

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

PROJECT COMPLAINT MECHANISM

ELIGIBILITY ASSESSMENT REPORT

COMPLAINT: BOSKOV MOST HPP

REQUEST NUMBER: 2011/05

Executive Summary

The Eligibility Assessors have had little difficulty in determining that the present two closely linked Complaints, as submitted by the same Complainant in November and December 2011, clearly **satisfy the eligibility criteria for a Compliance Review as set out under the Project Complaint Mechanism (PCM) Rules of Procedure (RPs)**. At the general level, it is clear that both Complaints concerns a Project that has been approved for financing by the Bank and actions or inactions that are the responsibility of the Bank, that it describes the harm likely to be caused, the PCM function requested and the outcomes sought, and that the Complainant enjoys standing to complain as a representative of the Organisation “Eko-Svest”. In addition, at the more specific level, it is quite clear that each of the individual instances of non-compliance alleged in the Complaints satisfies the relevant and applicable specific eligibility criteria listed under the PCM RPs. Each allegation of non-compliance also provides details of the Relevant EBRD Policy at issue.

This Eligibility Assessment includes detailed Terms of Reference for the envisaged Compliance Review, setting out the key compliance questions to be addressed, the key Relevant EBRD Policies at issue, and the essential steps to be taken in the conduct of the Compliance Review, as well as its scope and time-frame.

Background

1. On 7 November 2011, the Project Complaint Mechanism (PCM) Officer of the European Bank for Reconstruction and Development (EBRD) received a Complaint (“Complaint”) regarding the Boskov Most Hydro Power Project in FYR Macedonia (the “Project”) and this Complaint is included as Annex 1 to this report. The Complaint was made by Ms Ana Colovic Lesoska of Eko-svest (the “Complainant”), and, in accordance with PCM RP 10, was registered by the PCM Officer on 14th November 2011. Based on the requirements of the PCM RP 12, the PCM Officer informed all interested parties of the registration of the Complaint and subsequently designated one of the PCM Experts, Mr Graham Cleverly to assist in the eligibility assessment (the “Eligibility Assessment”) of the Complaint. Subsequently, a further Complaint regarding the Boskov Most Hydro Power Project was received from the same Complainant on 30th December 2011 and this was registered on 10th January 2012 and is included as Annex 2. Details of both registrations were posted on the online PCM Register of Complaints and can be viewed at <http://www.ebrd.com/pages/project/pcm/register.shtml>.

2. The original Complaint refers to the Mavrovo National Park where the Project will be mainly situated as an Emerald Site and future Natura 2000 site and raises concerns about the adequacy of the assessment of the environmental risks to mammals and birds and landscape, as reported in the Environmental and Social Impact Assessment Report (ESIA), as well as issues concerning cumulative impacts on the local climate, inadequate assessment of benefits versus costs and a lack of assessed alternatives to the proposed Project. The original Complaint also raises concerns about an incomplete biodiversity assessment and the alleged destruction of natural and critical protected habitats and cites the Balkan lynx as an example of a valuable species threatened by the Project. The original Complaint also alleges that a Strategic Environmental Assessment is required under FYR Macedonian law for the FYR Macedonian Government’s renewable energy strategy, as well as for the Mavrovo National Park Management Plan which is expected shortly, once Mavrovo achieves its anticipated official National Park status. The Complainant alleges none of these strategic environmental assessments have been carried out to date and that the Client ELEM is therefore unable to follow the mitigation hierarchy set out in the Bank’s 2008 Environmental and Social Policy (E&SP).

The additional Complaint alleges that the Ministry of Environment and Physical Planning (MoEPP) has not yet approved the Environmental and Social Assessment Plan (ESAP) and thus the environmental impact assessment process is not yet completed and the national planning requirements in this respect have not been met, and therefore EBRD should have waited for the national process to be finalised and only then considered approving the Project for funding.

The Complainant seeks a Compliance Review of the Project under the PCM. Additional information on the Project and the Complaint are presented in the relevant sections of this Report.

3. On 8th November 2011 the EBRD Board of Directors approved a project for the provision of a sovereign guaranteed loan of up to EUR 65 million for the Boskov Most Hydro Power Project (EBRD Operation ID 41979), in the FYR Macedonia. The overall financing cost is EUR 84 million excluding any contingencies, but including an EUR 19¹ million equity stake

¹ Excluding contingencies.

by AD Elektrani na Makedonija (ELEM), a 100% state-owned electric power utility in FYR Macedonia responsible for mining and power generation. The Project entails construction of a 70MW power plant located near the town of Debar in western FYR Macedonia. The Project is intended to utilise the full hydro potential² of the tributaries that combine to make up the river Mala Reka and will include a 34 metre high dam and storage reservoir (22ha surface area) near the village of Tresonce located in the Mavrovo National Park. The tributary intakes and dam will have provisions for maintaining an environmental flow and an overflow spillway for high flow events. Annual generation is forecast to be around 118 GWh. The Mala Reka forms the south western boundary of the Mavrovo National Park and most of the project (approximately 80%) will be located in the Mavrovo National Park.

Relevant Facts

4. The Project was originally conceived in the 1950s, including consideration of a number of different options.

5. The Project received EBRD concept clearance on 13th August 2010 and was the subject to a final review on 8th July 2011 prior to its submission to the EBRD Board of Directors for consideration and approval at its meeting on 8th November 2011. The Project had been categorised as “A” in accordance with the Bank’s E&SP 2008.

Steps taken to Conduct Eligibility Assessment

6. On 14th November 2011 the PCM Officer notified the relevant parties, including the Complainant, the Client and the relevant departments and teams within the EBRD, including the Environmental and Sustainability Department (E&SD), that the original Complaint dated 7th November 2011 had been registered.

7. Following the registration of the Complaint in accordance with PCM RP 17, the PCM Officer appointed one of the PCM Experts, Mr Graham Cleverly as the Eligibility Assessment Expert on 21st November 2011. Thus, Mr Cleverly and the PCM Officer Ms Anoush Begoyan are the PCM Eligibility Assessors for the purposes of the Eligibility Assessment of the original Complaint. Due to the receipt of an additional Complaint concerning the Boskov Most Hydro Plant Project from the same Complainant dated 30th December 2011 and the requirement for responses from interested parties comprising the Bank and the Client, the Eligibility Assessment Expert finally commenced work on the eligibility assessment covering both the original and additional Complaint (“the Complaints”) on 28th January 2012.

8. In line with PCM RP 13, the Complaints have been posted on the PCM Register (<http://www.ebrd.com/pages/project/pcm/register.shtml>)

9. Pursuant to PCM RP 15, the PCM Officer requested a written response to the original Complaint by Bank Management. The response (the “Response”) was received on 15th December 2011 (Annex 3). The PCM Officer also requested a response to the original Complaint from the Client, and their response (dated 12th December 2011) is included as Annex 4 to this Report.

10. An additional Complaint was received from the Complainant on 30th December 2011 and is included in this report as Annex 2. A written response was requested from Bank

² Less any biological minimum flow requirements.

Management and the Client. The Bank Management forwarded their response to the additional Complaint (dated 26th January 2012), which is also included as Annex 3 to this Report. The written response from the Client to the additional Complaint (dated 16th February 2012) is also included as Annex 4.

11. During the Eligibility Assessment, the Eligibility Assessors undertook an extensive review of the Complaints, the Bank Responses, the response of the Client, including all of the supporting documents attached to them. They also reviewed various Project documents produced by the Bank and by the Client and held meetings with relevant Bank Operations and Environment and Social Department staff in separate meetings on 24th February 2012. In addition and in accordance with PCM RP 25, the Eligibility Assessment Expert undertook productive fact-finding/ clarification meetings in Skopje with the Client on 8th February 2012, and with the Complainant on 7th February 2012.

12. The Eligibility Assessors are of the opinion that they have reviewed sufficient information to consider the eligibility of the Complaints and that no additional steps, such as a Project site visit or retaining of additional expertise, are necessary at this stage.

Summary of the positions of the relevant Parties

13. There are three relevant parties whose positions were reviewed during the Eligibility Assessment process: the Complainant, the Bank and the Client.

14. The position of the **Complainant**, as presented in the Complaints, and including, where appropriate, additional information provided during discussions in Skopje on 8th February 2012, can be summarised as follows:

- a) The original Complaint raises concerns about the **alleged inadequacy of the appraisal of environmental risks** in the ESIA related to the impact of the proposed Boskov Most Hydro Power Project on mammals, birds and landscapes in the Mavrovo National Park, where 80% of the Project components will be located. The original Complaint also alleges that the environmental appraisal, as undertaken, did not provide a proper analysis of the cumulative impacts to the climate, and did not provide a proper analysis of alternatives. The Complaint also alleges that the published report on environmental risks failed to include important lists of species such as mammals and birds found in the project area. During discussions with the Complainant in Skopje, on 7th February 2012, the incorrect reference to section 3.6 of the E&SP was corrected to section 3.16 of the E&SP.
- b) The original Complaint further alleges that the **biodiversity assessment in the appraisal of environmental risks is incomplete** by virtue of missing data. The Complaint alleges that this is demonstrated by the requirement in the Environmental and Social Action Plan (ESAP) for detailed bio-monitoring to be conducted over four seasons, including installation of camera traps to identify the presence of large mammals, to be undertaken before construction starts. The Complaint also cites the requirement in the ESAP for bio-monitoring and the preparation of a study for monitoring of existing flora in the project area as evidence of a lack of data available for the development of the ESAP. During discussions in Skopje on 7th February 2012, the Complainant clarified the quoted references in the Complaint regarding detailed bio-monitoring in all four seasons, including installing animal traps and also regarding bio-monitoring and a preparation of a study for monitoring of existing flora. These

references are incorrectly attributed to the ESAP in the Complaint and are quoted directly from the ESIA recommendations (see p 251-252), and summarised in the ESAP section 6.2 (but without giving specific details of the four season timescale recommended in the ESAP). See also recent correspondence between the Complainant and the Bank regarding bio-monitoring included as Annex 5.

- c) Furthermore, the original Complaint alleges that **the Project will result in destruction of natural and critical habitats**, that the benefits of the Project have not been shown to outweigh the costs, that alternatives including wind, solar and sustainable biomass have not been properly assessed and the area for the project could be considered a “critical” habitat by virtue of the proven presence of the Balkan lynx in the Project area, which, according to Macedonian scientists, is a critically endangered species. During discussions in Skopje on 7th February 2012, the Complainant provided further information comprising maps showing current and proposed zoning of the Mavrovo National Park following the recent “re-valorisation” exercise, as well as maps showing the location of the electronically tagged lynx “Marko” in relation to the Boskov Most HPP and movements of this lynx throughout the park. Also during the above discussions, the Complainant indicated that the Mavrovo National Park is the only area of habitat for the Balkan lynx throughout the Balkans, where there is clear evidence of breeding animals. The Complainant also provided a letter from the IUCN/SCC cat specialist group dated 2nd February 2012 regarding the alleged distinctiveness of the Balkan lynx as a sub-species. The letter is included as Annex 6. The Complainant also indicated at the meeting on 7th February 2012 and in subsequent correspondence dated 27th April 2012, that soon there will be an official assessment of the Balkan lynx by the IUCN³.
- d) Finally the original Complaint alleges that **a Strategic Environmental Assessment (SEA) for renewable use of energy sources is obligatory under National FYR Macedonian Law, but has not been prepared** and that a new law proclaiming Mavrovo as a new National Park shortly will require a Management Plan under FYR Macedonian Law, which will also require an SEA. Thus, the Complaint alleges that the Client (ELEM) is in breach of the requirements on legal permitting as set out in the E&SP (2008) and cannot therefore follow the required mitigation hierarchy. During the discussions in Skopje on 7th February 2012, the Complainant provided various abstracts of FYR Macedonian laws and by-laws, supporting the allegation that strategic environment assessments (SEAs) are mandatory for short, medium and long term planning documents, including renewable energy. During discussions in Skopje on 7th February 2012, the Complainant also stated that the Mavrovo National Park has been an officially protected area since 1949. In 2004 the FYR Macedonia adopted a new law on nature and, according to Article 187, paragraph 1 of this law, the protected areas (including the Mavrovo protected area) will be “re-valorised” within 3 years and new acts will be drafted in accordance with the provisions of the 2004 law. Following the re-valorisation exercise a Management Plan is expected to be developed for the protected area, a public hearing will take place and the area will be (re)declared a protected area by law.

³ The Complainant has recently pointed out in correspondence dated 27th April 2012 that “1. New molecular-genetic findings have clearly confirmed the distinctiveness of the Balkan lynx from the Carpathian population (Breitenmoser-Wü, rsten& Obexer-Ruff 2003) and hence its phylogenetic particularity and 2. The assessment reveals that beyond doubt, the Balkan lynx has to be considered as Critically Endangered according to IUCN criteria”.

- e) The additional Complaint regarding the Boskov Most Hydro Plant Project alleges that **“the FYR Macedonian Law provides for the environmental impact assessment process to be carried out in close consultation with the public and also allows for Complaints at various stages of the process”**. The additional Complaint concludes that, to date, no decision has been issued by the Ministry of Environment and Spatial Planning (MoEPP) for the Boskov Most Hydro Plant Project and thus the environmental impact assessment process for the Project is not yet finished and national requirements in this respect have not been met. During discussions in Skopje on 7th February 2012, the Complainant indicated that, according to her latest information, the MoEPP Commission to evaluate the ESIA is still not set up. Furthermore, according to the Complainant’s recent correspondence dated 27th April 2012, the MoEPP has still not made a decision about the study, as there has been no decision on the Ministry’s website yet.

15. The **Bank’s Response** to the original and additional Complaint can be summarised as follows:

- a) The Bank confirms in its revised response dated 15th December 2011 that the original Complaint raises a number of points regarding the E&SP and seeks to demonstrate in its detailed response that there have been no breaches of the E&SP and maintains that every effort has been made by the Bank to minimise the impact of the Boskov Most Hydro Power project on protected areas and potentially sensitive ecosystems and to comply with FYR Macedonian law.
- b) Regarding **the alleged incomplete ESIA** in the original Complaint, the Bank cites the relevant Policy Performance Requirements (PRs) 1.5 and 3.6 and refers separately to each of the alleged shortcomings in its response as follows:
- i) Mammals: The experts who prepared the ESIA based their conclusions on a desktop evaluation of the scientific literature and cooperated closely with experts concurrently conducting a study of lynx and other mammals in the Mavrovo National Park. As a result, the Bank maintains the study was based on the most recent data available. The analysis concluded that the lynx and mammals serving as prey to the lynx are found preferentially at higher elevations and less frequently in the lower areas of Mala Reka where the main project elements will be located. Thus, it was agreed with the experts that there was no need to describe lynx and other mammals in great detail in the ESIA since there would be only limited impact on these mammals. The Bank maintains that these conclusions are fully supported by the Annexes attached to the original Complaint which are included in this report as part of the Bank’s response in Annex 3. At the meeting with E&SD Bank staff on 14th February 2012, the Bank staff confirmed the application of the “Precautionary Principle” which underpins the E&SP, in relation to protection of the lynx’s “critical habitat”, but pointed out that the main potential threat to the lynx’s habitat posed by the Project would mainly be in the winter months when prey were scarce and the animals’ hunting range would be most extended. However, during the winter months the Project construction activities would be mainly stopped due to weather conditions and, therefore, the Project would not pose a significant threat to the lynx or its prey.

- ii) Birds: The conclusions in the ESIA are based on authoritative studies undertaken between 2004 and 2010, which noted only three of the 77 species listed of Conservation Value were likely to be present in the Project area. According to the Bank's response, only temporary impacts could be expected from the construction phase and during operation of the Project the new open water habitat would attract different species of birds without driving away any existing species.
- iii) Landscape: The narrative and descriptions of the current landscape and potential changes are considered more than adequate in the Bank's response.
- iv) Cumulative impact on climate: The Bank points out that the ESIA concludes the relatively small changes in greenhouse gas emissions arising from the Project would not significantly affect global climate change but would however contribute to reducing FYR Macedonian emissions in line with the national strategy.
- v) Alternatives analysis: The Bank's response indicates that alternatives should be both "meaningful and realistic". The Bank pointed out that Government of FYR Macedonia has previously determined hydropower development as the most feasible approach for renewable energy. As a result the analysis of alternatives in the ESIA examined only options for hydropower development at the Boskov Most site. However the Bank's response states that the "do nothing" option (sometimes called the "zero option") was included in the options considered in the ESIA.
- vi) List of mammals and birds: The Bank point out that the lists of mammals and birds referred to in the ESIA were omitted in error from the draft ESIA Appendices used for public review and comment due to a word processing error. The Bank response confirms that lists were provided to the Complainant before the end of the disclosure period and added to the ESIA on the ELEM website.

Note: The Eligibility Assessor was provided with an electronic copy of the latest version of the full ESIA and the Environmental and Social Monitoring and Management Plan (ESMMP), and other miscellaneous documents, following the meeting with Bank staff on 14th February 2012.

