed as part of the KPP ESIA and further mitigation measures will be recommended, as required.</p>

¹⁸ See <http://www.rug.nl/education/summer-winter-schools/summer-schools-2015/land-acquisition/?lang=en>

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	<p>that is expected to take thirty or more years. Despite the strong professional capacity of educated, talented Kosovars, there is no such training or preparation in involuntary resettlement within the country. This makes it likely that more expatriates will be used.” (p. 38)</p> <p>“The project will be handed to the private concessionaire during preparation for execution and financing” (p. 38). In short, responsibility for resettlement responsibilities will be transferred to a private sector operator with unknown capacity (refer page 39)</p>	
17.	<p>ISSUE: <u>2004 Emergency Displacement</u> is a legacy issue for the KPP that must be addressed.</p> <p>CLAIM: Livelihoods of 158 families (664 people) affected by 2004 Emergency Displacement have not been restored after 9 years.</p> <p>In a rush to press forward, legacies of past involuntary resettlement decisions remain. What happens to Hade families from Shala and the earlier 2004-05 neighborhoods whose resettlements are both incomplete and noncompliant? Will government or the private investor or neither, mitigate the risks they face and pay the full costs? Will these legacy displacees receive the same protections as those under the KPP Bank financed project? Dare the Bank approve a project in which the residences of the unfinished Hade displacements fall under different entitlements, policies and rights, totally aware that under their technical guidance, the legacy displacees are being impoverished? Is the Board ready to accept this clear example of counter-development?</p>	<p>The resettlement for the 2004 emergency displacement was carried out by UNMIK and PISG and was not part of any Bank-supported project.</p> <p>The KPP is still under consideration and mining operations are not included under the current project structure for the Bank’s Partial Risk Guarantee (PRG). However, for safeguard purposes, the ESIA under preparation for KPP will treat the mine required for KRPP as a related activity and will examine relevant issues, including undertaking a gap analysis with Bank safeguard policies.</p> <p>Regarding progress of the resettlement of Shala neighborhood of Hade village please refer to Response #11.</p>
18.	<p>ISSUE: <u>Zone of Special Economic Interest</u> places unacceptable restrictions on land use and create uncertainty for those living in the NMF</p> <p>CLAIM: The fourth LPI component, the Spatial Plan for an Area of Special [Economic] Interest -New Mining Field :2010-2020+ (see ¶ 10 – 17), 31 was prepared by an inter-ministerial working group and completed in 2011 (MESP executive Decision No. 10/22 of 6 July 2011), and it may or may not have been approved 32by the Kosovo Assembly on 7 October 2011.33 34 The Spatial Plan (SP) refines the provisions of the 2004 UNMIK decision 4/119 to create a Zone of</p>	<p>A Zone of Special Economic Interest was established pursuant to Government Decision No 4/119 of November 3, 2004. This predates the Bank’s involvement in Kosovo through the LPTAP. The 2004 Zone of Special Economic Interest covered the villages of Hade, Sibovc, Leshkoshq and Cerkevna Vodice, and the Municipality of Obiliq/Obilic. The Government revised and enlarged the Zone to cover the entire New Mining Field pursuant to Government Decision No 2/57 dated March 13, 2009. However, according to the terms of the 2009 Decision, the 2004 Zone</p>

