

IMRANA JALAL
Chair
The Inspection Panel

**IPN REQUESTS RQ 19/05, 19/06,
19/07, 19/08, 19/09, 19/11 and 19/12**

September 17, 2019

NOTICE OF REGISTRATION

Requests for Inspection

Republic of Poland: Odra-Vistula Flood Management Project (P147460)

Summary

1. On June 21, 2019, the Inspection Panel (the “Panel”) received a Request for Inspection (RQ 19/05) of the Odra-Vistula Flood Management Project (the “Project”) in Poland. On July 15, 2019, the Panel received additional signatures relating to this Request. The Request was submitted by representatives of the German League for Nature and Environment and Friends of the Earth Brandenburg, representing five local non-governmental organizations (NGOs) and 69 individuals in the Project area, both in Germany and Poland. The Requesters asked for confidentiality and authorized the German League for Nature and Environment and Friends of the Earth Brandenburg to represent them during the Panel process. On July 11, 2019, the Panel received another Request for Inspection (RQ 19/06) relating to the same Project, submitted by the Oeko Agrar GmbH Lower Odra Valley e.V. Criewen, which is located and operating in the Odra Valley. On July 12, 2019, the Panel received a third Request for Inspection (RQ 19/07) from the Internationalpark GmbH, which includes the Brandenburg Academy Schloss Criewen and Wilderness School Teerofenbruecke, both located and operating in the Odra Valley. On July 15, 2019, a fourth Request (RQ 19/08) was submitted by the Society of Friends of the German-Polish Europe-Nationalpark Lower Odra Valley and a fifth Request (RQ 19/09) by the National Park Foundation Lower Odra Valley. On July 30, 2019, a sixth Request (RQ 19/11) about the same Project was submitted by representatives of the Ecological Association EKO-UNIA, based in Poland. On September 4, 2019, the Panel received a seventh Request (RQ 19/12) from representatives of the Alliance for Klodzko Valley in Poland.

2. The Panel acknowledged receipt of the first five Requests on its website on July 23, 2019, of the sixth Request on September 11, 2019, and of the seventh Request on September 13, 2019. For reasons of economy and efficiency, the Panel has decided to process these Requests jointly.

3. The first five Requests are similar in nature and allege that Project activities on the River Odra at the German-Polish border cause at the German-Polish Border River Odra cause potential harm to biodiversity, increase flood risks and have transboundary impact on Germany. They allege

that the quality of the environmental assessment is poor and disregards impact on protected areas in the Odra Valley in Germany. The Requesters also raise concern about a lack of adequate consultation and participation with NGOs and experts in Germany. The sixth Request adds concerns about hydro-engineering works on the Vistula River and claims that the Project will undermine and destroy Natura 2000 habitats and sites, and lead to economic losses. It also questions the cost-benefit analysis of four dry tanks in the Klodzko Valley and argues that they adversely affect the environment. The seventh Request concerns environmental issues relating to the Project's dry basins in the Klodzko Valley. The Requesters allege that the environmental impact assessment was insufficient and lacked a proper consideration of alternatives. They also express concern about water pollution in one of the dry reservoirs and allege that the Project's consultation and participation process was inadequate.

4. After conducting initial due diligence and confirming that the Requests meet the Panel's admissibility criteria, I am notifying you that I have, on September 17, 2019, registered these Requests.

The Project

5. The Odra-Vistula Flood Management Project (P147460) was approved on July 23, 2015, for US\$504 million (IBRD Investment Project Financing). The total Project cost is US\$1.3 billion. The Borrower is co-financing the Project with US\$210 million, the European Union (EU) with US\$219 million, the Council of Europe Development Bank with US\$329 million, and the Polish National Fund for Environmental Protection and Water Management with US\$55 million. The expected closing date of the Project is June 15, 2023. It is a Category B Project and was 15 percent disbursed at the time of receipt of the Requests.