- c) Regarding the **alleged incomplete biodiversity assessment** in the original Complaint, the Bank cites the relevant Policy Performance Requirements (PR) in PR6 and confirms that the ESIA was mainly a desktop analysis of terrestrial biodiversity data together with an aquatic biology field study exercise, which reached well-supported conclusions based on the most recent data including ongoing studies in the Mavrovo National Park. The Bank agrees on the need for careful monitoring of biodiversity-related variables before and during construction and then during operation. The Bank response concludes that the requirement for a robust biodiversity monitoring programme should not be considered as evidence of a weak baseline characterisation. Rather it should give confidence that changes in biodiversity, whether due to the Project or otherwise can be detected early and addressed as needed to protect the

resources of the Park. It should be noted that The ESAP refers in section 6.2 to the need to develop a monitoring plan as part of the comprehensive bio-monitoring program and the need to establish a baseline prior to construction. See also recent correspondence between the Bank and the Complainant regarding the need for bio-monitoring in Annex 5. During the meeting with E&SD Bank staff on 14th February 2012, it was confirmed that in order to achieve the necessary data collection for the bio-monitoring and baseline surveys, including use of animal traps and covering all the four seasons, all as summarised in section 6.2 of the ESAP, and according to the Bank survey, work in the field had recently commenced by ELEM's environmental consultants⁴. The undertaking of this monitoring work will result in a delay of almost 12 months to the start of the main project construction activities. The bank staff pointed out that such a delay in starting construction to allow baseline monitoring to be undertaken is unusual in Bank-funded projects and clearly demonstrates the commitment of the Client and Bank staff to ensure the baseline survey and bio-monitoring is undertaken properly before construction⁵ work starts.

- d) Regarding the **alleged risk of destruction of habitat without adequate justification** in the original Complaint, the Bank cites the relevant PRs in PR 6.12, PR 6.13 and PR 6.14 and confirms that the project area is without question a protected area, but the area affected cannot be considered either natural habitat or critical habitat. The Bank's response points out that most of the Project area has been modified over centuries by human activities and the data attached to the response in Annex A and Annex B of the original Complaint indicate relatively light use of the Project area by sensitive species. The Bank's response also confirms that the area affected by the Project is a tiny fraction of the lynx's range and must not be considered of particular value in the lynx's daily and seasonal movements, given its light usage according to the Annexed plans. Furthermore, no cumulative impact is expected despite the development of smaller HPPs upstream of the Project (e.g the small HPP on Tresonecka Reka), since the creatures are mostly found in upland habitats rather than the forested valley habitat around the Boskov Most Hydro Plant Project site.
- e) Regarding the **alleged missing Strategic Environmental Assessments** in the original Complaint whereby the Complainant alleges that the project is not legally permitted, the Bank's response cites the relevant PRs in PR 6.15 and refers to the opinion dated 17th March 2010 by the MoEPP, which confirms that a Strategic Environmental Assessment of the Energy Strategy of FYR Macedonia until 2030 has been undertaken, which includes a strategic analysis the Boskov Most Hydro Power Project as one of six proposed new hydro power projects within the Strategy time horizon. The SEA identified a clear need for an environmental impact assessment based on the FYR Macedonian legal framework, as well as best international practice. The MoEPP opinion concludes that the higher level Energy Strategy includes the information needed for the lower level renewable energy strategy. The Bank response concludes that the Complainant's allegation that none of the projects which arise from the

⁴ In correspondence dated 27th April 2012, the Complainant indicated that at a meeting with ELEM and their Environmental Consultants on 30th March 2012, it was stated by both ELEM and their Environmental Consultants that the bio-monitoring has not yet started because the expert team is not yet set up and the bio-monitoring plan has not yet been prepared.

⁵ In correspondence dated 27th April 2012, the Complainant has indicated that ELEM have stated on several occasions that they do not consider "any activity up to the point of asphaltting the roads" as major construction and the Complainant has therefore requested that the meaning of "construction works" be specified.

renewable energy Strategy is fully compliant with the EU *acquis communautaire* is incorrect.

- f) Regarding the **allegation contained in the additional Complaint that the environmental impact assessment process for the Project is not yet finished** and national requirements in this respect have not been met, the Bank cites the relevant PRs in PR 1.9 and PR 10.7 and confirms that neither of the PRs referred to in the additional Complaint require all permits, authorisations and decisions to be made prior to EBRD Board approval. The Bank maintain that at the time of disclosure, the project ESIA was determined by the Bank to be fit for purpose of consultation, and the design of the consultation process took into account FYR Macedonian requirements. Furthermore, the Bank points out that permitting is often a parallel process to the Bank's due diligence process and different stages of permitting are experienced. Specifically, item 1.5 of the ESAP requires ELEM to acquire and report on compliance with all permits and authorisations from various Ministries including MoEPP, and ELEM is required to report to EBRD on the status of permitting authorisation and on compliance status. Regarding stakeholder engagement under RP 10.7, the Bank's response confirms that the PR has no statement on timing, but reinforces the requirement that national law with respect to public information and consultation must be met. The Bank's response confirms that neither the Bank nor the Client received any significant comments on the Stakeholder Engagement plan despite it being in the public domain for four months. Finally the Bank's response notes the general concern that projects should not proceed to Board consideration if local permitting had not been completed and believe this issue would best be clarified at the policy level since the current ESP does not deal with this timing issue in relation to Board approval. The Bank's response indicated that a review of the ES&P is being undertaken in 2013 and this would be an appropriate time for the Complainant to raise the general principle of timing and permitting and their suggestions for addressing it to the Bank's attention.

16. The position of the **Client**, as presented in its revised response (see Annex 4) to the original Complaint dated 15th December 2011, is similar in content to the Bank's response as summarised above. It can be summarised as follows, including ELEM's further comments shown as footnotes to the text below, recorded during the meeting with the Eligibility Assessor on 8th February 2012:

- a) Regarding **the alleged incomplete ESIA**, ELEM maintain that the ESIA was undertaken by the leading EIA specialist in FYR Macedonia, supported by other International EIA experts. During discussions with ELEM and their environmental consultants in Skopje on 8th February 2012, ELEM commented that the full ESIA is only available in Macedonian, although some key sections have been translated into English. During these discussions ELEM also commented that issues concerning the alleged threat to the lynx' habitat had arisen early in the project development and the environmental team had taken advice from the Mavrovo national Park experts and the Italian-led team who undertook the re-valorisation of the park. As a result of these consultations ELEM had concluded that the lynx's prey and thus its natural habitat were usually high mountain areas i.e. not the valley and forest areas impacted by the project and for this reason the alleged threat to the lynx's habitat had been largely "scoped out" of the ESIA.
- b) The ELEM response also points out that the area around the Boskov Most Hydro Plant project is not a strictly protected zone but is designated as one to be open for

sustainable use. The response then points out that the potential effects on the area will be very limited and many will be temporary and that cumulative effects would also be very limited. Similarly, the response maintains the biodiversity impact was found to be very limited in the ESIA and only minor impacts were anticipated on the main species of concern comprising lynx and otters. Furthermore, the Client's response points out that the project area is not characterised by pristine habitats and the primary potential for impact on habitats is in the development of road infrastructure. The response for this component of the Complaint continues that the main habitat loss will be grasses and scrubs of the semi-natural habitats in the areas of the dam, reservoir and powerhouse locations. Finally, the Client's response to this component of the Complaint refers to the likely minor changes in temperature and humidity arising from the reservoir (with a surface area of only 22 ha) and concludes that changes will be minor, with some potential benefits to biodiversity since the reservoir will increase in biomass and provide better conditions for other species of flora and fauna.

- c) Regarding the allegation of **incomplete biodiversity assessment**, ELEM maintain in their response that the presence and use of the Boskov Most site by the Balkan lynx and other large mammals was considered by expert biologists and, it was concluded that the largest area of the project is the future reservoir, much of which is pastureland and unlikely to be used much by the main prey species and therefore the lynx. Note, ELEM's comments regarding the missing data in the published ESIA are virtually identical to the Bank's response, as summarised already above. Regarding the desktop analysis of biodiversity data, ELEM maintain extensive discussions were held with the Management Team of the Mavrovo National Park and the conclusions were well supported based on most recent data. Note, ELEM's comments regarding the need for monitoring potential impacts during project construction and operations are virtually identical to the Bank's response, as summarised already above.
- d) Regarding the alleged **risk of destruction of habitat** without adequate justification, ELEM maintain that the justification for the Project is set out clearly in the ESIA, and in the recently published national Energy Strategy (to 2030), and the Renewable Energy Strategy. ELEM acknowledge that the Project area is located in a protected area, but point out that the area is neither composed of significant areas of natural habitat, nor critical habitat. Other comments by ELEM on this component of the Complaint repeat more or less verbatim the positions as already reported under this component by the Bank-see above.
- e) Regarding the **alleged missing Strategic Environmental Assessments** whereby the Complainant alleges the project is not legally permitted, ELEM maintain that the Energy Strategy of FYR Macedonia, including its SEA report, includes the Boskov Most project as one of six new hydro-energy projects within the Strategy time horizon and the SEA reports include a strategic analysis and environmental assessment of the planned projects, including the Boskov Most Project. In relation to the alleged need for an SEA for the Mavrovo National Park, ELEM maintain that SEAs for other National Parks with National Park Management Plans comprising NP Galicica and NP Pelister in FYR Macedonia have not been prepared. However, ELEM acknowledge that an SEA for Mavrovo National Park Management Plan will eventually be needed, but this is still subject to MoEPP's decision. During the development of this EAR ELEM forwarded an official response from the MOEPP dated 17th March 2012, challenging the allegation by the Complainant that the Project is not legally permitted. The translation of this Opinion in English is included in this Report as Annex 7.

- f) Regarding the alleged additional Complaint that **the environmental impact assessment process for the Project is not yet finished and national requirements in this respect have not been met**, a response from ELEM was received dated 16th February 2012 and is included in this report as Annex 4. During discussions with ELEM and their environmental consultant in Skopje on 8th February 2012, ELEM confirmed that the MOEPP have recently set up the Review Commission⁶ and have begun their review of the ESIA.

Assessment

17. Following registration of the original and additional Complaints, the PCM Rules of Procedure require the Eligibility Assessors to issue their Eligibility Report within 40 Business Days. Eligibility of the Complaint is determined in accordance with PCM RPs 17-29.

18. The Eligibility Assessors have concluded that:

- i. The Complainant is an Individual and is representing an Organisation (Eko-Svest) and thereby satisfies PCM RP2.

The Complaints relate to a Project that has been approved for financing by the EBRD. The Bank has agreed to support the Project– and has not withdrawn it– and thereby satisfies the requirements of PCM RP 19 (a);

- ii. The Complaints describe the harm caused, or likely to be caused, by the Project as per PCM RP 19 (b);

- iii. The Complaints contain an indication of which PCM function the Complainant expects the PCM to use in order to address the issues raised in the Complaints, namely a Compliance Review (PCM RP 20 (a));

- iv. The Complaints offer an indication of the outcome sought as a result of the use of the PCM process; i.e. that “it will become clear to the Bank that financing the project and acting in accordance with its own policies is not possible. The Complainant would expect that the EBRD would not support the project until all relevant legal processes in the country have been concluded and will ensure proper assessment (e.g. of alternatives), mitigation measures and structures in order to prevent biodiversity loss. This would mean that the EBRD would wait for the law on proclamation of Mavrovo as a National Park to be adopted and a Management Plan for the “Mavrovo” National Park to be prepared” (PCM RP 20 (b));

- v. The Complainant has supplied copies of correspondence, notes, or other materials related to its communications with the Bank and or other Relevant Parties (PCM RP 20 (c)); and

- vi. The Complainant has provided details of the Relevant EBRD Policy (i.e. the Environmental and Social Policy 2008) it believes to be at issue in the Complaint (PCM RP 20 (d)).

⁶ In correspondence dated 27th April 2012, the Complainant pointed out that the decision has still not been made according to the Ministry website.

19. Pursuant of the PCM RP 22, the Eligibility Assessors have established that the Complainant has made good faith efforts to address the issues raised in the Complaints by, in particular raising the issue with the Management of the Bank.

20. In determining the Eligibility, the Eligibility Assessors have also, in line with PCM RP 23, established that the Complaints relate to alleged inactions that are the responsibility of the Bank; and that it alleges more than minor technical violations of EBRD policy.

21. The Complaints do not fall under any of the categories provisioned in PCM RP 24.

22. Consequently, based on an evaluation of the eligibility criteria set out in the PCM RPs 17-24 and on the analysis of the relevant documents, including the Complaints, Bank Response, Response by the Client and other relevant project documentation submitted by the Bank and the Client, and including discussions with the Client and Complainant in Skopje and the Bank staff in London in February 2012, the Eligibility Assessors declare the Complaints to be **eligible** for a **Compliance Review**.

23. The Compliance Review should assess whether and – if so – which EBRD policy or policies may have been violated and if harm has been caused due to action or inaction on the part of the Bank. In line with PCM RP 28(b), the terms of reference for a Compliance Review, identifying the type of expertise required to carry out the review, as well as the scope and time frame for the review, are presented below.

Terms of Reference

Compliance Review Expert

1. In accordance with PCM, RP 35, the PCM Officer appoints PCM Expert Dr. Owen McIntyre as the Compliance Review Expert for this Compliance Review.
2. The Compliance Review Expert shall conduct the Compliance Review in a neutral, independent and impartial manner and will be guided by principles of objectivity and fairness giving consideration to, *inter alia*, the rights and obligations of the Relevant Parties, the general circumstances surrounding the Complaint and due respect for EBRD staff.

Scope

3. These Terms of Reference apply to any inquiry, action or review process undertaken as part of the Compliance Review, with a view to determining, as per PCM RP 36 if (and if so, how and why) any EBRD action, or failure to act, in respect of the Project has resulted in non-compliance with a relevant EBRD Policy, in this case Environmental and Social Policy 2008 and, if in the affirmative, to recommend remedial changes in accordance with PCM RP 40.
4. These Terms of Reference are limited to reviewing actions or inactions by the EBRD in relation to the relevant EBRD policy. These Terms of Reference (TOR) do not cover any actions or inactions by the Client ELEM.
5. If considered necessary following the Compliance Review arrangements for monitoring and implementation of any recommended changes pursuant to PCM RP 40b shall be included in the Review recommendations.
6. In conducting the Compliance Review, the Compliance Review Expert will examine any relevant documents and consult with the Relevant Parties. The Compliance Review Expert may also carry out a site visit, and employ such other methods as the Expert may deem appropriate, as per PCM RP 37.
7. Upon completion of the Compliance Review, the Compliance Review Expert will prepare a Compliance Review Report setting out his findings. The Compliance Review Report will include a summary of the facts and allegations in the Complaints, and the steps taken to conduct the Compliance Review, as per PCM RP 38.
8. Such processes shall be conducted in accordance with these Terms of Reference subject to modifications which the Compliance Review Expert and the PCM Officer may, at any time, expressly agree upon, except modification that may prejudice the interests of any Relevant Party or is inconsistent with accepted review practice.
9. The Compliance Review shall remain within the scope of the original and additional Complaint. It shall not go beyond the parameters of the Complaints to address other issues.

Time Frame

10. The Compliance Review will commence when the Eligibility Assessment Report containing these Terms of Reference is publicly released and posted on the PCM website.
11. Every effort shall be made to ensure that the Compliance Review is conducted as expeditiously as circumstances permit and it is intended that it shall be concluded within sixty (60) Business Days of its commencement, within which period a draft Compliance Review Report will be prepared and sent to the Bank's Management, pursuant to PCM RP 41. However, this time period may be extended by the PCM Officer for as long as is strictly necessary to ensure full and proper implementation of the Compliance Review. Any such extension shall be promptly notified to all Relevant Parties.