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	<p>Special Economic Interest around the proposed new mining field (NMF)..... The SP defines the general rights and entitlements of those who will be expropriated and resettled - justifying, through a planning document, the removal or disruption of people and non-energy related economic activities within and near the NMF to be in the national interest” (pp.12-13)</p> <p>“The Plan envisions – but does not provide - a two phase involuntary resettlement plan, an overall aim (objective), nine specific goals, and allocating responsible and implementation authority for 51 short/mid/and long term tasks for the projects aim (i.e. objectives) to plan and control the relocation process and development of more settlements.” (p.13)</p> <p>“Moreover, the SP does not follow an integrative, multi-use, multi-sectorial strategy for spatial planning as defined by the European Spatial Development Perspective”. (p. 13)</p> <p>“The Plan, however, does list involuntary resettlement impacts as a secondary criteria to be considered when siting of the new power plant. The SP assumes the area will have a single purpose: energy development. Rather than explore all viable alternative project designs and trade-offs designed to minimize adverse social and economic impacts from land acquisition or restrictions on land use, the SP maximizes lignite production. Specifically, it ignores alternative coaling strategies that were put forth in the 2005 European Agency for Reconstruction multivolume study of proposed lignite exploitation options. Instead, restoration of its dismantled agricultural resources and dismembered and dislocated human settlements is scheduled for post-coaling, up to three decades from now” (pp. 13-14)</p> <p>“Projects with adverse social and economic impacts from a restriction of land use are considered involuntary resettlements under IFC PS5 and private sector Equator Principles. In this situation, a primary objective of the project should be “to anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts by (i) providing compensation for loss of assets at replacement cost and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed</p>	<p>remained in force until the approval of the Government’s Spatial Plan by the Kosovo Assembly. This occurred in October 2011.</p> <p>Both the SESA and New Mining Field Development Plan informed the Spatial Plan, however the Spatial Plan was not financed under a Bank project. It was prepared by the Institute of Spatial Planning and was drafted in cooperation and consultation with a large number of spatial planning professionals, various scientific institutions, and representatives of civil society, and with the support of international organizations and ministries and municipalities.</p> <p>It should further be noted that the RPF was prepared and adopted prior to the entry into force of the 2009 declaration of an enlarged Zone of Special Economic Interest.</p> <p>The RPF and the Shala RAP provide for compensation to adversely affected people, including for illegal structures. Specifically, the Shala RAP notes that “there has been notable new construction since the November 2004 Declaration of Special Interest, which took place without legal building permits” and that affected peoples would be compensated for these new structures. Under the implementation of the Shala RAP, affected people are in fact being compensated for these structures built in breach of the Zone of Special Economic Interest.</p> <p>Management notes that the ESIA under preparation for the proposed KPP includes an analysis of relevant issues.</p>

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	<p>participation of those affected. This has not been done.</p> <p>The argument might be made that the Kosovo government, not the Bank, made the restrictions on land use. However, there is ample documentation showing Bank Management and their advisors were actively designing, supporting and financing the legal, institutional and policy framework for an involuntary resettlement. “ (p. 47)</p> <p>Imposing long term restriction on how land can be used (e.g., within a mining concession area), regardless if the land will be taken in the short term, also falls within PS5 and therefore any economic losses for not being able to use the land freely (e.g., build an extension to your home) would be compensated.</p>	
19.	<p>ISSUE: Resettlement costs. The KPP grossly underestimates the costs of the involuntary resettlement and does not reflect real project cost and Internal Rate of Return.</p> <p>CLAIM: “Fourth, lacking focus on the primary objectives, the costs of involuntary resettlement are seriously miscalculated and underestimated, raising investment costs, thereby delaying the profitability phase of the overall KPP. Prudent applicants for the private concessionaire, financiers, government, civil sector and those threatened with displacement should request a recalculation of a fully compliant involuntary resettlement component for the lifespan of the project. These costs should be folded into a revision of the projects’ overall investment costs.” (p.3)</p> <p>“Meaningful evaluations of alternative, compliant coaling scenarios also must wait for realistic calculation of resettlement costs (see ¶ 142 to 145 for this challenge).” (p. 23)</p> <p>“Bank policy requires that a plan include tables showing itemized cost estimates for all resettlement activities, including allowance for inflation, population growth. The cost breakdowns should also include timetables for expenditures; costs of grievance procedures; sources of funds; and arrangements for the timely flow of funds, and funding for resettlement, if any in areas outside the jurisdiction of the implementing agency.” (pp. 40-41).</p>	<ul style="list-style-type: none"> • The KPP project scope excludes mining development activities, which will remain the responsibility of the public sector, as per the KPP Project Steering Committee decision in early 2014. • Resettlement will therefore be managed and financed by KEK, a publicly-owned enterprise. KEK and the GoK will decide how the cost of resettlement from mining is to be reflected in the cost of the lignite which is being used in the existing Kosovo A and Kosovo B plants, and would be used in the proposed KPP. <p>The ESIA will provide information on mine and resettlement planning and alternatives, based on which previous estimations of total costs of resettlement can be updated, and options studied if required.</p> <p>Should the Bank decide to support a PRG for the proposed KPP, as part of its due diligence prior to presenting the project to the Board, the Bank must be satisfied that, in addition to any measures described in the ESIA: (i) sufficient provisions are in place to finance potential resettlement; (ii) RAPs are prepared and implemented for the affected villages/neighborhoods sufficiently in advance of any mining activities impacting such</p>