6. The development objectives of the Project are to *"increase access to flood protection for people living in selected areas of the Odra River and the Upper Vistula River basins and to strengthen the institutional capacity of the Borrower to mitigate the impact of floods more effectively."*¹ The Project triggered the following safeguard policies: Environmental Assessment (OP/BP 4.01), Natural Habitats (OP/BP 4.04), Physical Cultural Resources (OP/BP 4.11), Involuntary Resettlement (OP/BP 4.12), Safety of Dams (OP/BP 4.37), and Projects on International Waterways (OP/BP 7.50).

7. The first five Requests focus on Component 1: Flood Protection of the Middle and Lower Odra. This component aims to enhance protection against summer and winter floods to cities and towns along the Odra River. Activities include the reconstruction of dikes, other bank protective works, dredging in the Odra River as well as in canals and the harbor of Szczecin, the recalibration and reconstruction of groynes and lateral submerged dams in the river, restoration of bends, protection of banks and expansion of navigation and mooring facilities.²

8. The sixth and seventh Requests also add concerns about Component 2: Flood Protection of the Nysa Klodzka Valley and Component 3: Flood Protection of the Upper Vistula. Component 2 aims at protecting Klodzka town, other small valley towns and the city of Bardo and comprises the construction of four mid-sized dry polders, dike rehabilitation and construction, and reconstruction of the river alignments and embankments, as well as of bridges and other structures, to allow the temporary retention and safe passage of flood waves accompanied by large amounts of debris.

¹ Project Appraisal Document for the Project, p. 4.

² Ibid., p. 6.

Component 3 aims at protecting the Kraków agglomeration and Nowa Huta industrial area, the Sandomierz-Tarnobrzeg industrial and agricultural area, and selected towns on tributaries in the sub-basins of the San and Raba rivers. Works include: the reconstruction and extension of dikes and embankments along the Vistula River to replace old unreliable dikes; bank stabilization and strengthening; construction of identified dry polders and overflow areas to increase upstream water retention; interventions for river training; and the adjustment of existing weirs and barrages to pass larger flood waves.³

The Requests

9. The first five Requests are similar in nature and include the following key claims: (i) the cross-border Project components are allegedly in breach of EU environmental law, in particular the Natura 2000 directives and the Water Framework Directive; (ii) the Project affects EU Natura 2000 sites, national parks, protected areas on the German side and landscape parks and Natura 2000 sites on the Polish side, all of which have been established to preserve the large biodiversity in the river; (iii) the implementation of the planned measures significantly increases the risk of flooding in the area rather than reducing it; (iv) there was a significant lack of involvement of local NGOs and flood management experts in the development of the Project; (v) the Project is a barely obscured water way development project and the river is being upgraded for shipping purposes and to channel the free-flowing Odra River; (vi) there is a lack of public participation by citizens, especially in Germany, e.g., there was no timely information on the Project in German and no information in non-technical language within a reasonable time; and (vii) the quality of the Environmental Impact Assessment is poor and systematically obscures the impact of the planned measures on the German protected areas in the Lower Odra Valley.

10. The sixth Request raises similar concerns about the Border Odra component of the Project as the other Requests, but further raises additional concerns. It argues that the hydro-engineering works on the Vistula River will undermine and destroy Natura 2000 habitats and sites and lead to economic losses. This Request also alleges inadequate consultation with residents, NGOs and the general public. It further questions the cost-benefit analysis of four dry tanks in the Klodzko Valley and argues that they adversely affect the environment.

11. The seventh Request raises concern about the environmental impact of the Project's dry basins in the Klodzko Valley and questions the assumption that these basins would significantly reduce the need for river regulation. The Requesters allege that the environmental assessment did not identify all impact, including cumulative impact, and lacked a proper consideration of alternatives. The Requesters also express concern about impact on a protected butterfly species, fish and bird habitats and coastal trees. They also question the categorization of the Project as Category B and allege inadequate consultation and participation. The Requesters further explain that they are concerned about water pollution in the Roztoki dry reservoir.

12. The Requests contain several attachments, including expert reports, more detailed descriptions of the alleged harms and correspondence with Bank and government representatives.

³ Ibid., pp. 6 and 7.