Procedure: Identification of Core Compliance Issues

12. The Compliance Review process will examine the core questions of alleged non-compliance with the requirements of the Bank's Environmental and Social Policy (2008) as raised in the Complaints with a view to identifying the central elements of the Compliance Review, including (without limitation):

A. Regarding The Original Complaint dated 7th November 2011

1. Alleged incomplete appraisal of environmental risks (reference E&SP (2008) sections: PR1.5 and PR 3.16):
 - i. *Whether there was an inadequate appraisal of environmental risks in the ESIA relating to the proposed Boskov Most Hydro Power Plant generally, and specifically whether the appraisal properly addressed the impact on mammals, birds and landscapes or provided a proper analysis of alternatives to the project. Note: The original Complaint also alleges that the published report on environmental risks failed to include important lists of species such as animals and birds found in the project area but the Complainant had acknowledged that this was an error by the ELEM and the lists were subsequently provided to the Complainant and included on the ESIA website. This component of the original complaint has therefore not been included in the Compliance Review.*
 - ii. *Whether, as part of the appraisal of environmental risks, adverse project impacts on ambient conditions, including a) the finite assimilative capacity of the environment ,b) the projects proximity to ecologically sensitive or protected areas and c) the potential for cumulative impacts with uncertain and irreversible consequence, have been properly assessed.*
 - iii. *Whether as part of the appraisal of environmental risks, the environmental baseline data used in the appraisal was based on recent information and was at an appropriate level of detail.*
 - iv. *Whether a suitable proposal for mitigation measures has been developed.*

2. Alleged incomplete biodiversity assessment (reference E&SP (2008) section PR6.6):
 - v. *Whether the biodiversity assessment as undertaken is incomplete by virtue of the inadequate identification and characterisation of potential impacts on biodiversity, likely to be caused by the project, using a precautionary approach and reflecting the concerns of stakeholders. The alleged inadequacies of the assessment are highlighted in the original Complaint by the missing data identified in the ESIA and resulting in the ESAP's recommendations in section 6.2 for the development of a comprehensive bio-monitoring programme in order to establish a robust baseline covering flora, fauna and habitat, sufficient to allow evaluation of project impacts on key receptors, all to be undertaken prior to construction.*
3. Alleged Destruction of Habitat (reference E&SP (2008) sections PR1.9, PR6.12, PR 6.13, and PR 6.14):
 - vi. *Whether the proposed Project area should be considered a "natural or critical habitat" as defined in the E&SP and if so, whether the requirements of the relevant PRs above have been met regarding no significant degradation unless: no feasible alternatives exist, overall benefits outweigh costs including environment and diversity, and appropriate mitigation measures are put in place.*
 - vii. *Whether the technically and economically/financially⁷ feasible alternatives to the project comprising wind, solar and sustainable biomass have been properly assessed in the absence of a Strategic Environmental Assessment of the FYR Macedonia's strategy for use of renewable energy resources.*
 - viii. *Was a reasonable approach used by the Bank to determine sufficiently whether the Balkan lynx will be significantly adversely affected by the Project (reviewing all data, mitigation measures, discussing with relevant people and ensuring there would be adequate monitoring information to verify assumptions prior to construction works taking place).*
 - ix. *If the PCM expert does not believe that the Bank's approach above was reasonable, what recommendations does the PCM expert have on the level of information which would have been adequate to meet the Bank's requirements a) for the purpose of public consultation, b) for the purposes of a Board decision on financing, and c) prior to construction works taking place?*
4. Alleged strategic environmental assessment lacking and that the proposed development is not legally permitted (reference to PR6.15):
 - x. *Whether the absence of an SEA for renewable energy resources as allegedly required by FYR Macedonia law resulted in due process not being been followed by the Client ELEM who was allegedly unable to demonstrate that the*

⁷ Note PR 1.9 of the E&SP refers to technically and financially feasible alternatives to be included in A category projects whilst PR 6.12 refers to (no) technically and economically feasible alternatives as one of the criteria for building Projects in areas defined as natural habitats.

proposed development was legally permitted and was thus not able to follow the mitigation hierarchy as required in PR 6.15.

B. Regarding the Additional Complaint dated 30th December 2011.

Alleging that in accordance with FYR Macedonian Law, the environmental impact assessment should be carried out in close consultation with the public and that it allows complaints to be assessed at various stages of the process (reference PR1.9 and PR 10.7) and this process has not been adopted yet.

- xi. Whether the Bank's approval of the ESIA and the signing of the loan agreement by the Bank, despite the alleged incomplete National compliance requirements⁸, is contrary to the requirements in PR 1.9, which requires the ESIA to meet PR 10.7 and any applicable requirement of national law and other relevant laws, and whether the approval of the ESIA and the loan by the Bank are therefore in breach of the E&SP.*

Note: Any elements which are beyond the scope of the Compliance Review will be excluded.

Procedure: Conduct of the Review

13. As an initial step the Compliance review Expert will determine the precise requirements in the specific context of the present Project, of each of the provisions of the E&SP and the associated PRs in respect of which non-compliance is alleged in the Complaints. Such provisions notably include PR 1.5, PR 3.16, PR 1.6(v), PR 1.9, PR 6.6, PR 6.12, PR 6.13, PR 6.14, PR 6.15.
14. The Compliance Review Expert may conduct the Compliance Review process in such a manner as he considers appropriate, taking into account the Rules of Procedure of the PCM, the concerns expressed by the Complainant as set out in the Complaint, and the general circumstances of the Complaint. Specifically, the Compliance Review Expert may:
 - i. Review the Complaints to identify the compliance issues to be included in the Compliance Review, specifically whether EBRD complied with its Environmental and Social Policy 2008;
 - ii. Review all documentation, including internal memos and e-mail exchanges relevant to the Complaints;
 - iii. Consult extensively with EBRD staff involved in the Project including personnel from the Bank's Environmental and Sustainability Department, and the Project Operations Team,
 - iv. Solicit additional oral or written information from, or hold meetings with, the Complainant and any Relevant Party;

⁸ The ESIA has to date not been approved by the MoEPP, although it is understood the review process has started.

- v. Conduct a visit to the Project site to ascertain disputed facts accompanied by such officials of the Bank, the Complainant or the representatives or the Client, or other persons, as he may consider necessary and appropriate;
- vi. Request the PCM Officer to retain additional expertise if needed;
- vii. Identify any appropriate remedial changes in accordance with PCM, RP 40, subject to consideration of any restrictions or arrangements already committed to by the Bank or any other Relevant Party in existing Project related agreements;
- viii. Take any other action as may be required to complete the Compliance Review within the required time-frame.

Procedure: General

- ix. The Compliance Review Expert shall enjoy, subject to the provision of reasonable notice, full and unrestricted access to relevant Bank staff and files, and Bank Staff shall be required to cooperate fully with the Compliance Review Expert in carrying out the Compliance Review.
- x. Access to, and use and disclosure of, any information gathered by the Compliance Review Expert during the Compliance Review process shall be subject to the Bank's Public Information Policy and any other applicable requirements to maintain sensitive commercial information confidential. The Compliance Review Expert may not release a document, or information based thereon, which has been provided on a confidential basis without the express written consent of the party who has provided such document.
- xi. The Compliance Review Expert shall take care to minimise the disruption to the daily operations of all involved parties, including relevant Bank staff.
- xii. Generally, all Relevant Parties shall cooperate in good faith with the Compliance Review Expert to advance the Compliance Review as expeditiously as possible and, in particular, shall endeavour to comply with requests from the Compliance Review Expert obtaining access to sites, submission of written materials, provision of information and attendance at meetings.

Compliance Review Report

- xiii. In accordance with PCM, RP 38, the Compliance Review Report shall include a summary of the facts and allegations in the Complaints, and the steps taken to conduct the Compliance Review.
- xiv. The recommendations and findings of the Compliance Review Report shall be based only on the facts relevant to the present Complaints and shall be strictly impartial.
- xv. Prior to submitting the Compliance Review Report to the Relevant Parties and to the Board in accordance with PCM RP 39, or sending the draft Compliance Review Report to the Bank's Management, in accordance with PCM RP 41, the Compliance Review Expert shall ensure that all factual information relating to the Relevant Parties is verified with them.

Exclusion of Liability

- xvi. Without prejudice to the privileges and immunities enjoyed by PCM Experts, the Compliance Review Expert shall not be liable to any party for any act or omission in connection with any Compliance Review activities undertaken pursuant to these Terms of Reference.

List of Annexes

Annex 1: Original Complaint

Annex 2: Additional Complaint

Annex 3: Bank's Management responses to the Complaints.

Annex 4: ELEM's responses to the Complaints.

Annex 5: Bio-monitoring correspondence between Bank and Complainant

Annex 6: Letter to Complainant from IUCN re status of Balkan lynx

Annex 7: Opinion of MOEPP responding to the allegation by the Complainant that the project is not permitted due to the lack of an SEA

7 November 2011

Project Complaint Mechanism
Attn: PCM Officer
European Bank for Reconstruction and Development
One Exchange Square London
EC2A 2JN Fax:
+44 20 7338 7633
E-mail: pcm@ebrd.com

**Complaint to the EBRD's Project Complaint Mechanism regarding the
Boskov Most hydropower project, Macedonia**

1. Name of the Person(s) or Organisation(s) filing the Complaint ("the Complainant").

Eko-svest, Macedonia

2. Contact information of the Complainant (please include email address and phone number if possible).

Ms. Ana Colovic Lesoska
Eko-svest
11 Oktomvri 125/12
1000 Skopje
Macedonia
Tel: + 389 (0)2 3217247
Mob: + 389 (0)72 726104
ana@ekosvest.com.mk
ana@bankwatch.org

3. Is there a representative making this Complaint on behalf of the Complainant?

No.

4. Are you requesting that this Complaint be kept confidential?

No.

5. Please provide the name or a description of the EBRD Project at issue.

Boskov Most HPP. The project has passed Final Review and is due to be approved on Tuesday 08 November 2011.

6. Please describe the harm that has been caused or might be caused by the Project

Biodiversity:

The Boskov Most HPP project is located in the Mavrovo National Park in Macedonia (more than 80% of the project is located within the Park). The national park "Mavrovo" is one of the richest in biodiversity areas in the country. It is a home of 50 mammal species, including the wolf, brown bear, fox, wild cat, chamois and lynx, 129 bird species, 11 species of amphibians (out of total 15 species found on the territory of the entire country), 24 species of reptiles (out of 32 in the country) and 924 species of invertebrates.

Out of these, 11 mammal species, 45 bird species, 2 amphibian and 13 reptile species found in the national park are on the list of Appendix II of the Bern Convention, thus signifying the importance of the site for the biodiversity protection. Moreover, the "Mavrovo" National Park is an Emerald site and a future Natura 2000 site.

The territory of the Mavrovo National Park, and especially the location where Boskov Most is planned, is used by the Lynx species (according to the existing knowledge it is a separate subspecies – Balkan Lynx or *Lynx lynx martinoi*). The Lynx is an Annex II and Annex IV species of the Habitat Directive (92/43/EEC).

The proposed project area represents a very important part of the lynx range in the National Park due to the habitat quality and feeding sources. This is confirmed by recent research conducted by the Macedonian Ecological Society. In the past 5 years, the Macedonian Ecological Society¹ has been implementing a project for the monitoring and protection of the Balkan Lynx. The monitoring process (that consisted of a survey, placement of a GPS collar on one captured lynx and installment of camera-traps) proves frequent movement of the monitored Lynx in the project area². The monitored Lynx has been feeding most frequently in this particular area. It is estimated that there are around 30-35 individuals of this species on the territory of Macedonia and that the largest portion is located in the territory of the Mavrovo National Park. The Balkan Lynx was extinct in Greece and Bulgaria and it is almost extinct in Albania, Kosovo and Montenegro. Thus, the small but stable sub-population in Mavrovo National Park (approximately 10 individuals, 7-12 according to different calculation methods, the result of the intensive camera-trap survey in 2009)³ must serve as a nucleus for the whole population. Both existing literature and the above mentioned research state that the Lynx is “dominantly present in the western slopes of the Bistra Mountain, towards the gorge of the Radika River...”⁴ which coincides with the Boskov Most project area.

Additionally, the recent process of review of the Mavrovo National Park’s values identified a drop in number of individuals, of many important species, such as the Chamois and the Lynx. It has been noted that even though the Park has been the most protected area in the country, large mammals have been hunted or disturbed and as a result, their populations have dropped. The Study for valorization of Mavrovo Protected Area⁵ identifies that destruction of forests, transport infrastructure and generally, human activity result in disturbance of species and lead to their decrease in number and possibly extinction, especially with sensitive species.

This leads us to the conclusion that:

- The population of the Balkan Lynx is very fragile, and numbers are decreasing due to improper protection and disturbance.
- The Balkan Lynx lives at the Boskov Most HPP planned project area (see Annex 2).

7. If you are requesting the PCM’s help through a Problem-solving Initiative, you must have made a genuine effort to contact the EBRD or Project Sponsor regarding the issues in this complaint.

a. Have you contacted the EBRD to try to resolve the harm caused or expected to be caused by the Project? Is the written record of this contact with the EBRD attached to your complaint?

b. Have you contacted the Project Sponsor to try to resolve the harm caused or expected to be caused by the Project? Is the written record of this contact with the Project Sponsor attached to your complaint?

We are not requesting a Problem-solving Initiative. Nevertheless we have contacted the EBRD and the project sponsor, ELEM, Macedonia regarding this project. Due to the sensitive issues, we have also contacted the Ministry of environment and physical planning of the Republic of Macedonia.

1 www.mes.org.mk

2 Reports from the monitoring and photos available from the MES office.

3 Macedonian Ecological Society – unpublished data

4 <http://www.npmavrovo.org.mk/index.php?id=32> and Draft Final Report- Study on Valorisation of Mavrovo Protected Area, Oxfam Italia, September, 2011 page 212.

5 The Study prepared by Oxfam Italia is in final stage and the final draft document has been made available to public in September 2011.

Communication with the EBRD and Project Sponsor about this project has been undertaken by several groups: Eko-svest, Front 21/42, Macedonian Ecological Society, Macedonian Green Center, Eko-skop and CELOR.

The communication has been as follows:

June 14, 2011: Eko-svest has sent a letter to the EBRD regarding the boundaries of the National Park and the overlapping of the project area with the protected area. The letter has been sent to:

- Alistair Clark, Corporate Director, Environment and Sustainability Department.

July 5, 2011: A meeting was held with the EBRD staff to discuss about the project location. The following EBRD staff took part at the meeting:

- Mr. Boyd- Carpenter,
- Mr. Mozingo,
- Mr. Mauduit,
- Mr. Corbo.

July 27, 2011: A meeting was held in the office of the Project Sponsor, where a number of affected citizens and NGOs took part. At the meeting, the NGOs shared their initial concerns with the project.

August 5, 2011: As part of the commenting period in which the EBRD made available the Environmental Impact Assessment, the above mentioned groups submitted comments to EBRD staff and the Project Sponsor, to their offices in Skopje as well as the Ministry of environment and physical planning. The letter was sent in Macedonian language. The letter is attached as Annex 1. to this Complaint.

September 27, 2011: A meeting was held with the Ministry of environment and physical planning where the NGOs presented their concerns with the ESIA study and the project. The Ministry officials falsely informed the NGOs that the ESIA study has been returned to the Project Sponsor as inadequate and its completion and correction was requested from the Project Sponsor.

September 12 and 14, 2011- The above mentioned NGOs participated in public hearings for the project and raised concerns about the project and the sensitive period of its implementation, as the review of the National Park as well as its re-proclamation has not finished.

October 31, 2011- The Project Sponsor ELEM has sent response to the comments to the ESIA study (from August 5). The response does not address our concerns about the project and avoids responding to the essential problems raised.

If you have not contacted the EBRD and/or Project Sponsor to try to resolve the harm or expected harm, please explain why.

N/A

If you believe the EBRD may have failed to comply with its own policies, please describe which EBRD policies.

We would argue that the EBRD has failed to comply with its Environmental and Social Policy 2008. We lay out here the Performance Requirements that we believe have been breached, with a short explanation of our reasoning.

Incomplete Environmental and Social Impact Assessment Report (ESIA)

The ESIA report has deficiencies. It failed to properly assess the impacts on mammals, birds,

landscapes. It also did not provide a proper analysis of the cumulative impacts to the climate, and it did not provide proper analysis of the alternatives. The Report is missing important lists of species, such as the list of mammals and list of birds found in the project area.

We think that this is a breach of the following provisions of the EBRD's Environmental and Social Policy 2008:

- **PR 1.5.** *"The appraisal process will be based on recent information, including an accurate description and delineation of the client's business or the project, and social and environmental baseline data at an appropriate level of detail."*
- **PR 3.6.** *"To address adverse project impacts on existing ambient conditions, the client will: (i) consider a number of factors, including the finite assimilative capacity of the environment, [...] existing ambient conditions, the project's proximity to ecologically sensitive or protected areas, and the potential for cumulative impacts with uncertain and irreversible consequences..."*

Incomplete biodiversity assessment

The fact that the biodiversity assessment is incomplete is evidenced by the Environmental and Social Action Plan, which stipulates that before construction there should be: *"a detailed bio-monitoring conducted in all 4 seasons"* and *"instalment of camera-traps"* in order to identify presence of large mammals. For the flora, again, lack of data is identified by the Environmental and Social Action Plan and so *"bio-monitoring"* and *"a preparation of a Study for monitoring of existing flora in the project area"* are preconditions for the construction works.

In our opinion this is in breach of several provisions of the EBRD's Environmental and Social Policy 2008:

- **PR 6.6.** *Through the environmental and appraisal process, the client will identify and characterise the potential impacts on biodiversity likely to be caused by the project. The extent of due diligence should be sufficient to fully characterise the risks and impacts, consistent with a precautionary approach and reflecting the concerns of relevant stakeholders.*

Destruction of habitat without adequate justification

The EBRD Environmental and Social Policy 2008 distinguishes between *natural habitats*, *protected areas*, and *critical habitats*. The Mavrovo National Park, as an *Emerald Site* and a future planned *Natura 2000 site*, and a home to many valuable species, such as the Lynx, fits all of these categories.

In our view, the project is not in compliance with the following sections of the Environmental and Social Policy 2008:

- **PR 6.12.** *Natural habitats are land and water areas where the biological communities are formed largely by native plant and animal species, and where human activity has not essentially modified the area's primary ecological functions. In areas of natural habitat, there must be no significant degradation or conversion of the habitat to the extent that (i) the ecological integrity and functioning of the ecosystem is compromised or (ii) the habitat is depleted to the extent that it could no longer support viable populations of its native species, unless:*
 - *there are no technically and economically feasible alternatives*
 - *the overall benefits of the project outweigh the costs, including those to the environment and biodiversity*
 - *appropriate mitigation measures are put in place to ensure no net loss and preferably a net gain of biodiversity value in the habitat concerned, or, where appropriate, a habitat of greater conservation value.*

Even though the biodiversity costs appear to be high and have yet to be fully quantified, we are not

convinced that the overall benefits of the project outweigh these costs. For instance, the Boskov Most HPP will be used to stabilise the energy system in peak times, and would function maximum of 5 hours per day. In times when Macedonia should be focusing on real solutions for the energy system and invest in generation capacities that would practically decrease our energy dependence, the 70 MW produced from Boskov Most do not seem to be significant enough to justify the damage to be done to the natural habitats and possible extinction of the national symbol of the country- the Balkan Lynx.