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	<p>“Three years later, in a one page budget, Hunton and Williams Consultants increased the overall budget to 180-200 m€ and increased the estimated affected households to 1500 and the costs to 120K €/household.¹³⁸ Their revision excludes payments for lost farmlands and public infrastructure. These revised budget and population estimates were not incorporated into the KRPf” (p. 43)</p> <p>“In 2011, Kosovo made its first attempt to budget for an involuntary resettlement of Shala, a budget they incorrectly believed was “consistent with” international guidelines. A review of the Shala model RAP finds it ignores the guidelines. It offers a one page of narratives that does not calculate its budget, lacking tables, detailed itemizations, and timetables. Prepared by the MESP, it estimates costs to displace 63 households with 320 full-time residents at 211,111 €/household for a total of 13.3M €. ¹³⁹ The so-called budget list and verbally describes six budget “items” - cash compensation for land, crops and structures, construction of resettlement site, administration, other benefits, and a 10% contingency. No further priorities or breakdowns of this estimate is provided. “Other benefits” is supposed to cover a non-itemized list, including livelihood restoration and community development initiatives, vulnerable assistance measures, and maintaining the displaced population in a “temporary” status.” (p. 43)</p> <p>“Training for livelihood restoration is listed in the Shala RAP, but not the actual costs of livelihood restoration and livelihood improvement costs” (p. 43)</p> <p>“Notwithstanding this non-compliance, the ESIA shows little concern to refine or update the budget guesstimates before Board presentation. Estimates of engineering costs, in contrast, have been detailed. Should the project proceed as currently described, the costs of the resettlement plans will not be determined until after a future decision by the concessionaire to request land expropriation that is necessary for the next phase of mining operations” (p. 43)</p> <p>“Such decisions add significant uncertainty and undefined liabilities to KPP financing that are likely to change the project’s IRR.....Using the correct modeling, the overall project profitability might be improved by using energy development alternatives or adopting mining operations</p>	<p>villages/neighborhoods; and (iii) the economic analysis of the proposed KPP includes the cost of resettlement activities.</p>

No.	Issue / Claim	Response
	<p>scenarios that do not require extensive involuntary resettlement.” (p. 44)</p> <p>“The consequences of this underestimation, externalization and ambiguous work stretch beyond the proposed project. The incomplete, noncompliant work is giving the Bank Board incomplete and biased information, reducing its ability to compare the KPP to other international projects or possible Kosovo energy alternatives.” (p. 44)</p> <p>“In the area of involuntary resettlement, Management and Government have structured the preparation of this project to give the KPP an unjustified, competitive advantage in Bank project selection, i.e., in hydropower projects, the Bank routinely estimates the full displacement costs at the beginning of the project cycle.” (p. 44)</p>	
20.	<p>ISSUE: <u>Electricity Rates</u> will increase as a result of resettlement-related costs and project overruns which will increase social conflict.</p> <p>CLAIM: “Fifth, the uncertain structure of project financing also creates downstream, political risks for the government, planting the seeds that will exacerbate existing civil discord and political unrest. Costs overruns to complete the resettlement will be paid out of rate increases, not by government or the private concessionaire, leading to future conflicts between Kosovo electrical ratepayers and those being displaced.” (p.3)</p> <p>“This weak scaffolding will also spark civil conflict and create political risks” (p. 45)</p> <p>“The privatization model protects the concessionaire from absorbing additional involuntary resettlement costs. The private investor may, however, pass cost overruns to ratepayers, through a public process. This structure will pit Kosovo citizens, the ratepayers, against those who are being displaced.” (p. 48)</p> <p>With a history of public protests against electrical rate increases, it is unlikely that ratepayers will be sympathetic or wish to pay for international compliance.</p>	<p>See Response #19.</p> <p>The mine will remain in public ownership. Resettlement would therefore be managed by the publicly-owned enterprise and would follow the RPF, as agreed by the GoK. The public sector company would also decide with the GoK how the cost of resettlement associated with its mining activities is to be reflected in the cost of the fuel for the existing and proposed power plants or whether this could be included as public costs in case of a new Bank financed project on Environmentally and Socially Sustainable Mining.</p>