Initial Due Diligence

13. After receipt of the Requests, the Panel conducted its initial due diligence and verified that the Requests meet the admissibility criteria for registration, as follows: The Requests are not frivolous, absurd or anonymous, and were submitted by several German and Polish NGOs/civil society organizations and other institutions that claim direct or transboundary impact on them or German and Polish citizens they represent. The Requesters explain that they have had several interactions about their concerns with World Bank staff since 2015. The Requesters sent the Panel correspondence with Bank staff both in Washington, D.C., and the country office, as well as minutes of meetings with the Bank team. The Panel also verified that the subject matter of the Requests does not concern issues of procurement and, at the time of receipt of the Requests, the Project was 15 percent disbursed. The Panel has not previously made a recommendation on the issues raised in these Requests.

14. During its review of the Requests, the Panel spoke to several of the Requesters and Requester representatives by telephone to understand their concerns better, seek clarifications and to inform them about the Panel's process and mandate. The Requesters explained to the Panel their view that the Odra River should not be channeled and dammed, and that such works are not required for flood protection, including for the use of icebreakers. They also expressed the view that the Odra River should not be expanded for use by large transportation ships and that other alternatives, such as a railway network, exist. The Panel was also told that the Odra River, its riverbanks and the adjacent alluvial forests are an important habitat for different species of fish and birds, and that the planned works may destroy breeding grounds. They further claimed that this Project should have been categorized as Category A rather than Category B due to its severe impact on the environment and biodiversity.

15. As part of its due diligence, the Panel also met with Bank Management on August 15, 2019. Management provided information on the implementation status of the Project and explained that environmental assessments for different Project activities were ongoing. The Panel also learned that the Bank's team has had an ongoing dialogue with several NGOs for the past few years. Management explained that a large part of the Project activities focused on the renovation of already existing infrastructure and that several adjustments had been made to the Project design based on the conclusions of feasibility and other assessment studies. Management also shared with the Panel several documents, including technical reports about flood protection using icebreakers.

Registration of the Requests

16. As provided in paragraph 17 of the IBRD Resolution ("the Resolution") that established the Panel, "*the Chairperson of the Panel shall inform the Executive Directors and the President of the Bank promptly upon receiving a request for inspection.*"⁴ With this notice, I am notifying you that I have, on September 17, 2019, registered the above-mentioned Requests.

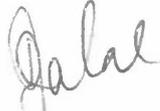
17. The Panel's registration implies no judgment whatsoever concerning the merits of a Request for Inspection. As provided in paragraph 18 of the Resolution, and paragraphs 2 and 8 of the "*Conclusions of the Board's Second Review of the Inspection Panel*" ("the 1999 Clarification"), Bank Management must provide the Panel within 21 business days (by October 18, 2019) a response

⁴ Resolution Establishing the Panel (September 22, 1993), Resolution No. IBRD 93-10, <http://ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/Resolution1993.pdf>

to the issues raised in the Requests for Inspection. The subject matter that Management must deal with in the response to the Requests is set out in paragraphs 3 and 4 of the 1999 Clarification.

18. After receiving the Management Response, the Panel will, as outlined in the 1999 Clarification and as provided by paragraph 19 of the Resolution, “*determine whether the Request meets the eligibility criteria set out in paragraphs 12 to 14 [of the Resolution] and shall make a recommendation to the Executive Directors as to whether the matter should be investigated.*”⁵ These Requests have been assigned IPN Request Numbers RQ 19/05, 19/06, 19/07, 19/08, 19/09, 19/11 and 19/12.

Yours sincerely,



Imrana Jalal
Chair

Attachments

Mr. David Malpass, President,
International Bank for Reconstruction and Development

The Executive Directors and Alternates
International Bank for Reconstruction and Development

German League for Nature and Environment and Friends of the Earth Brandenburg (Requesters confidential)

Oeko Agrar GmbH Lower Odra Valley e.V. Criewen

Internationalpark GmbH (Brandenburg Academy Schloss Criewen and Wilderness School Teerofenbruecke)

Society of Friends of the German-Polish Europe-Nationalpark Lower Odra Valley

National Park Foundation Lower Odra Valley

Ecological Association EKO-UNIA

Alliance for Klodzko Valley

⁵ Ibid.