Given Macedonia's potential to expand its use of wind, solar and sustainable biomass, there are certainly *technically and economically feasible alternatives* to the project. However the alternatives have not been properly assessed due to the lack of Strategic Environmental Assessment of the Strategy for renewable use of energy sources of the Republic of Macedonia.

- **PR 6.13:** *Irrespective of whether it is natural or modified, some habitat may be considered to be critical by virtue of (i) its high biodiversity value; (ii) its importance to the survival of endangered or critically endangered species; (iii) its importance to endemic or geographically restricted species and sub-species; (iv) its importance to migratory or congregatory species; (v) its role in supporting assemblages of species associated with key evolutionary processes; (vi) its role in supporting biodiversity of significant social, economical or cultural importance to local communities; or (vii) its importance to species that are vital to the ecosystem as a whole (keystone species).*
- **PR 6.14.** *Critical habitat must not be converted or degraded. Consequently, in areas of critical habitat, the client will not implement any project activities unless the following conditions are met:*
 - *Compliance with any due process required under international obligations or domestic law that is a prerequisite to a country granting approval for project activities in or adjacent to a critical habitat has been complied with.*
 - *There are no measurable adverse impacts, or likelihood of such, on the critical habitat which could impair its ability to function in the way(s) outlined in paragraph 13.*
 - *Taking a precautionary perspective, the project is not anticipated to lead to a reduction in the population of any endangered or critically endangered species or a loss in area of the habitat concerned such that the persistence of a viable and representative host ecosystem be compromised.*
 - *Notwithstanding the above, all other impacts are mitigated in accordance with the mitigation hierarchy.*

The area of the Boskov Most HPP project could be considered as a critical area due to the fact that:

- It is a scientifically proven area where the Lynx lives and feeds (please see Annex 2 for the map of locations),
- It is extremely important for the survival of the Lynx due to the species geographic restriction (the only location where the Lynx lives as a population on the Balkan peninsula),
- Even though the Lynx lynx species has been classified as Least Concern by the IUCN red list of species, the subspecies Lynx lynx martinoi (the Balkan Lynx) according the Macedonian scientists is a Critically Endangered species. Currently there is a process of officially entering this subspecies in the official taxonomy of cats and reassessment of the status of this subspecies. Research conducted so far on this subspecies confirms the proposed status of Critically Endangered.

Strategic environmental assessments lacking

In 2010, the Government of Macedonia adopted a Strategy for renewable use of energy sources till 2020⁶. A Strategic Environmental Assessment (SEA) for this Strategy was obligatory by national law and EU *acquis communautaire*, but was not prepared.

Therefore none of the projects which arise from that Strategy are fully compliant with the EU *acquis communautaire*. Since the spatial planning for the area of the National Park is under preparation, an SEA has still not been prepared.

In addition, the National Park is currently undergoing a review process. A Study on the review of the National Park's value will soon be submitted to the Ministry of environment and physical planning and serve as a basis for the preparation of a new Law for proclamation of "Mavrovo" as a National Park. This process should continue with the preparation of a Management plan for the National Park and a Strategic Environmental Assessment (SEA) of the Management Plan.

Until this process is finalised, we think that the client is not able to follow the mitigation hierarchy stipulated in the EBRD's Environmental and Social Policy.

In our opinion this is in breach of the following Performance Requirement:

- *PR 6.15. Areas may be designated by government agencies as protected for a variety of purposes, including to meet country obligations under international conventions. Within defined criteria, legislation may permit development in or adjacent to protected areas. In addition to the applicable requirements of paragraph 14, the client will: [.....] **demonstrate that any proposed development in such areas is legally permitted and that due process leading to such permission has been complied with by the host country, if applicable, and the client; and that the development follows the mitigation hierarchy (avoid, minimise, mitigate, offset) appropriately; [....]***

Please describe any other complaints you may have made to try to address the issue(s) at question (for example, court cases or complaints to other bodies).

None at present.

Are you seeking a Compliance Review where the PCM would determine whether the EBRD has failed to comply with its Relevant Policies?

Yes.

Are you seeking a Problem-solving Initiative where the PCM would help you to resolve a dispute or problem with the Project?

No

What results do you hope to achieve by submitting this Complaint to the PCM?

We hope that by the investigation made by PCM it will become clear to the EBRD that financing the project and acting in accordance with its own policies is not possible.

We would expect that the EBRD would not support the project at least until all relevant legal

6 http://www.economy.gov.mk/Uploads/files/sektorskiDok/energetika/Strategija_OIE_final_mk.pdf

processes in the country have been concluded and will ensure proper assessment (eg. of alternatives), mitigation measures and structures, in order to prevent biodiversity loss. This would mean that the EBRD would first wait for the Law on the proclamation of “Mavrovo” as a National Park to be adopted and the Management Plan for the “Mavrovo” National Park to be prepared.

Signature

A handwritten signature in black ink, appearing to be 'H. Andrić', written in a cursive style.

До:

Министерство за животна средина и просторно планирање на Р.М.

Управа за животна средина - Сектор за животна средина

Одделение за оценка на влијанието врз животната средина

Сс: А.Д. ЕЛЕМ

Сс: Делегација на ЕУ во Р. Македонија

Сс: Европска банка за реконструкција и развој

Коментари на работната група за учество на јавноста*
кон
Студијата за оцена на влијанијата врз животната средина
и социјални аспекти за ХЕ „Бошков мост“

1. Коментари за самиот проект ХЕ „Бошков мост“ (во контекст на заштитата и зачувувањето на вредностите на НП Маврово):

1.1. На територијата на НП Маврово интензивно се планираат повеќе енергетски проекти меѓу кои е и ХЕ „Бошков Мост“. Овие проекти (акумулација „Луково поле“ и ХЕ „Црн камен“ и други) неминовно ќе имаат влијание врз животната средина, индивидуално, но и кумулативно, како комплекс од системи кои ќе функционираат на иста територија, користејќи ги истите ресурси. Во моментот се одвиваат неколку процеси кои се однесуваат на НП Маврово и имаат директна врска со наведените проекти, вклучувајќи го и Бошков мост. Поконкретно:

- Управата на Националниот парк „Маврово“ е во процес на ревалоризација на вредностите на Паркот, како дел од редовниот процес на управување со Паркот и обврска од Законот за заштита на природата. Во текот на овој процес ќе се донесат одлуки во врска со степенот на развој и нивото на заштита што ќе биде соодветен за ресурсите во Паркот. Со овој процес постои можност да се смени степенот на заштита на делот од Националниот парк „Маврово“ во кој се планира проектот Бошков мост. Исто така, поради фактот што сеуште не е изготвена ревалоризација на вредностите на Паркот и има недостиг на податоци, не е возможно да се направи солидна оцена на влијанијата врз животната средина на овој проект. Ова на некој начин го потврдува и самата Студија за оцена на влијанијата врз животната средина и социјалните аспекти за ХЕ „Бошков мост“, во која на повеќе места јасно се воочува дека поради недостиг од податоци, анализите на групи животни не се задоволителни (цицачи, риби, птици);⁷
- во Националниот план за апроксимација се наведува дека во текот на 2011 планирано е донесување на Закон за прогласување на Маврово за национален парк;
- во тек е постапката за изработка на Државна урбанистичка планска документација за „Луково поле“ и „Бошков мост“, за која А.Д. ЕЛЕМ на 18.05.2011 година во весникот „Капитал“ објави оглас за доделување договор за јавна набавка. Согласно Член 3 точка 15 од Уредбата за стратегиите, плановите и програмите, вклучувајќи ги и промените на тие стратегии, планови и програми, за кои задолжително се спроведува постапка за оцена на нивното влијание врз животната средина и врз животот и здравјето на луѓето („Службен весник на РМ“ бр. 153/07 од 20.12.2007 год.), за овие плански документи задолжително се изготвува стратегиска оцена на влијанијата врз животната средина. Овие документи се важни за сестрано разгледување на влијанијата врз животната средина од овој проект.

⁷ Повеќе за влијанието врз идни Натура 2000 подрачја видете ја забелешка бр.4

Наш заклучок:

Врз основа на горе изнесените факти сметаме дека финализирањето и усвојувањето на ОВЖС Студијата за Бошков мост, а особено почетокот на реализацијата на проектот, мора да се спроведат по донесување на Студијата за ревалоризација на НП Маврово, Законот за прогласување на „Маврово“ за национален парк и по изработка и усвојување на планската документација за Х.Е. „Бошков мост“ заедно со СОВЖС на истата.

Наведените документи се клучни за почетната одлука дали, какви енергетски проекти и каде може да се планираат на територијата на Националниот парк. Дополнително, овие документи би требало да ги обезбедат податоците кои се неопходни за изработка на квалитетна студија за влијание врз животната средина.

2. Коментари за содржината на Студијата:

2.1. Во текстот на студијата честопати се среќаваат извадоци и цитирање на други студии, но конкретните изворите не се добро наведени

Пример 1: На страна 177, се цитира дека во Втората национална комуникација за климатските промени од 2008 година е направена пресметка на количествата јаглерод диоксид за Бошков Мост. Треба да се наведе точно како е пресметано и кои параметри се земени предвид, и не е логично да се очекува од секој кој ја чита студијата да ги консултира сите наведени референци, без притоа да знае каде (на која страница и локација да го најде документот кој е цитиран).

Пример 2: Страна 133, опис на заедница на див костен - текстот е безмалку идентичен со текст од „Шумски фитоценози“ од Д-р Јане Ацевски и инж. Бојан Симовски (UCODEP – УКОДЕП 15.IX 2010 година), а овој документ не е наведен како референца на крајот од студијата. (Претпоставувам дека ова е така поради фактот што авторот на оваа студија е дел од експертскиот тим за студијата за Бошков мост, но нарачателот на горепоменатата студија е УКОДЕП и не станува збор за авторско дело.)

Препорака: Користените информации да се обележат со фусноти и јасно да се обележи страницата која ја содржи информацијата и локацијата на документот кој се цитира (во случај да се цитира документот, без да се дадат подетални образложенија/анализи).

2.2. Разгледување на алтернативите на проектот

2.2.1. Нулта алтернатива (алтернатива да не се прави ништо)

Во делот на алтернативата да не се прави ништо во најголем дел е цитирана Стратегијата за енергетика на Република Македонија и важноста што му е дадена на ХЕЦ Бошков Мост во истата. При анализата на нулта алтернативата направени се исклучиво пресметки за заштедата на CO₂ емисии при употребата на хидроенергијата и зголемувањето на уделот на ОИЕ во енергетскиот систем на Македонија. При тоа, недостасуваат било какви анализи и објаснувања за зачувувањето на пределот, екосистемите, хидрологијата и микроклимата во регионот во случај проектот да не се спроведе, наспроти придобивките (енергетски, економски и заштеда на CO₂ емисии) при реализација на проектот. Без вакви квантитативни анализи не може априори да се отфрли нултата алтернатива со единствено образложение дека: „...има малку позитивни причини за нејзино фаворизирање“.

Од друга страна, во нулта алтернативата секогаш мора да се разгледаат можности за замена на проектот со други видови на обновливи видови на енергија, кои би го постигнале истиот ефект за намалување на CO₂ емисиите и зголемување на домашното производство на електрична енергија од ОИЕ, во случај планираниот проект да не биде реализиран.

2.2.2. Алтернатива за браната со или без акумулација

Во делот „Алтернатива за браната со или без акумулација“ студијата се повикува на заклучоците од идејниот проект изработен во 1978 година, кои наведуваат дека алтернативата со акумулација е енергетски поприфатливо решение. И покрај фактот што изготвувачите на Студијата за оцена на животната средина во една реченица наведуваат дека: „Од аспект на заштитата на животната средина брана со резервоар е понеповолна варијанта отколку зафат без резервоар“, во Студијата недостасуваат дополнителни анализи и образложенија за прифаќање на одлуката донесена во 1978 година.

Наш заклучок: Алтернативите во студиите за оцена на влијанијата врз животната средина не се разгледуваат за да го оправдаат веќе донесеното техничко решение за проектот, туку навистина и

објективно да ги разгледаат сите можни решенија и нивното влијание врз животната средина, а во случај кога реализирањето на проектот предизвикува поголеми негативни последици отколку придобивки, да се прифати нултата алтернатива. Сметаме дека делот кој ги разгледува алтернативите треба да се преработи и дополни, односно да се корегираат сите наведени недостатоци.

2.3. Кумулативен ефект

2.3.1. Во делот Влијанија и мерки за намалувања, точка к) потенцијални кумулативни влијанија се наведува дека „... Во рамките на Паркот се предвидени уште неколку други хидроелектрани и во овој дел се разгледува дали сите овие хидроелектрани, заедно, би имале значително влијание врз Паркот.“

Анализата на влијанието дали сите хидроелектрани заедно би имале значително влијание врз Паркот се разгледува исклучиво од аспект на сливното подрачје и користењето на истите водни ресурси и покрај тоа што во истиот дел стои дека „... Иако овие широко дисперзирани објекти нема да имаат влијание на исти ресурси, постои загриженост дека толку многу дополнителен развој ќе го промени карактерот на Националниот парк „Маврово“ и ќе го направи помалку атрактивен со неговите природни знаменитости.“

2.3.2 Поради тоа што кумулативното влијание е разгледувано само од аспект на влијание врз сливното подрачје, односно воопшто не се анализирани кумулативните ефекти на сите планирани проекти од сите аспекти кои би можеле да бидат засегнати (флора и фауна, микро клима, предел, социјален аспект, итн) не се ни предвидени мерки за намалување на сите овие потенцијално сериозни кумулативни влијанија.

Наш заклучок: Сметаме дека на оваа исклучително важна тема мора да и се пристапи соодветно. Во оваа смисла анализата на кумулативните ефекти на овој проект заедно со сите постоечки и планирани проекти во националниот парк би морала да вклучи анализа на кумулативните ефекти на сите медиуми, микро климата како резултат на испарувањата од хидроелектраните, билошката разновидност согласно чувствителноста на видовите на промена на средината (влажност, температура) итн, пределот, социјалните аспекти, итн.

Тоа што ХЕ Бошков мост се наоѓа во делот на Паркот што дозволува одржливо користење не подразбира дека во тој дел е дозволено менување на карактерот на самиот парк. Напротив во член 75 од Законот за животна средина јасно стои дека е забрането е спроведување на активности со кои се загрозува изворноста на природата во националниот парк. Согласно истиот член одржливото користење на природните ресурси на националниот парк се врши на начин на кој не го загрозува опстанокот на видовите и нивната природна рамнотежа.⁸

Бараме целосна преработка на делот за кумулативните ефекти и корекција на наведените недостатоци, како и конкретни мерки за намалување на сите влијанија кои темелната анализа ќе ги идентификува.

2.4. Оправданост на проектот

Во делот 12 Оправданост на проектот, пресметката на намалувањето на емисии на јаглерод диоксид (107 000 тони годишно) не е јасно образложена и очигледно е дека е направена со споредба на производството на електрична енергија од различни извори (вода, наспроти јаглен.)

Наш заклучок: Оваа бројка не е реална, бидејќи хидроелектраната ќе се користи за стабилизирање на системот во моменти на пикови, и согласно, не може да се смета дека реално ќе се намали потрошувачката на јаглен (за производство на електрична енергија). Во анализата не е јасно дали (од пресметаните тони јаглерод диоксид) се одземени количествата на јаглерод

8 Член 75 од Закон за природа

Забранети активности во национален парк

(1) Забрането е спроведување на активности со кои се загрозува изворноста на природата во националниот парк, како и палење на огин на територијата на националниот парк, освен на посебно утврдени места дефинирани со планот за управување на националниот парк.

(2) Во националниот парк може да се вршат туристичко-рекреативни дејности, како и одржливо користење на природните ресурси на начин кој не го загрозува опстанокот на видовите и нивната природна рамнотежа, согласно со одредбите на овој закон.

диоксид кои се апсорбираат од вегетацијата која се планира да се отстрани за потребите на хидроелектраната. Истите можеби се минимални, но требало да се претстават во пресметката.

2.5. Влијание на проектот врз идни Натура 2000 подрачја

2.5.1. Поглавје 7.13.3.1 Крајречни шумски фитоценози, страна 132, не е наведено дека ова е приоритетен хабитат за ЕУ. И за останатите хабитати/видови исто така не се наведува дали се приоритетни (на пример, во делот за цицачи) и кои посебни мерки ќе се преземат согласно Европските директиви, за заштита на идни Натура 2000 подрачја.

Наш заклучок: Потребно е дополнување на студијата во однос на горе потенцираните недостатоци.

2.5.2. Во поглавје 8.7 Влијанија врз биолошката разновидност- не е наведено како проектот ќе влијае врз две заедници (присутни во регионот на проектот и на листата на Директивата за хабитати)⁹ и кои мерки ќе се превземат согласно Европските директиви.