No.	Issue / Claim	Response
21.	<p>ISSUE: <u>Mine Reclamation</u></p> <p>CLAIM: Have sufficient funds been set aside to cover this back-end cost? EuropeAID estimated little less than 100 m€ (2005) to recover 18% (212 hectares) of cultivatable land lost to the New Mining Field, or slightly less than 500,000 per hectare or .15 Euro/ton of coal. No adjustment was made for inflation. Donor studies point out that such reclamation is technically complex and leaves an area of agricultural land deep inside the pit, next to a new lake, that would be unsafe for reestablishing nearby human habitation. Will people be willing to commute a long distance to work fields? What type of agriculture is feasible? No studies were found showing the new lands will have the same or better potential than those lost. Given these uncertainties, it is disingenuous to offer those being displaced with either cash compensation or the promise of rehabilitated land. This leaves them no other option.</p> <p>This is, in reality, a compensation only option lightly covered with a veneer that appears to be the Bank operational directive.</p>	<p>The ESIA is preparing a set of conditions, requirements and recommendations for the Mine Reclamation and Closure Plan for the Bardh and Mirash mines, based on the already existing Complementary Mining Plan for Sibovc SW, EU legislation and Best Available Techniques Reference Documents.</p>
22.	<p>ISSUE: <u>Conditionality. Lack of clarity on WB conditionality regarding resettlement linked to KPP</u></p> <p>CLAIM: The KPP has not made it clear whether or not the Bank will i) finance an involuntary resettlement component of the main investment or ii) opt for a free-standing project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement.</p>	<p>The development of the mine and the refurbishment of the existing Kosovo B have been excluded from the scope of the proposed KPP, which now solely focuses on the new lignite plant. The ESIA for KPP, however, treats the mine required for KRPP as a related activity to the proposed KPP and the ESIA is undertaking an analysis of environmental and social impacts as a result of this mining, including relevant issues.</p> <p>The ESIA will satisfy the requirements of OP 4.01 on Environmental Assessment and OP 4.12 on Involuntary Resettlement.</p> <p>Separately from KPP, the Bank has been discussing with the GoK the need for and benefits of an Environmentally and Socially Sustainable Mining Project, as discussed under Response #10.</p>

No.	Issue / Claim	Response
23.	<p>ISSUE: <u>WB Appraisal Requirements</u>. ESIA requirements prior to Board not in line with WB policies</p> <p>CLAIM: Management also departs from Bank due diligence procedures that require a project developer to prepare the ESIA for each of the separate subprojects subject to national legal requirements. They are planning to bring before its Board a project that was somewhat prepared by international and national experts, not the concessionaire. The project will be handed over to the private concessionaire during preparation, for execution and financing.</p>	<p>This is not a requirement as per OP 4.01. Additionally, the legal requirements as per Kosovo legislation and EU Directives, most notably the Industrial Emissions Directive and the BREFS regarding the plant, are the same. EU Directives with the obligation to use Best Available Techniques have been transposed into Kosovo legislation.</p>
24.	<p>ISSUE: <u>Health Impacts</u>. Despite health impact issues identified in previous studies, the ESIA consultants were directed not to undertake a specific health survey</p> <p>CLAIM: “Also, despite health impact issues identified in previous studies, the consultants were directed not to undertake a specific health survey. Nor is there a requirement for an analysis of the risks facing those to be displaced.” (p. 40)</p> <p>“Bank consultant reports and the World Bank’s Inspection Panel have repeatedly warned of public health and safety threats to the people of Dardhishte village located next to the active tip of Kosovo A ash dump, between the Mirash mine and Kosovo A power plant. And the SESA stated that another 330 families in the town of Plemetin will need to be relocated because their houses are within the 1,000m buffer zone for the new power plant. Other adjacent populations may also be at risk, particularly from the major community concern for health. The SESA states “Health is a major community concern and one that needs to be addressed in more detail.” And the ESIA blindfolds the project to the seriousness of these issues by directing the consultants to provide general information about the type of health implications which are typically connected with lignite-fired coal plants, but “not undertake a specific health survey other than the health issues which will be integrated in the social-economic-cultural assessment.” This is unquestionably, intentional and inexcusable negligence.” (pp. 47-48)</p>	<p>As per the publicly disclosed Terms of Reference for the ESIA, the ESIA will indicate health effects typically associated with pollutants related to lignite fired power plants and other sources of air pollution. Incremental impacts of the proposed KPP will be analyzed, as well as the effects of the closure of Kosovo A, according to the air quality standards as defined by the Ambient Air Quality Directive, which take into account the World Health Organization standards. These analyses will help determine the reduction of short- and long-term mortality risks that Kosovo can achieve by reducing concentration levels of ambient air pollution.</p> <p>Impacts on air quality from the proposed KPP are expected to be insignificant as the proposed KPP will need to meet the Industrial Emissions Directive and air quality will improve by closure of Kosovo A (which the project will enable).</p> <p>The issue of buffer zones and impacts associated with mining operations in proximity of communities has been identified as a major area of focus of the KPP ESIA, which will provide information and analysis in that regard and identify mitigation and monitoring measures. The Bank acknowledges, and has communicated to the GoK, the importance of adequately managing this risk.</p>

**ANNEX 5: PICTURES OF ENVIRONMENTAL LEGACY ISSUES FROM
ENERGY PRODUCTION AND MINING ADDRESSED THROUGH CLRP**



Kosovo A ash dump before remediation through CLRP



Kosovo A ash dump before remediation through CLRP



Dust created due to dry ash dumping on land by Kosovo A's power plant
before remediation through CLRP



Kosovo A ash dump after remediation with vegetation being established,
financed through CLRP



Installation of a wet ash system, eliminating dust from ash handling at Kosovo A, financed through CLRP



Situation before Bank-supported clean up through CLRP:
Oil tankers full of hazardous waste at Kosovo A's gasification site.



Clean-up works through CLRP at the Kosovo A gasification site



Kosovo A gasification site: Cleaning of tanks and preparing for transport of hazardous chemicals and disposal at licenced facilities abroad, through CLRP



Land in overburden areas being reclaimed (stabilization and water management) under CLRP in order to allow usage



Installation of continuous air quality monitoring stations in the Municipality of Obiliq/Obilic under CLRP-SAF

KOSOVO CLEANUP AND LAND RECLAMATION PROJECT PROJECT SITE LOCATION

○ KOMUNA/OPŠTINA CAPITALS*

⊙ RRETH/OKRUG CAPITALS**

★ NATIONAL CAPITAL

RIVERS

— MAIN ROADS

— RAILROADS

— KOMUNA/OPŠTINA BOUNDARIES

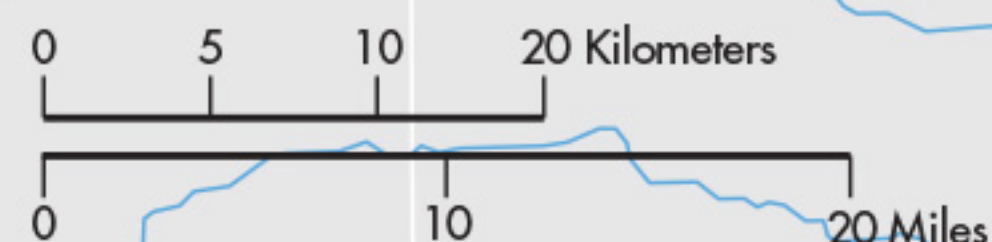
— RRETH/OKRUG BOUNDARIES

- - - INTERNATIONAL BOUNDARIES

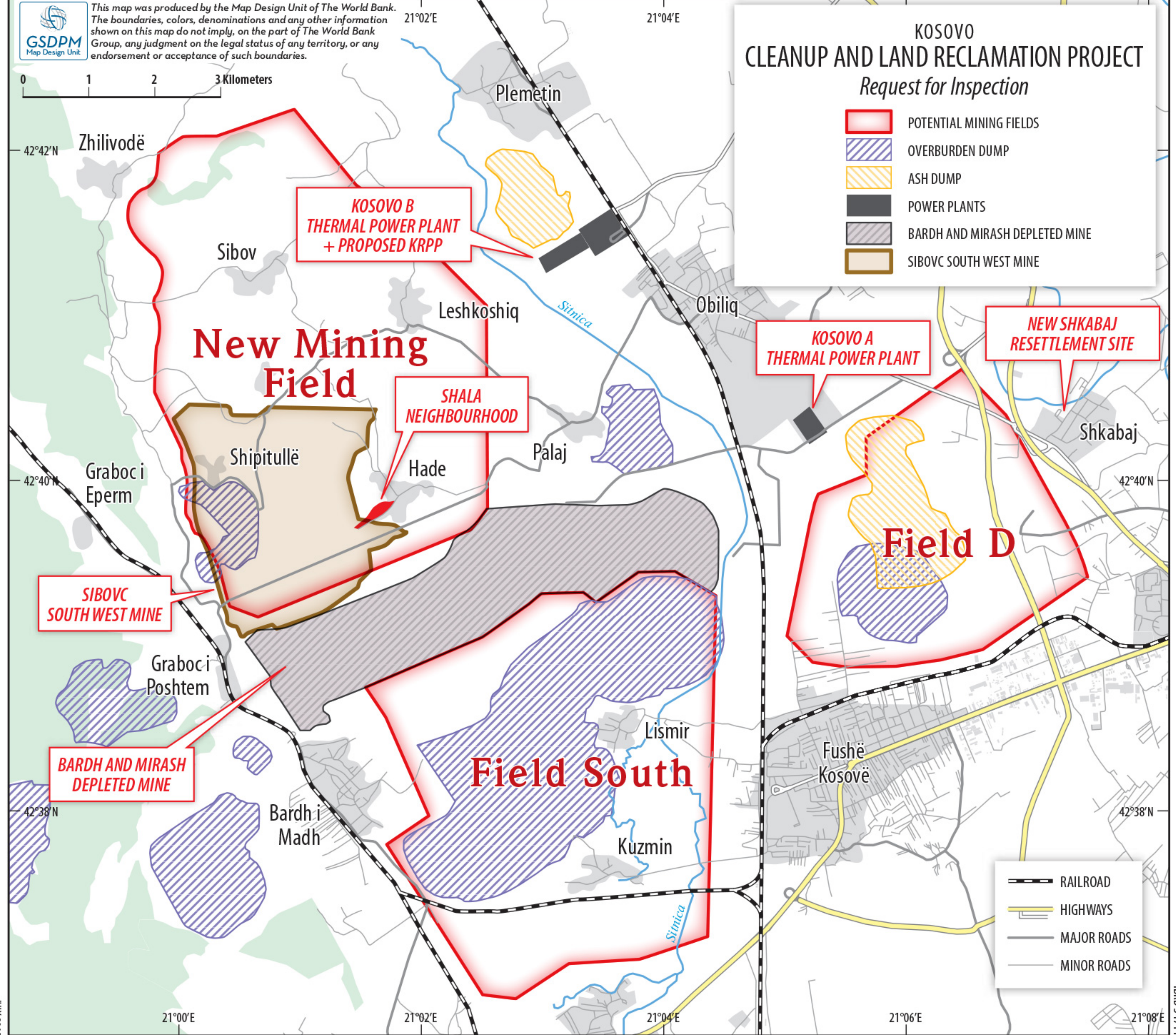
* The first name is in Albanian and the second one is in Serbian.

** Names of the Rreth/Okrug are the same as their capitals.

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0 1 2 3 Kilometers



KOSOVO CLEANUP AND LAND RECLAMATION PROJECT *Request for Inspection*

- POTENTIAL MINING FIELDS
- OVERBURDEN DUMP
- ASH DUMP
- POWER PLANTS
- BARDH AND MIRASH DEPLETED MINE
- SIBOVC SOUTH WEST MINE