Наш заклучок: Потребно е допонување на студијата во однос на горе потенцираните недостатоци.

2.5.3. Поглавје 8.7.1.3 Извори на влијанија врз копнени животни и птици и следното поглавје, 8.7.1.4. Главни рецептори, не дава јасна слика за можните влијанија врз видрата (*Lutra lutra*) која е вид кој се наоѓа на листата на видови (Анекс 2) од Директивата за хабитати, за кои е потребно назначување посебно подрачје за заштита.

Наш заклучок: потребно е дополнување на студијата во однос на влијанијата врз видрата.

2.6. Недостиг од анекси и табели

Поглавје 7.14.3 Орнитофауна, Страна 137 - нема список на птици (истиот го нема и како анекс). Поглавје 7.14.4 Цицачи- параграф 2 посочува на Анекс кој го нема. Треба да има листа на видови. Поглавје 7.14.6 Тип Pisces (Риби)- дел од текстот во поглавјето не се базира на стручни согледувања и истражувања туку на усни информации од локално население. Освен тоа, недостига табеларен приказ на видовите.
Бараме да се дополни студијата со потенцираните анекси и табели.

2.7. Други коментари:

2.7.1. Анекс 5, страна 326, матрица на влијанија врз животната средина, дел Климатски промени - под површина стои „површина“ без да се наведе колкава површина се опфаќа со влијанието. Бараме студијата да се дополни со информација колкава површина се опфаќа со влијанието.

2.7.2. Поглавје 8.4 Бучава - анализирани се ефектите од бучава врз луѓето, во мала мера врз животните. Не е направена добра анализа на влијанијата на бучавата врз животните, особено оние кои живеат и се хранат во тој регион (во однос на идентификација на чувствителни видови). Потребно е дополнување на анализата на ефектите од бучава врз животните со посебен акцент на животните кои живеат и се хранат во тој регион (во однос на идентификација на чувствителни видови).

2.7.3. Студијата треба да се дополни со анализа на можните температурни разлики во водата (покачување на температурата како резултат на изградбата и функционирањето на системот) и како тие ќе влијаат врз пастрмката и останатите риби (имајќи предвид дека истите живеат во поладни води).

2.7.4. Страна 253, Табела со мерки за намалување на влијанието- во делот за Копнена фауна - загуба на живеалиштата се споменуваат мерки за компензација. Планот за компензација го нема во Студијата. Потребно е Студијата да се дополни со овој план или да се наведат основни мерки за заштита/компензација.

⁹ Живеалишта присутни во регионот на проектот и на листата на Директивата за хабитати- 91E0 * Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno- Padion, *Alnion incanae*, *Salicion albae*) (II), 3230 Alpine rivers and their ligneous vegetation with *Myricaria germanica* (I)

2.8. Прашања:

- 2.8.1. Во студијата е наведено дека за потребите на хидроелектраната ќе бидат искористени следните површини на земјишта:
Шуми 82,16 хектари
Ливади 8,53 хектари
Пасишта 15,99 хектари
Необработена почва 7,1 хектари
Овоштарници 1,89
Вкупно: 115,67 хектари
На состанокот одржан на 25.07.2011 година организиран од А.Д. ЕЛЕМ, професорот Ацевски тврдеше дека ќе се употребат вкупно 250-300 хектари. Која е вкупната бројка на површина која ќе се искористи за хидроелектраната? Од студијата ова не е јасно и треба појасно да се наведе (табеларно со вкупни износи на површини).
- 2.8.2. Кој е археолошкиот локалитет кој ќе биде засегнат од браната назначен на слика 7-40 во Тресонче?
- 2.8.3. Во поглавје 8.7.2.5 Извори на влијанија на биолошката разновидност во водите и 8.7.2.6. Главни рецептори наведено е дека браната ќе го запре природниот пат на пастрмката до местата за мрестење.
Кои се очекуваните ефекти врз популацијата на рибите кои ќе останат во реката (се очекува пад/раст/дегенерација на популација и сл.)?

Согласно Архуската конвенција и Законот за животна средина бараме да ни доставите посмени одговори/мислења на сите коментари и прашања, вклучувајќи и одговор кои ќе бидат земени предвид, кои не и зошто.

Ве молиме Вашиот одговор да ни го доставите на следниве адреси:

Фронт 21/42
Бул. Јане Сандански бр. 25/2/9, 1000 Скопје

Еко-свест
Бул. 11 Октомври 125/12, 1000 Скопје, Македонија

или по електронски пат на следниве адреси:

aleksandra.bujaroska@front.org.mk, contact@front.org.mk или info@ekosvest.com.mk

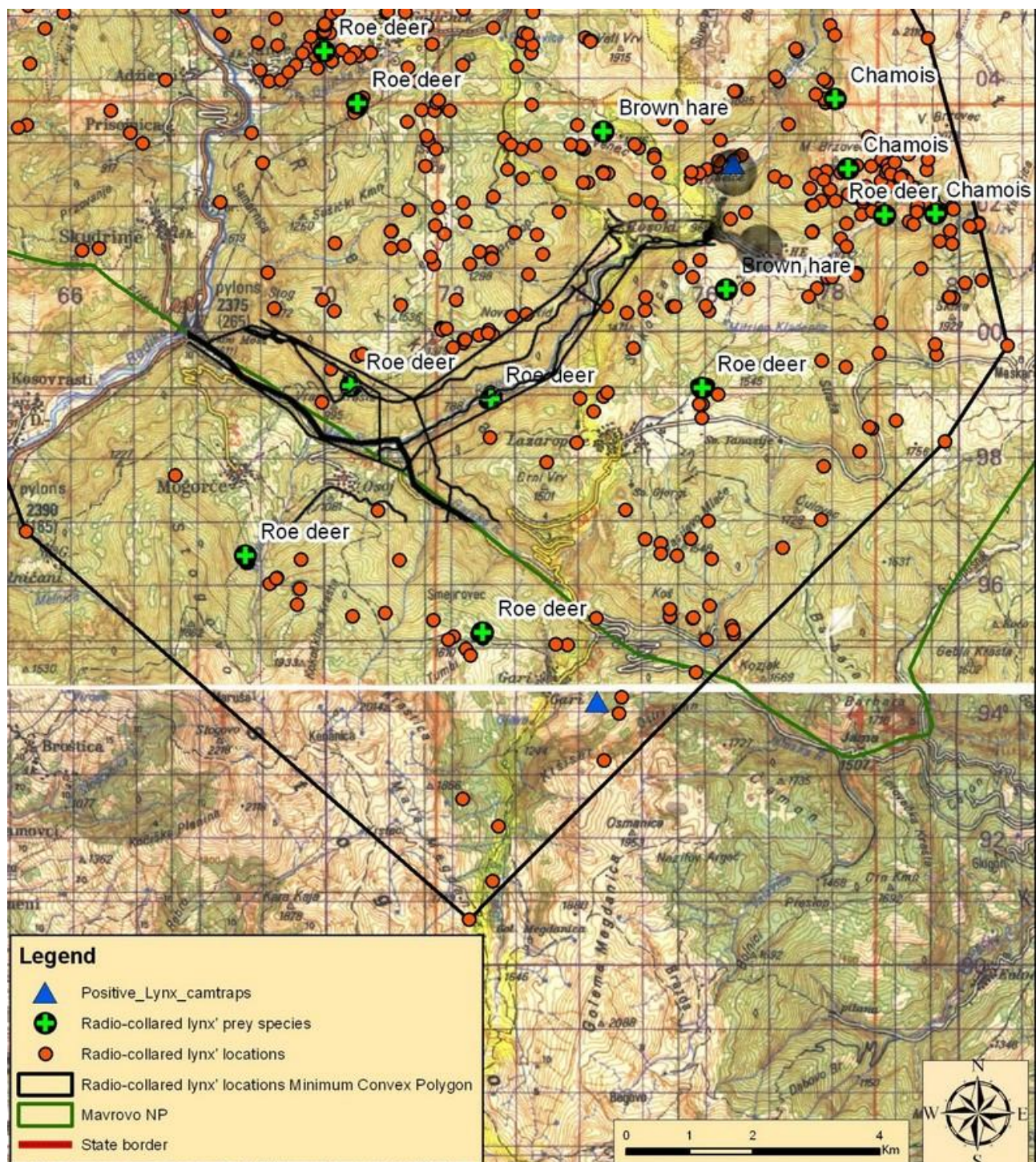
Со почит,
Координатор на работната група
Александра Бујароска
Фронт 21/42

Претседател
Фронт 21/42

** Работната група за учество на јавноста е формирана во рамки на проектот „Активизам на дело“ кој се спроведува со финансиска помош на Европската Унија. Во работната група учествуваат: „Фронт 21/42“, Македонски Зелен Центар, Еко-Свест, Македонско еколошко друштво, ЦЕЛОР и Екоскоп. Ставовите и мислењата изразени во овој документ се исклучиво на работната група за учество на јавноста и во ни една смисла не ги одразуваат ставовите и мислењата на Европската Унија.*

Annex 2.

Map of movement and feeding ground of *Lynx lynx*, in the territory of the Mavrovo National Park, and proposed Boskov Most HPP location (blue triangle- positive camera traps- resulted in photos of the *Lynx* taken, Green plus- locations of various prey of the *Lynx*, red dots- locations of movement of the *Lynx*.)





Добитник на наградата
„13 Ноември“ на Град Скопје

Банка депонент: Комерцијална банка А.Д Скопје
Број на жиро сметка: 300000001519444
Даночен број: 4030002457980

Бул. 11 Октомври 125/12, 1000 Скопје, Македонија
Тел.: 02 3217 247; Факс: 02 3217 246
info@ekosvest.com.mk; www.ekosvest.com.mk

30.12.2011

Project Complaint Mechanism
Attn: PCM Officer
European Bank for Reconstruction and Development
One Exchange Square London
EC2A 2JN Fax:
+44 20 7338 7633
E-mail: pcm@ebrd.com

Subject: Additional complaint regarding the Boskov Most HPP project

Dear Ms Begoyan,

As an addition to our complaint to the Project Complaint Mechanism submitted on 07 November 2011 regarding the Boskov Most hydropower project, we would like to draw your attention to one more important aspect which has come to our notice since then. We would like to ask you to consider this issue as an addendum to the complaint as we believe the EBRD has failed to follow its procedures.

Namely, the Environmental and Social Policy 2008 clearly states:

PR 1.9: *“The Environmental Impact Assessment (EIA)/Social Impact Assessment (SIA) shall meet PR 10 and any applicable requirements of national EIA law and other relevant laws”*

PR10.7: *“The requirements of national law with respect to public information and consultation, including those laws implementing host country obligations under international law² must always be met.”*

The Macedonian Law on Environment provides that the environmental impact assessment process is carried out in close consultation with the public and also allows for complaints at various stages of the process. However, to this date, **no decision by the Ministry of Environment and Physical Planning has been issued to approve the Environmental Impact Assessment Study for the Boskov Most HPP project.** We learned about this fact last week, when the Ministry of Environment and Physical Planning informed us that the Ministry Committee to decide upon the ESIA Study has not been set up yet.

The Macedonian Law allows for complaints to be addressed on the decision for approval of the Study, and such complaints could possibly change the decision made by the Ministry or initiate changes to the Study.

Therefore, the environmental impact assessment process for the Boskov Most HPP project is not yet finished and the national requirements in this respect have not been met.

We conclude that as the EBRD approved and signed the Boskov Most HPP project in November 2011, it did not wait for the national level environmental impact assessment process to finish and so failed to follow its own procedures. It is impossible for the EBRD to have known whether the project procedures fulfilled national and/or EU requirements at the time when it approved and signed the project.

The fact that the process is not yet finished brings several possible outcomes that the EBRD cannot foresee with certainty. The decision by the Ministry of Environment and Physical Planning could be negative, or the Ministry could request changes to the ESIA study. If complaints are submitted on the national level, this could also change the final outcome.

The EBRD should have first waited for the national process to be finalised and then considered approving the project.

Please do not hesitate to contact me should you have any further questions,

Yours sincerely,



Ana Colovic Lesoska

Center for environmental research and information "Eko-svest"
Skopje, Macedonia

**DOCUMENT OF THE EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

Project	41979 Boskov Most Hydropower Project, FYR Macedonia
Project Team	Operation Leader: Julien Mauduit OGC: Daniele Quaggiotto ESD: Jack Mazingo, Sarah Ruck, Mark King
Date of issue to ExCom	9 December 2011
Date of approval by ExCom	15 December 2011
To: PCM Officer	Anoush Begoyan
From: Director, ESD Director, PEU	Alistair Clark Nandita Parshad
Date of issue to PCM Officer	15 December 2011

Thank you for your email dated the 18th November 2011, regarding the request for a compliance review of the Boskov Most Hydropower Project under the EBRD Projects Complaints Mechanism (PCM) by CEE Bankwatch. This complaint was officially registered on the 14 November 2011 and this is the ‘Bank Response’ to the Complaint as outlined in *PCM: Rules of Procedure* (Clause 15), which is due by Monday 19 December to the PCM Officer.

The letter of Complaint raises a number of points regarding compliance with the EBRD’s 2008 Environmental and Social Policy. The initial paragraphs of this “Bank Response” describe the complex hydropower project and its setting and the remainder is structured to demonstrate that there have been no breaches of EBRD Policy and every effort has been made to minimise the impact of the Boskov Most project on Protected Areas and potentially sensitive ecosystems and to comply with FYR Macedonian law.

The Boskov Most Hydropower Project

The project involves construction and operation of a 70MW hydropower plant (HPP) at Boskov Most in western FYR Macedonia by the 100%-state-owned generator AD Elektrani na Makedonija (ELEM). The HPP will include a 33-meter dam to impound a 22-hectare reservoir on the Mala Reka (“Small River”), intakes to capture water from five tributaries to the Mala Reka, a nine-kilometre tunnel to convey water from the reservoir to a surge tank and thence to the powerhouse, and a concrete tailrace to return water to the Mala Reka. The dam is downstream of the village of Tresonce and the reservoir will extend upstream into the village. The Mala Reka forms part of the southern border of Mavrovo National Park, and about 80 percent of the project will be within the National Park in an area designated for sustainable use.

Due to the height of the dam and the sensitivity of the location, EBRD categorized the Project as “A” under the 2008 Environmental and Social Policy. The potential environmental and social impacts of the project were analyzed in an Environmental and Social Impact assessment disclosed on 5 July 2011 for 120 days of public review and comment. A Non Technical Summary of the ESIA, a Stakeholder Engagement Plan, a Land Acquisition and

Compensation Framework, and an Environmental and Social Impact Assessment were also disclosed for review and comment at the same time.

Public consultations were held during the scoping study and during the overlapping disclosure periods required by FYR Macedonian law and EBRD Public Information Policy (60 days and 120 days, respectively). During the ESIA disclosure period, consultation meetings were held in Skopje (public meeting on 14 September and two separate meetings, on 27 July and 26 August, with NonGovernmental Organizations—NGOs), in the two affected municipalities (Mavrovo and Rostuse on 12 September and Debar on 13 September), and in Tresonce village (on 27 August); a meeting also was held with Mavrovo National Park administration (14 September). Comments submitted by NGOs and other stakeholders were addressed in a comment-response table posted on ELEM's website prior to the end of the disclosure period.

Compliance with EBRD Environmental and Social Policy 2008 and Performance Requirements

Complaint 1: Incomplete ESIA (citing PRs 1.5 and 3.6, with concern about the adequacy of the assessment of the impacts of the project on mammals, birds and landscapes and about the analysis of cumulative impacts on climate and the analysis of alternatives.)

Management Response

The ESIA presents recent information on existing conditions (most recently, 2010 published studies plus an-ongoing biodiversity study in the Park), properly assesses impacts on mammals, birds, and landscapes, and properly analyses alternatives and cumulative impacts on climate. The analysis and presentation fully meet the Bank's and the European Union's standards for environmental impact assessment. Each of the shortcomings alleged by the Complainant is addressed briefly below.

Mammals: Sections 5.1.1.1 and 5.13.5.4 of the ESIA each describe the richness of mammalian populations in the National Park. The biological experts who prepared the ESIA based their conclusions on a desktop evaluation of the scientific literature and worked in close communication with the experts who were concurrently conducting a study of lynx and mammals in the National Park area—this study informed the recently completed re-valORIZATION study of the National Park. As a result, the ESIA's evaluation was based on the most recent data available (proper citations were associated with the lists of mammals that were inadvertently omitted from the initially disclosed ESIA but were provided later--see the response below). Their analysis concluded that lynx and the mammals that serve as the lynx's prey are found preferentially at higher elevations and not in the lower areas of the Mala Reka valley where project elements (dam, reservoir, roads, etc.) will be located. In addition, the experts noted that the portion of the project area that would be most affected (the dam and reservoir area) was in large part current or recent pastureland and thus not prime habitat for prey or lynx. The forested areas are described in the ESIA as not being pristine, having supported human and domestic animal populations for centuries (see response to complaint 3 below). Therefore, it was determined by the experts, and agreed by the international ESIA expert, there was no need to describe mammals and lynx in great detail since there would be only limited (if any) impact; in fact, lynx and their prey were described primarily because of the lynx's great rarity and importance as a national symbol and to make it clear this was not

critical habitat for the lynx. As a result, the ESIA (sections 5.1.1.1 and 5.13.5.4) mentioned that they are found in the area but did not dwell on their presence or importance. Similarly, and for the same reasons, the evaluations of impacts during construction (section 7.10.1.2.1) and operation (7.10.2.2.1) each simply state there would be potential minor impacts on lynx and other mammals. Thus, the assessment was adequate for the level of potential impacts.

It is important to note the experts' conclusions are fully supported by the Annex submitted by the Complainant, which is presented as Annex A to this response. This Annex shows where lynx and (some) prey species were detected during the re-valorization study of the Park that is referred to above. As noted, the ongoing progress and results of the study were made known to the ESIA team and used in their evaluations and conclusions. The map presented by the Complainant shows a small portion of the overall study area, focusing on the project area. However, lynx range widely over the National Park, as shown in the full study map, which is shown as Annex B to this response; in fact, even the study area does not cover the lynx's entire range. More importantly, both the larger area in Annex B and the smaller in Annex A each show clearly that lynx and their prey are predominantly found where the ESIA's experts had concluded. There were very few sightings in the Mala Reka valley and other project areas (which are roughly delineated by the dark lines on the map), but instead lynx were found at higher elevations, particularly in the high mountains east of the dam and reservoir. The larger map (Annex B) shows not only the wide range of the lynx within the study area, which itself covered only the southwest portion of the Park, but also the relatively low density of sightings in the project area compared to other areas of the Park (it also shows more clearly the topography, which distinguishes the river valleys from the higher elevations where lynx were found). Not coincidentally, the areas where lynx and prey were most commonly found were designated (in the recent re-valorization process for the National Park) for strict protection, in contrast to the project area, which maintains its zoning designation for sustainable use.

Birds. Sections 5.1.1.1 and 5.13.5.34 of the ESIA each describe the richness of bird populations in the National Park but also note that the project area is not considered of special ornithological value. Studies cited in the text date from 2010 and 2004 and are the most recent authoritative sources of information. In this case too, conclusions were based on expert opinion and the results of ongoing studies in the Park. The text also notes that three of the 77 species that could be expected in the project area – among the 139 that are found in the National Park -- are of conservation concern (one owl, one flycatcher, and one woodpecker). The ornithological experts who prepared the ESIA determined that impacts from construction would primarily be due to disturbance and thus would cause temporary abandonment of the area (section 7.10.1.2.1). During operation the primary impact would be creation of a new kind of habitat (open water) that would attract different species of birds but without driving out any existing species (7.10.2.2). This description of existing conditions and the analysis of impacts also were adequate.

Landscape. The existing landscape is described in terms of its visual and experiential value in section 5.8 and mentioned in several other sections. In addition, photographs of the typical landscape appearance at each of the main project elements are provided in Annex 1. The evaluation of impacts is detailed in section 7.11 and covers every aspects of the project, with the major effects on the visual landscape described in the text and shown graphically in Figures 7.7 through 7.12 (which depict the appearances of the dam, reservoir, intake and

siphon, aqueduct, and powerhouse). The narrative and graphical descriptions of the current landscape types and of potential changes can be considered as more than adequate.

Cumulative impacts on climate. Section 7.3 of the ESIA describes potential effects on global and local climates due to construction (7.3.1) and operation (7.3.2). The ESIA concludes that the relatively small (in global terms) changes in greenhouse gas emissions would have no significant effect on global climate change but would contribute to reducing FYR Macedonian emissions overall in line with the national strategy. Further, the ESIA concludes that the reservoir would increase micro-climate temperature and humidity, which in turn would be minor and very localised. Although the greenhouse gas assessment was quantitative, the other elements of this analysis were necessarily qualitative and did not justify further analysis.

It is not clear how there could be other types of analysis of the cumulative impact on climate other than simply repeating data from the scientific literature on global and regional climate change. Since the project is not expected to contribute significantly to this change, it was not deemed appropriate to present such data from the literature, nor to develop independent estimates of global and regional impacts. Thus, the analysis of cumulative impacts on climate, both local and global, was sufficient for the purposes of this ESIA.

Alternatives analysis. Alternatives to the project should be meaningful and realistic. It is not meaningful for an ESIA to evaluate alternatives that are not feasible for economic or other reasons, which is the case for this project. Previously, the Government of FYR Macedonia determined that hydropower development was the most feasible approach for renewables development in the country. As a result, the analysis of alternatives in the ESIA examined only hydropower development at Boskov Most. However, with that constraint, it is important to note that the ESIA examined, in section 4.3, various alternatives for the Boskov Most HPP, including the “do nothing” alternative, which was simply no hydropower development; and various technical options that had been considered in previous analyses (reservoir versus no reservoir; dam and reservoir site location; dam height and configuration; location of water tunnel; and various headrace and penstock configurations). The alternatives examined in the ESIA, particularly when considered with the previous evaluation at the national level, were appropriate for an ESIA of a specific project such as this one.

Lists of mammals and birds. The ESIA referred to lists of mammals (section 5.13.5.4) and birds (section 5.13.5.3) that were intended to be presented in ESIA appendices. These two lists and associated source citations were inadvertently omitted from the draft ESIA that was disclosed for public review and comment (due to a word processing error). The lists were provided to the Complainant before the end of the disclosure period and added to the ESIA on the ELEM website as well.

Complaint 2: Incomplete biodiversity assessment (citing PR6 and the Environmental and Social Action Plan requirement for detailed biomonitoring)

Management response

The response to Complaint 1, above, explained that the ESIA included a mainly desktop analysis of terrestrial biodiversity data (there were aquatic biology field studies undertaken) and reached well-supported conclusions based on the most recent data, including ongoing studies in the Park. The Bank agrees that the ESAP requires careful monitoring of

biodiversity-related variables, before and during construction and then during operation. This monitoring will include not only terrestrial flora and fauna as cited in the Complaint, but also fish and aquatic conditions and of shallow groundwater and vegetation (horse chestnut), as well as other potentially affected resources. It is standard practice for the Bank to require clients to monitor key resources as well as actual impacts. Monitoring sensitive species, for example, will help verify the accuracy of the conclusions in the ESIA of limited impacts, and if necessary will identify impacts that justify adjustments to the actions required to avoid or reduce impacts. If refinements to design, construction techniques or timing, or operations are needed to further reduce potential impacts, only a robust monitoring program can determine if they are needed. This is also standard practice.

All evaluations of potential impacts are subject to some degree of uncertainty, with the degree determined by the level of data completeness and availability of analytical techniques (including best professional judgment). In the case of Boskov Most, it was considered important that adequate data be evaluated using robust techniques to arrive at sound and defensible conclusions, and that sensitive issues be monitored during project construction and operation to verify the accuracy of conclusions and the adequacy of any required mitigation. Ecosystems, such as those represented in the area of the Boskov Most HPP, are not static but rather are changing in response to, among many other factors, the change in human pressures the area has experienced in the recent past and is currently experiencing. In recent decades, for example, most people have abandoned the area as a permanent residence, while it continues to be a popular area seasonally. As tourism increases in the Park, similarly, there are increasing uses of tourist amenities, such as the major hiking trail on the ridgeline immediately north of the dam and reservoir area (and where, incidentally, lynx sightings are shown on the annexes presented with this response). Therefore, it is only prudent to require further monitoring, not only to add to the current body of knowledge regarding lynx and other mammal species, but also to identify future trends in their use of the area so the Park can adapt its biodiversity management program in response to recent real-world data.

The requirement for a robust biodiversity monitoring program should thus not be considered as evidence of a weak baseline characterization. Rather, it should give confidence that changes in biodiversity, whether due to the project or otherwise, can be detected early and addressed as needed to protect the resources of the Park.

Complaint 3: Destruction of habitat without adequate justification (citing PRs 6.12, 6.13, 6.14, with emphasis on natural and critical habitats)

Management response

The project area is without question in a protected area, as is emphasized throughout the ESIA. However, it could not be considered as either natural habitat or critical habitat. As described in the ESIA, the Boskov Most HPP project area has been essentially modified by human activities for centuries and cannot be said to be uncompromised by human activity. Testimony to this are the facts that the reservoir is proposed to reach to and into the village of Tresonce, and that articles of valuable cultural heritage – in the form of churches and cemeteries dating several hundred years -- are found in Tresonce and nearby villages. These attest to the long human presence in the vicinity of the project.

In the past, the human population was larger and the land was used more heavily than at present. Now, some areas are reverting to (increasingly mature) forest habitat, but these are still in an early or middle level of vegetation succession, by no means the mature forest of less disturbed areas of the Park. Indeed, there are still significant areas that are pasturelands and there is even some household agriculture. Although the human population is significantly reduced, as described in the ESIA, even now there are a few year-round residents and visitors as well as significant recreational use of the area by former residents and others during summer holidays.

As described in the ESIA, the project area is not characterized by predominantly “natural” habitat, which would be pristine broadleaf forest in the lower parts of the valley. While the overall characterization of the Mala Reka and Radika region may be of this type, it is certainly not true of areas where the main project elements (the dam and reservoir, the power house, the main intakes) will be located. The primary potential for impact on broadleaf forest is in the development of the road infrastructure, and the areas where roads will be are not considered pristine. As noted in the ESIA, the only pristine forest that may be affected would be in some of the areas where siphons will be located. There are already roads in the area and the new support roads are not going to significantly change the fragmentation pattern or habitat quality. The only significant functional habitat loss will be the grasses and scrubs of the semi-natural habitat in the areas of the dam, reservoir and powerhouse. There are other such locations in the Mala Reka valley between the dam and the power house and upstream of Tresonce village, and this loss was not assessed to be significant.

As for the importance of the area for sensitive species (“critical habitat”), the data used in the ESIA and the maps shown as Annexes A and B show relatively light use of the HPP area; lynx would be expected to preferentially use its critical habitat, so the project area would not be considered critical. Equally important is the size of the HPP footprint; the area to be affected is a tiny fraction of the sensitive species’ range, and must not be of particular value in their daily and seasonal movements given its very light use (see Annex B, which itself shows only part of the lynx’s range). Therefore, it cannot be considered “critical habitat”. As for cumulative effects on lynx and mammal habitat, the ESIA noted the potential development of a smaller HPP slightly upstream of Boskov Most HPP; again, since these creatures are found in upland habitats rather than valley habitat around Boskov Most, no cumulative effects would be expected, just as concluded in the ESIA

Complaint 4: Strategic environmental assessments lacking (with reference to PR6.15, expressing concern that the project is not legally permitted and that due process has not been complied with by the host country since there has been on SEA)

Management response

Supported by an opinion dated 17 March 2010 by the Ministry of Environment and Physical Planning, the Company has represented that a Strategic Environmental Assessment of the Energy Strategy of FYR Macedonia until 2030 was previously undertaken. The Strategy includes the Boskov Most project (with target year of 2015) as one of six new hydropower projects within the Strategy time horizon. The SEA Report includes a strategic analysis and environment assessment of planned hydropower projects, including Boskov Most HPP. The SEA identified a clear need for an environmental impact assessment based on the FYR Macedonian legal framework as well as best international practices. This has now been

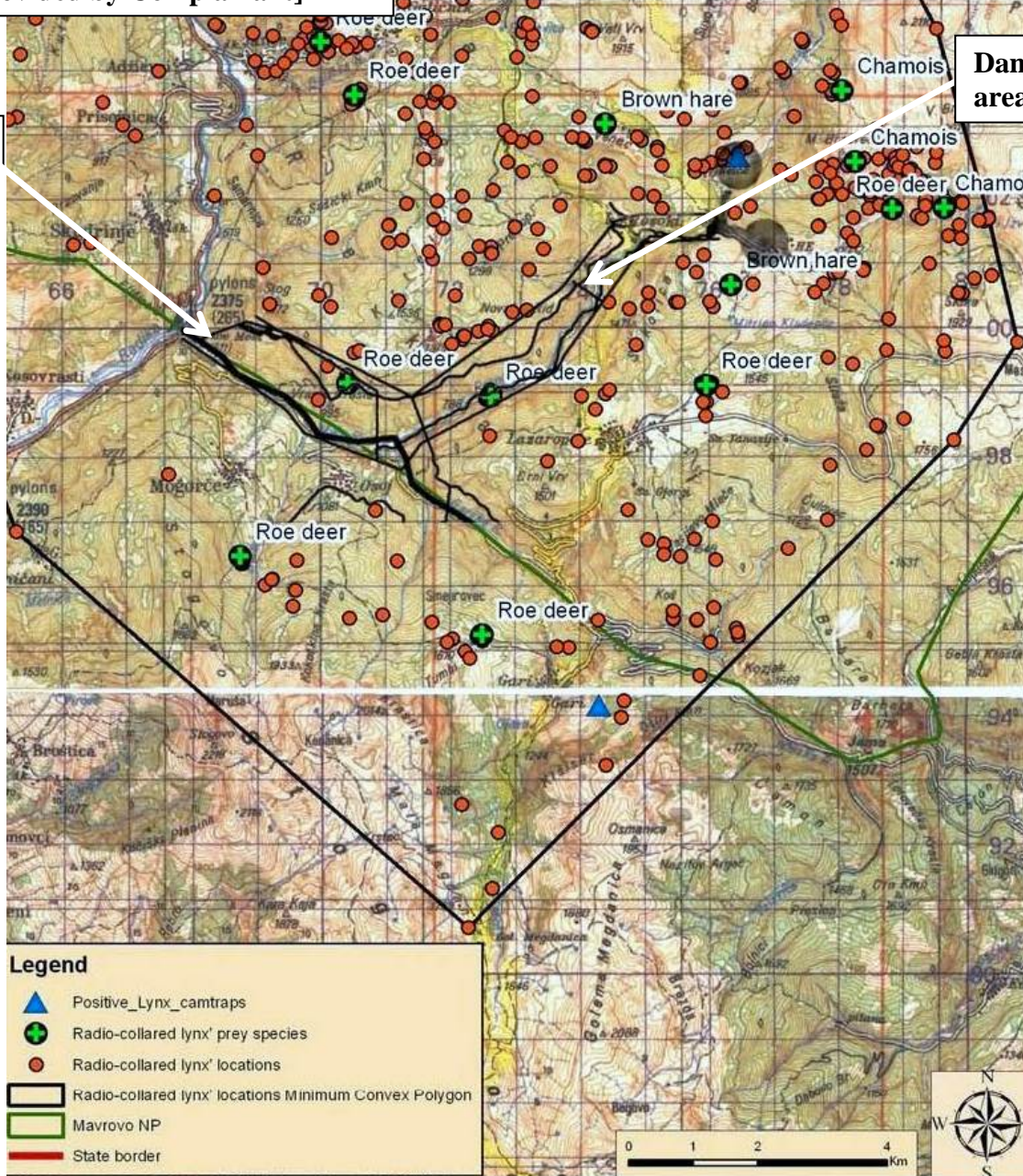
undertaken and completed. The Ministry's opinion concludes that, as a higher-level strategic document than the strategy on renewable energy, the energy strategy includes the information needed for a lower-level strategic document (such as the strategy on renewable energy resources). The Complaint that "...none of the projects which arise from the Strategy (on RES) are fully compliant with the EU *acquis communautaire*..." is therefore not correct.

ESAP item 1.5 requires that ELEM "[a]cquire and report on compliance with all permits and authorizations (from Ministry of Environment and Physical Planning, Ministry of Transport and Communication, Ministry of Agriculture, Forest and Water Economy, Mavrovo National Park Administration, and other authorities with jurisdiction)" and that this be accomplished "[p]rior to beginning any activities that require permits or authorizations." Thus, it cannot be said the project can proceed without being legally permitted.