**NEW SHKABAJ
RESETTLEMENT SITE**

**KOSOVO A
THERMAL POWER PLANT**

**KOSOVO B
THERMAL POWER PLANT
+ PROPOSED KRPP**

**SHALA
NEIGHBOURHOOD**

**SIBOVC
SOUTH WEST MINE**

**BARDH AND MIRASH
DEPLETED MINE**

- RAILROAD
- HIGHWAYS
- MAJOR ROADS
- MINOR ROADS

KOSOVO
CLEANUP AND LAND RECLAMATION PROJECT
Request for Inspection

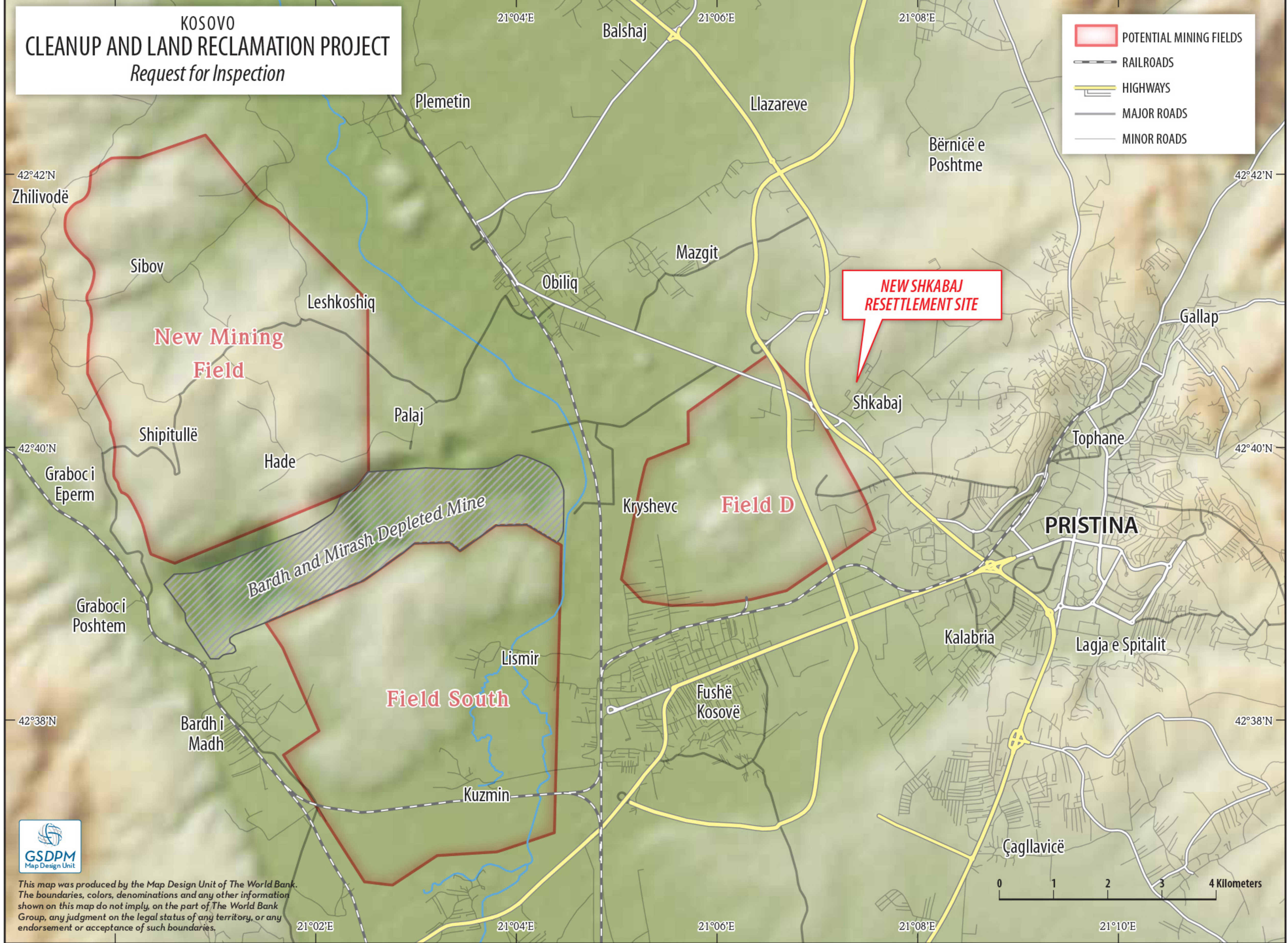
POTENTIAL MINING FIELDS

RAILROADS

HIGHWAYS

MAJOR ROADS

MINOR ROADS



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