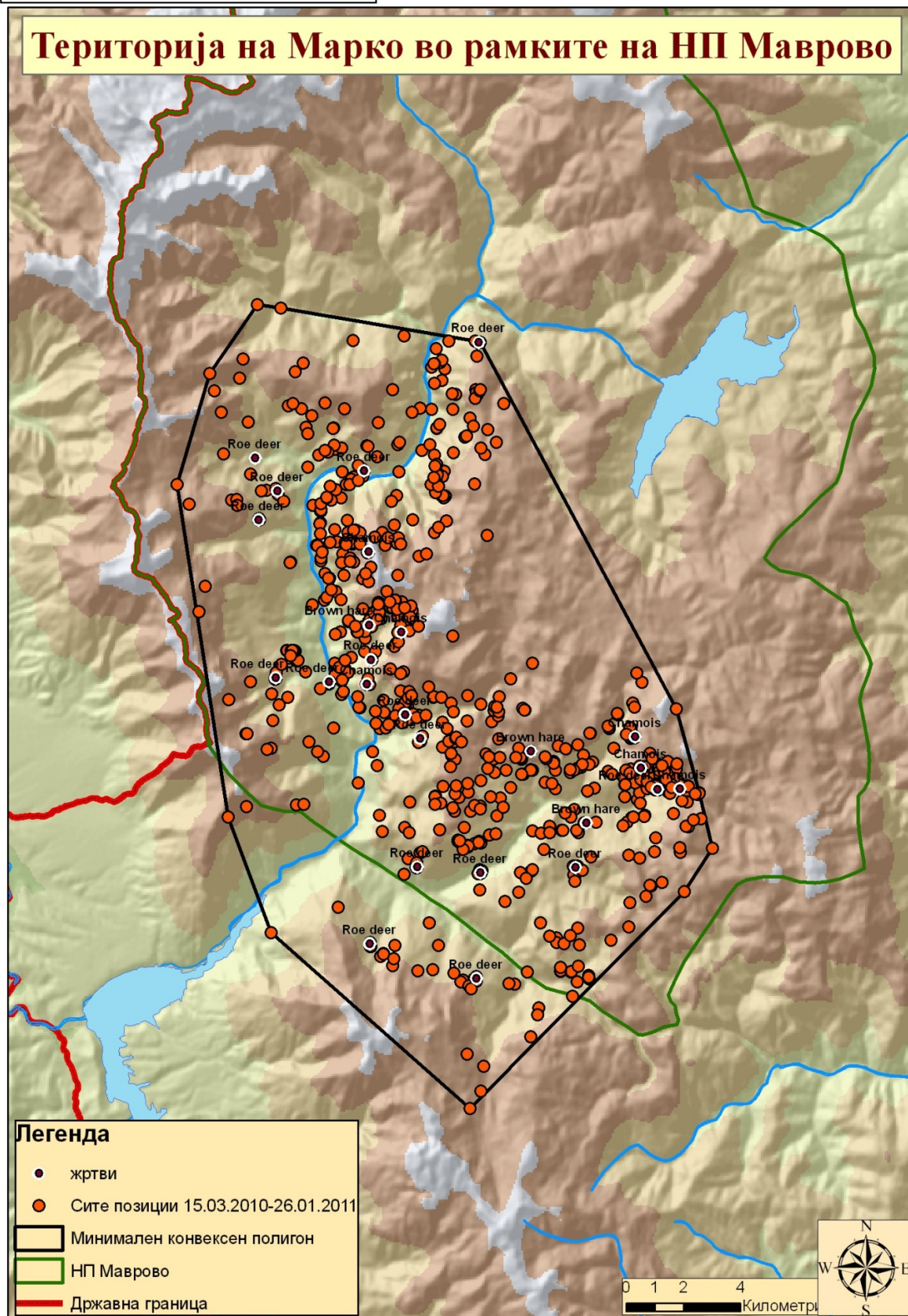
Annex A: Lynx and prey sightings in and near Boskov Most HPP project area
 [Provided by Complainant]

Powerhouse

Dam and reservoir area



**Annex B: Lynx and prey
 occurrence across study area in
 and near Mavrovo National
 Park**



**DOCUMENT OF THE EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

Project	41979 Boskov Most Hydropower Project, FYR Macedonia
Project Team	Operation Leader: Julien Mauduit OGC: Daniele Quaggiotto ESD: Jack Mazingo, Sarah Ruck, Mark King
Date of issue to ExCom	21 January 2012
Date of approval by ExCom	26 January 2012
To: PCM Officer	Anoush Begoyan
From: Director, ESD Director, PEU	Alistair Clark Nandita Parshad
Date of issue to PCM Officer	31 January 2012

On 7 November 2011, the Bank received a complaint under the Project Complaint Mechanism regarding the Boskov Most Hydropower Plant in FYR Macedonia. Management's response was reviewed by ExCom on 15 December 2011. On 3 January 2012, the complainant submitted an additional complaint as an addendum to the original complaint. This document provides Management's Response to the Additional Complaint for ExCom consideration.

***Complaint Addendum Summary: Compliance with FYR Macedonian Law** with reference to EBRD requirements in PR 1.9, which requires that a project meet all applicable requirements of national EIA law and other relevant laws and in PR10.7, which requires that national requirements with regard to public information and consultation must always be met. The concern raised is that the local permitting process was not concluded at the time the EBRD approved the project.*

Management Response: Neither of the Performance Requirements cited in the complaint require that all permits, authorizations, and decisions be made prior to EBRD Board approval. PR 1.9, for example, requires that the environmental and social impact assessment meet "... any applicable requirements of national EIA law and other relevant laws." At the time of disclosure, the Boskov Most ESIA was determined by the Bank to be fit for purpose of consultation, and the design of the consultation process took into account the FYR Macedonian requirements. The EBRD Board was made aware of the public consultation undertaken in the stakeholder engagement process, and the public had a full 120 days to comment on the project prior to the EBRD Board considering a financing decision.

It is important to note that projects are reviewed by the Bank at various stages of local permitting. Permitting is often a parallel process to the EBRD due diligence process and different stages of permitting are experienced. While projects must always meet legal requirements and obligations, the timing of local decisionmaking varies—sometimes the local permitting process is completed prior to a financing decision by the Board of Directors and sometimes that local process is not yet completed. Because

permitting is often a multi-step iterative process that builds upon previous decisions and activities, it is not practical for the Bank to await all local decisions before making decisions to finance projects. Thus, the EBRD Board of Directors makes decisions on the basis of the Bank's due diligence at a particular point in time.

In the case of Boskov Most, local permitting had not been completed at the time of Board consideration in November 2011. The Environmental and Social Action Plan that was agreed with ELEM took this into consideration and the requirements in the ESAP are part of the legal agreement with the company. Specifically, item 1.5 of the Action Plan requires that ELEM “[a]cquire and report on compliance with all permits and authorizations (from Ministry of Environment and Physical Planning, Ministry of Transport and Communication, Ministry of Agriculture, Forest and Water Economy, Mavrovo National Park Administration, and other authorities with jurisdiction)”, and that this be completed for all activities that require permits or authorizations before those activities begin. If the Ministry of Environment and Physical Planning imposes additional requirements upon ELEM as a condition of permits or authorizations, compliance with those additional requirements would necessarily be required under the ESAP. Further, ELEM is required to report to EBRD on the status of permitting/authorization and on compliance status. These requirements were included in the ESAP specifically to ensure continued compliance, even after the point of Board approval, and thus full compliance with PR 1.9.

PR 10.7 on stakeholder engagement also has no statement regarding timing, but reinforces that national law with respect to public information and consultation must be met. The Boskov Most Stakeholder Engagement Plan (SEP) was prepared at an early stage of the due diligence in accordance with the provisions for A-category projects under the Bank's Performance Requirement 10. It guided public disclosure and consultations throughout the ESIA process. The SEP was developed following consultations with the Ministry of Environment and Physical Planning. We note that neither the Bank nor the client received any significant comments on the Stakeholder Engagement Plan despite it being in the public domain for four months. It is unfortunate that concerns on consultation are brought up after the consultation period has concluded—suggestions on ways to improve consultation are most effective if they are raised during the time period allocated for the consultation when changes are still possible.

As the project proceeds through final design, construction, and operation, the ESAP and Stakeholder Engagement Plan require further consultations as needed to inform key stakeholders of project developments and to receive their input where appropriate. In general and specifically, the requirements of PR10, including 10.7, have been and will continue to be fully met.

The decision for financing does not take the place of the local permitting decision. By approving the project, the Bank is saying that it is prepared to finance the project subject to the terms and the undertakings contained in the loan agreement. Among these undertakings are those in the ESAP, which in this case includes the commitment to comply with all relevant local requirements. If additional requirements are made by the Ministry, then there is a provision in the legal documents that the

Environmental and Social Action Plan can be amended in response to changes, as agreed between the Bank and the borrower.

Finally, we note the general concern that projects not proceed to Board consideration if local permitting has not been completed. We believe this issue would best be raised at the policy level since the current (2008) Environmental and Social Policy does not deal with this timing issue in relation to Board approval. In 2013, a review of the 2008 Environmental and Social Policy and the 2011 Public Information Policy will be undertaken, and this issue could be raised more generally at that time.

Ref.No. 08-6002/1
Skopje, 12.12.2011**To:****Anoush Begoyan****Project Complaint Mechanism Officer****European Bank for Reconstruction and Development****One exchange Square****London, EC2A 2JN****United Kingdom****Ref: HPP Boskov Most - Response to EBRD relating to the NGO Complaint**

The project is the construction and operation by ELEM of a 70MW "peaking" hydropower plant (HPP) at Boskov Most. The HPP will include a 33-meter dam and a 22-hectare reservoir in the Mala Reka catchment. It has intakes to capture water from tributaries to the Mala Reka, a nine-kilometre tunnel to convey water from the reservoir to a surge tank and on to the powerhouse. There is a concrete tailrace to return water to the Mala Reka and links to the MEPSO national grid. The dam is downstream of the village of Tresonce. The Mala Reka forms part of the southern border of Mavrovo National Park, and about 80 percent of the project will be within the National Park in an area designated for sustainable use.

ELEM has been in discussion with EBRD in regards to a loan to develop this project. EBRD had a number of technical and procedural requirements and through the use of international and local Consultants ELEM have moved to meet these to EBRD's satisfaction. The process was carried out in parallel to the necessary requirements of the Macedonian legislation.

EBRD categorized the Project as "A" under the 2008 Environmental and Social Policy. The environmental and social impacts of the project were analyzed in an Environmental and Social Impact assessment (in Macedonian) disclosed by EBRD on 5 July 2011 for 120 days of public review and comment, A NonTechnical Summary of the ESIA, a Stakeholder Engagement Plan, a Land Acquisition and Compensation Framework, and an Environmental and Social Impact Assessment were also disclosed for review and comment at the same time (in appropriate and agreed language versions)

Extensive public consultations were held both during the scoping study and during the ESIA disclosure periods. In relation to the ESIA, public meetings were held in Skopje (NGOs twice), in the two municipalities where the project is located (Mavrovo & Rostuse, and Debar), and in Tresonce village (the village nearest the dam and reservoir). Also meetings were held with the Mavrovo National Park management and MoEPP. Comments raised by stakeholders (in the meetings or in writing) were covered in a response document posted on ELEM's website.

Complaint 1: That the ESIA is incomplete

ELEM commentary.

The ESIA was undertaken by one of the leading EIA specialist companies in Macedonia with independent oversight provided by an internationally well-recognised Macedonian EIA expert and an international EIA consultant who is familiar with EBRD procedures and international EIA requirements.

The area around the Boskov Most HPP is not in a strictly protected zone but is designated as one to continue to be open for sustainable use.

The ESIA evaluated potential effects of the Project on biodiversity, climate, tourism, and recreation (and other resource values as well) and concluded there would be very limited effects, and many of those would be temporary. Since only one small hydropower project was identified as proposed for the immediate vicinity of the project, it was concluded there would be very limited cumulative impacts in this region. Even combined with hydropower developments in other sections of the Park, the cumulative impacts due to this specific Project would remain very limited.

The biodiversity impact is assessed in the ESIA and found to be limited. There are no identified threatened mammal and bird species in the project area that are likely to be significantly impacted – lynx and otter were the main species of concern identified. Only minor impacts on them are identified, and these are reversible at the end of the construction period.

The project area is not characterized by pristine habitats. While the wider area of the Mala Reka region may include habitats of this type, it's certainly not true for the areas where the main project elements (the dam and reservoir, the power house, the main intakes) will be located. The primary potential for impact on habitats is in the development of the road infrastructure and these areas are already far from pristine. As noted in the ESIA, the only pristine forest that may be affected would be in some of the areas where siphons will be located.

Although the villages have been largely abandoned for year-round residence, even now a limited amount of agriculture is still practiced and the land is used for cattle grazing; thus, the pasture areas cannot really be considered to be in a semi-natural state. Although some of the land is used for recreation, the main area for recreation is around the small chapel and it is only used on a number of limited occasions during the year. (The ESAP and social mitigation plan show that this will be replaced in discussion with the local communities).

The main habitat loss will be the grasses and scrubs of the semi-natural habitat in the areas of the dam, reservoir and powerhouse locations. There are other such locations in the Mala Reka valley between the dam and the power house and upstream of Tresonce village.

The ESIA does analyse visual impacts. The visual aspect in the upper Mala Reka valley near Tresonce and Selce will change significantly due to the reservoir and this is documented and illustrated in the ESIA.

There are already roads in the area and the new roads are not going to significantly change the fragmentation pattern.

The calculation in the ESIA properly compares carbon emissions from Boskov Most HPP to those from a fossil fuel plant that generated an equivalent amount of electricity. The fact that the energy will not be used for base load but instead for peaking does not affect the calculation of carbon emissions.

The ESIA discusses increases in temperature and humidity that could result from the 22-hectare reservoir. Some minor changes in humidity, air temperature and fog frequency are expected, which would be very localized. For example, increasing the relative humidity could increase the presence of species more adapted to such conditions, as has occurred around Mavrovo Lake, where there has been expansion of beech communities and increasing presence of fir species. Boskov Most is at a lower elevation, so could increase the number of thermo-mezophilic species. In terms of biodiversity this could even be considered a positive change, since it would increase biomass and provide better conditions for other species of flora and fauna. No mitigation was determined to be needed, or appropriate.

The ESIA did conclude that higher humidity caused by the reservoir could increase decay rates in frescoes in one or more churches. Protection of this and other cultural heritage will be the subject of a Cultural Heritage Plan to be prepared and implemented prior to construction.

Complaint 2 The biodiversity assessment is incomplete

ELEM commentary

In the view of the expert team who worked on the ESIA, the MoEPP team who have reviewed it on a number of occasions and the Management team of the Mavrovo National Park this complaint cannot be supported. (See also parts of the response to Complaint 1)

The presence and use of the Boskov Most site by lynx and other large mammals (particularly prey species) was considered by expert biologists who prepared the ESIA. Of particular importance was the fact that the largest area of the project is the future reservoir, much of which is currently pastureland and unlikely to be used by the main prey species and therefore by lynx. This is borne out by the maps from the Lynx research project which show most lynx occurrences on high ground, not in the river valleys where most project activities will take place. Because of the limited impact predicted, the ESIA provided more of a qualitative presentation of conditions and potential impacts than comprehensive lists.

The list of birds species found in the project area was inadvertently omitted from the draft ESIA but has since been provided separately and also placed in the final ESIA. Similar to mammals, the experts who prepared the ESIA found there would be limited impacts, certainly none sufficient to threaten any protected species. As a result, no detailed or quantitative examination was needed, nor any specific mitigation measures.

The ESIA included a mainly desktop analysis of biodiversity data (there were aquatic biology field studies undertaken) and extensive discussions with the Management team of the National Park, and reached well-supported conclusions based on the most recent data, including ongoing studies.

ELEM agrees that the ESAP requires careful monitoring of biodiversity before and during construction and then during operation. All evaluations of potential impacts are subject to

some degree of uncertainty. For Boskov Most, it is considered important that adequate data be evaluated, and that sensitive issues be monitored during project construction and operation to verify the conclusions of any necessary mitigation.

The requirement for a biodiversity monitoring program should not be considered as evidence of a weak baseline characterization, but rather as a precautionary approach in this sensitive location.

Complaint 3: The project leads to the destruction of habitat without adequate justification

ELEM commentary

The justification of the project is set out in the ESIA, and in the recently published *national energy strategy* (to 2030) and the *Renewable Energy Strategy*.

That the project area is in a protected area is emphasized throughout the ESIA. However, the project area is neither composed of significant areas of natural habitat, nor of critical habitat.

The Boskov Most HPP project area has been affected by human activities for centuries. In the past, there were more people living here and the land was used more heavily than at present. Now, some areas are reverting to scrub and forest habitat, but these are still not the mature forest of the pristine areas of the Park. There are a number of areas in the Mala Reka valley that remain as pasture and there is local farming. Although the number of inhabitants is significantly reduced, even now there are a few year-round residents and visitors as well as significant recreational use of the area by former residents and others during summer holidays.

The primary potential for impact on broadleaf forest is in the development of the road infrastructure, and the areas where roads will be are not considered pristine. The ESIA states that the only pristine forest that may be affected would be in some of the limited areas where the siphons will be located.

There are already roads in the area and the new support roads are not going to change any fragmentation pattern or habitat quality. The main habitat loss will be the grasses and scrubs of the semi-natural habitat in the areas of the dam, reservoir and powerhouse. There are other such locations in the Mala Reka valley between the dam and the power house and upstream of Tresonce village, and this loss was not assessed to be significant.

Complaint 4: That there is no Strategic Environmental Assessment of the national programme sector for Energy and specifically renewable energy

ELEM commentary

Background

Within Macedonia, Strategic Environment Assessment (SEA) needs to be conducted for certain plans and programmes and carried out in accordance to the Macedonian Law on Environment. The plans and programmes for which SEA is mandatory are set out in a Decree, which, inter alia, includes the energy sector.

Existing Relevant Strategic Documents in Energy Sector

These are:

1. Energy Strategy of RM till 2030 and associated SEA Report

This Strategy includes the Boskov Most Project (target – year 2015) as one of six new hydro-energy projects within the Strategy time horizon.

The SEA Report includes strategic analysis and environment assessment of planned hydro-energy project, including the BM Project. In this respect, it identifies a clear need for an environmental impact assessment based on the Macedonian legal framework as well as best international practices.

2. Strategy on Renewable Energy Sources (RES) till 2020

A stand-alone SEA Report for this document has not been prepared. However, the SEA has been conducted as part of the SEA process for the wider Energy Strategy. In terms of the procedure itself, the Macedonian competent authority on SEA matters – the Ministry of Environment and Physical Planning (MoEPP) has issued an official opinion that no separate SEA needs to be conducted for the RES strategic document. This opinion is attached to this letter. The MoEPP has stated that such opinion is drawn by the fact that the Strategy on RES derives from a planning document of a higher rank – Energy Strategy, in which all RES related aspects are included. The MoEPP further concludes that the SEA Report on the Energy Strategy contains all necessary relevant information considered as needed to allow the lower rank planning document (Strategy on RES) to be adopted without a separate SEA process. In summary, it can be concluded that by adoption of the SEA Report on the Energy Strategy and based on the MoEPP's opinion, the SEA on the Strategy on RES is covered and the legal requirements satisfied, thus allowing for the Strategy on RES to be adopted by the Government of RM.

Therefore, the conclusion stated by Bankwatch: "...none of the projects which arise from the Strategy (on RES) are fully compliant with the EU *acquis communautaire*..." is not valid.

Lack of SEA on NP Mavrovo MP

SEAs have not been prepared for other already adopted National Park Management Plans in Macedonia (for NP Galicica and NP Pelister).

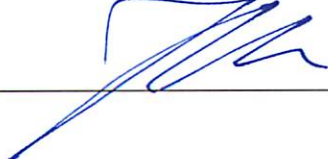
A SEA for the NP Mavrovo MP will eventually be needed but this is subject to MoEPP's decision.

There was a close cooperation throughout the development of the ESIA for Boskov Most between the NP authorities and the ESIA team. The BM Management Plan and its associated SEA will need to take into consideration the fact that the BM project (as well as other

projects) are included in the already adopted national energy strategies and recognize that that these projects are already included in the National Spatial Plan (till 2025).

MANAGER FOR DEVELOPMENT
AND INVESTMENTS

Jasna Ivanova Davidovic

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes, positioned above a horizontal line.

GENERAL MANAGER

Wlatko Cingoski

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes, positioned above a horizontal line. To the left of the signature is a circular official stamp in purple ink. The stamp contains the text "ШТВО ЗА ПРИЗВОДСТВО НА ЕЛЕКТРИЧНА ЕНЕРГИЈА" (Joint for production of electric energy) and "РАНИ МАКЕДОНСКИ" (Rani Makedonski). The signature overlaps the stamp.

Ref.No.08- 928/1
Skopje. 16.02.2012

To:
Anoush Begoyan
Project Complaint Mechanism Officer
European Bank for Reconstruction and Development
One exchange Square
London, EC2A 2JN
United Kingdom

Ref: HPP Boskov Most - Response to EBRD relating additional NGO Complaint

The administrative procedure for approval of the ESIA for HPP Boskov Most project is regulated by the national Law on the Environment and conducted by the Ministry of Environment and Physical Planning (MEPP) as appointed state authority by this law.

The above mentioned legal administrative procedure requires that the adequacy of the ESIA Report (Study) is to be performed by a body of experts established by the MEPP. Such body is already appointed by the Minister for Environment and Physical Planning and therefore we are expecting formal approval and Decision for granting consent for implementation of the Boskov Most project in March 2012.

MANAGER
FOR DEVELOPMENT AND INVESTMENT

Jasna Ivanova Davidovic



GENERAL MANAGER

Vlatko Gingoski



To: The European Bank for Reconstruction and Development

One Exchange Square
London EC2A 2JN
United Kingdom

Mr. Alistair Clark, Corporate Director,
Environment and Sustainability, EBRD

CC:

Mr. Riccardo Puliti, Managing Director,
Head of Energy and Natural Resources, EBRD

Mr. Julien Mauduit, Operations Leader, EBRD

Mr. Paul Vlaanderen, Director for the Netherlands, Mongolia, Macedonia and Armenia,
EBRD

Mr. Jonathan Ockenden, Director for United Kingdom, EBRD

Skopje, 09.12.2011

Dear Mr. Clark,

We are writing this letter after a series of meetings with the EBRD Board of Directors that took place last week in London. We are still very concerned about the implementation of the Boskov Most Hydro Power Plant project in Macedonia, especially because the Environmental and Social Impact Assessment study indicated a lack of data and the need for 12 months of bio-monitoring of existing flora and fauna in the project area, but does not guarantee that works will not be started while this is ongoing.

At the public hearings that took place in September 2011, the Project Sponsor ELEM indicated that preparatory activities for construction would start already in March 2012. This would inevitably interfere with carrying out proper bio-monitoring as the circumstances would not be as normal (removal of vegetation for construction of new roads, increased movement of workers in the area and increase of noise in the area).

In order to make sure that there will be no serious damage done to important habitats and species by the project implementation, the bio-monitoring is essential. This opinion is also shared by the EBRD Directors we spoke to last week.

Therefore, we request the following from the EBRD:

- ✓ **No activity on the field related to the construction of the project components takes place before the bio-monitoring activities finish. We expect that the EBRD will make sure that first the bio-monitoring activities take place and then, if the results do not indicate the presence of protected species, any related construction (or preparatory) activities begin.**

- ✓ **At least 1 (one) NGO representative should be a member of the bio-monitoring team** that would carry out monitoring of the project area in a period of 12 months before construction of the project.
- ✓ **No disbursement is made to the Project Sponsor ELEM** until the bio-monitoring results are ready. We request this from the Bank because at this moment we cannot be sure of the results of the bio-monitoring. It may well happen that the monitoring shows the presence of a critical habitat (mainly in relation to the presence of the Balkan Lynx in the area), and in that case, it significantly changes the situation and future steps.
- ✓ The ESIA study for the project indicates various plans as such as mitigation measures (eg. Plan for control of erosion and sediments, Plan for prevention and decrease of pollution, Plan for clearing of vegetation, Plan for noise and vibrations, management plan for construction activities, Water management plan, Water monitoring plan, Study for monitoring of existing flora in the area, Study for monitoring of existing fauna in the area etc). We request that these Plans are made available to the public and NGOs before the activities on the ground take place.

Last, but not least, we would like to receive a list of the environmental and safety requirements covenanted in the Boskov Most HPP project loan. We assume that these do not contain financial and/or confidential information and that the EBRD is therefore able to disclose them.

Looking forward to your response regarding our requirements,

Sincerely,



Ana Colovic Lesoska
Executive Director
Center for environmental research and information "Eko-svest"
Skopje, Macedonia



European Bank
for Reconstruction and Development

Dr. Alistair Clark
Managing Director
Environment and Sustainability Department

Ana Colvic Lesoska
Executive Director
Center for environmental research and information "Eko-svest"
Skopje
FYR Macedonia

(ref: 120117 Eko-svest)

17 January 2012

Dear Ms. Colovic Lesoska,

Subject: Your letter of 09 December 2011 concerning Boskov Most Hydropower Project

Thank you for your interest in the Boskov Most Hydropower Project and your letter of 09 December 2011. The Bank's PCM Officer, Ms Anoush Begoyan, has requested that we respond to your letter directly and to be copied on the response.

In your letter, you expressed several concerns and asked the Bank to respond to each. The Bank's responses are presented below, with your comments shown in *italics* for convenience of review.

1. *No activity on the field related to the construction of the project components takes place before the bio-monitoring activities finish. We expect that the EBRD will make sure that first the bio-monitoring activities take place and then, if the results do not indicate the presence of protected species, any related construction (or preparatory) activities begin.*

In general, major construction works that could have a significant effect on flora and fauna, particularly protected species, will not be undertaken until monitoring has continued for at least 12 months; such biodiversity monitoring is required by ESAP item 1.7 (which in turn requires compliance with the environmental and social monitoring and management plan that is part of the ESIA) and by ESAP item 6.2. Some preliminary work, such as installation of some monitoring instruments and preliminary roadwork, will be needed to facilitate access for monitoring and other planning purposes. However, the Bank would expect micro-surveys of specific locations to be completed prior to the disturbance of previously undisturbed ground so as to avoid impacts on any protected species.

2. *At least 1 (one) NGO representative should be a member of the bio-monitoring team that would carry out monitoring of the project area in a period of 12 months before construction of the project.*



Due to the wide range of biological resources that will be monitored, bioscientists of several specialities will be needed, and multiple monitoring teams are expected to be in the field at different times. We are open to the idea of having a suitably qualified NGO representative accompany one or more monitoring teams as an observer or participant; however, this will need to be discussed with ELEM, who will have the final decision. We also note that representatives of Mavrovo National Park may also be invited to participate in monitoring events. Further, we note that ESAP item 10.2 requires semi-annual meetings with affected communities during construction to report on the status of the project and ESAP-related activities.

3. *No disbursement is made to the Project Sponsor ELEM until the bio-monitoring results are ready. We request this from the Bank because at this moment we cannot be sure of the results of the bio-monitoring. It may well happen that the monitoring shows the presence of a critical habitat (mainly in relation to the presence of the Balkan Lynx in the area), and in that case, it significantly changes the situation and future steps.*

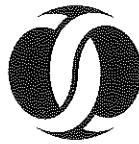
As noted above, the ESAP prohibits major construction activities that could have a significant impact until after at least a year of monitoring is completed. We consider this to be a sufficient control. Further, we would like to highlight that the ESAP requirement applies to all (major) construction, not only construction funded through EBRD disbursements.

Regarding the Balkan lynx and its prey, results from the recent study are relatively clear in showing limited use of the project area (in particular the largest area of impact, the dam and reservoir area), and thus temporary disturbances during construction would not disrupt the life cycles of either lynx or prey, or critical habitat.

4. *The ESIA study for the project indicates various plans as such as mitigation measures (eg. Plan for control of erosion and sediments, Plan for prevention and decrease of pollution, Plan for clearing of vegetation, Plan for noise and vibrations, management plan for construction activities, Water management plan, Water monitoring plan, Study for monitoring of existing flora in the area, Study for monitoring of existing fauna in the area etc). We request that these Plans are made available to the public and NGOs before the activities on the ground take place.*

The ESAP requires a wide variety of focused plans to monitor existing conditions and potential impacts, as well as plans to avoid, reduce, and/or mitigate potential impacts, including those cited in the comment. As a result of stakeholder interest, and in keeping with the spirit of the Stakeholder Engagement Plan, the Bank has recommended that ELEM host a meeting early in 2012 with interested civil society representatives to summarise and discuss the requirements of the various draft monitoring plans before the monitoring programs begin in the spring. Since major construction will not begin for at least a year, we have also recommended another meeting with civil society prior to the start of major construction to summarise and discuss the detailed mitigation plans. In the meantime, we encourage you and other representatives to submit suggestions to ELEM for both monitoring and mitigation plans, and we would be happy to be copied on these communications, if appropriate.

5. *[W]e would like to receive a list of the environmental and safety requirements covenanted in the Boskov Most HPP project loan. We assume that these do not contain financial and/or confidential information.*



Specific environmental and health and safety requirements are not covenanted into the loan agreement. Rather, the ESAP itself is part of the loan agreement, and this requires detailed plans to be developed in due course (see comment 4). These plans will include the specific requirements that must be met and must be satisfactory to the Bank, relevant authorities, and/or independent experts. The ESAP is in the public domain on the EBRD's website, <http://www.ebrd.com/english/pages/project/eia/41979.shtml>, among other locations.

Finally, we note your concern that the requirement for 12 months' monitoring prior to construction could be because of a deficiency in the ESIA. As explained previously, flora and fauna monitoring required by the ESAP is precautionary: data at the time of the ESIA were determined to be sufficient to evaluate potential impacts and identify general mitigation measures. Further monitoring will now be undertaken to confirm the evaluation and to allow mitigation measures to be refined as needed to reduce impacts to a minimum. This is normal practice in project development and should not be attributed to data deficiencies at the time of project evaluation.

Once again, thank you for your interest in the Boskov Most project. We and/or ELEM will inform you in due course of the decision on the inclusion of a CSO member on the monitoring team(s). The Bank will continue to monitor the project closely, including the implementation of the Stakeholder Engagement Plan and the communication with CSOs.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alistair Clark'.

Alistair Clark
Managing Director,
Environment and Sustainability Department

cc: Anoush Begoyan
Riccardo Puliti
Julien Mauduit
Paul Vlaanderen
Jonathan Ockendon



Macedonian Ecological Society
Blvd "Kuzman Josifovski Pitu" 28/3-7
1000 Skopje
Macedonia

Muri/Bern, Switzerland, 2 February 2012

Conservation assessment of the Balkan lynx *Lynx lynx balcanicus*

To Whom It May Concern:

The Balkan lynx, described as a subspecies of the Eurasian lynx by Buresh (1941) as *Lynx lynx balcanicus* and by Miric (1978) as *Lynx lynx martinoi* is a phylogenetically distinct form of lynx in the south-western Balkans. As a consequence of its neighbourhood to the Carpathian lynx *Lynx lynx carpathicus*, its systematic distinctiveness was long debated (see e.g. Hemmer 1993). New molecular-genetic findings have clearly confirmed the distinctiveness of the Balkan lynx from the Carpathian population (Breitenmoser-Würsten & Obexer-Ruff 2003) and hence its phylogenetic particularity.

As most of the felid subspecies, the Balkan lynx has not yet been formally assessed in the IUCN Red List of Threatened Species, although IUCN encourages such assessments. As we have been aware of the critical situation of the Balkan lynx for several years, we have initiated a field survey (e.g. Breitenmoser et al. 2008; Ivanov et al. 2008) and a formal assessment according to IUCN Red List procedures (presently done as a MSc thesis by Dime Melovski at the University of Podgorica, Montenegro). The assessment reveals that beyond any doubt, the Balkan lynx has to be considered as Critically Endangered according to IUCN criteria.

The total number of Balkan lynx is, even considering an optimistic estimation, below 100 mature individuals, and the distribution area is highly fragmented. Conservation measures are of utmost importance and have been initiated in the frame of the Balkan Lynx Recovery Programme supported by international funders and national authorities (e.g. in the development of a Conservation Strategy and National Action Plans for Albania and the Former Yugoslav Republic of Macedonia; see Breitenmoser et al. 2008). Our field survey and findings from the recent work has shown that Mavrovo National Park is the stronghold of the Balkan lynx. As a matter of fact, we could find no proof for reproduction anywhere outside the Mavrovo region. It is very likely that Mavrovo hosts the only remaining source population of the Balkan lynx and that any occurrence outside the Mavrovo region would disappear, too, if the Mavrovo sub-population is further decreasing.

A handwritten signature in blue ink, appearing to read 'Urs Breitenmoser'.

Dr. Urs Breitenmoser
Co-chair, IUCN/SSC Cat Specialist Group

Annex 7: Opinion of the MOEPP regarding the issue of SEA

Republic of Macedonia
Ministry of environment
and physical planning

Archive no. 08-2734/2
Date: 17.03.2010

Ministry of Economy
Mr. Fatmir Besimi, minister

Subject: Response to Requirement for opinion
Relation: your number 12-20610/1 dated 04.03.2010; our number 08-2734/1 dated 05.03.2010

Dear,

Regarding your requirement for opinion in order to define the necessity of accomplishment of strategic environmental impact assessment your number 12-20610/1 dated 04.03.2010 for Base Study – Strategy for usage of renewable energy resources of Republic of Macedonia, Ministry of environment and physical planning issues the following

OPINION

During the preparation process and promulgation of Strategy for usage of renewable energy resources of Republic of Macedonia, the necessity of accomplishment of strategic environmental impact assessment is not taken into consideration, in accordance with volume X from Environmental Law ("Official Gazette of Republic of Macedonia" no.53/05, 81/05,24/07 and 159/08) and subordinate acts which refer to subject issue (**Directive of strategies, plans and programs, including modifications of those strategies, plans and programs where obligatory procedure for assessment of their impact over environment and health of people is accomplished** ("Official Gazette of Republic of Macedonia" no. 153/2007); **Directive for content of report for strategic environmental impact assessment** ("Official Gazette of Republic of Macedonia" no. 153/07) as well as in accordance with requirements of EU Directives.

The opinion is constructed in accordance with the submitted documentation as well as taking into consideration that above mentioned Strategy resulting from higher strategic document – Strategy for energy development until 2030 where renewable energy resources are already processed and there is accomplished strategic assessment for the same. Report for strategic environmental assessment of Strategy for energy development until 2030 includes the information which is necessary for promulgation of lower strategic document. The Strategy for usage of renewable energy resources of Republic of Macedonia, and which according to existing knowledge and estimation methods, content and details of Strategy for energy development until 2030, contribute for regular impact assessment of Strategy for usage of renewable energy resources of Republic of Macedonia over the



environment and also avoiding of duplication of environment impact assessment is enabled.

If during the realization process of particular projects within Strategy, it is estimated that the same could impact the environment, procedure for environment impact assessment of the projects should be conducted for the same (EIA).

Respectfully,

Prepared by: Vesna Indova

Approved by: Kaja Sukova

MINISTER
PhD Nexhati Jakupi

Signatures and stamp authentic

In witness whereof this translation of the above document, originally in Macedonian language, is correct, I do affix my seal and signature.

AUTHORIZED COURT TRANSLATOR:
MARIJA MITREVSKA

Tel./Fax: (00389 2) 3149 165

Cell: (00389 70) 863560

E-mail: marijadh@yahoo.com

Skopje, on 01.12.2011

Потврдувам дека правилно
го извршив преводот од
Македонски на Англиски
јазик.

ОВЛАСТЕН СУДСКИ ПРЕВЕДУВАЧ:
МАРИЈА МИТРЕВСКА

Тел./Факс: (00389 2) 3149 165

Мобилен: (00389 70) 863560

E-mail: marijadh@yahoo.com

Скопје, 01.12.2011