

FINAL MONITORING REPORT

25/11/2021

The objective of this final monitoring report is to provide an update on developments following the publication of the Mediation Report dated 12 March 2018, specifically regarding the implementation of the actions agreed in the Mediation Agreement dated 28 May 2016.

Olkaria I and IV – Kenya

Complaint No.: SG/E/2014/07 and SG/E/2014/08

Complainants: several individuals and representatives of communities affected by the project

Date received: July and August 2014

Confidentiality: due to an overriding public interest for transparency, the parties agreed that the Mediation Agreement shall not be considered confidential

1. THE COMPLAINT

- 1.1. The EIB received in July and August 2014 two complaints from several individuals and representatives of communities affected by the project. The complaints related to the EIB's alleged failure to monitor the involuntary resettlement of four villages, carried out for the expansion of the Olkaria geothermal field, in accordance with the Resettlement Action Plan (RAP), the Bank's resettlement policies and its contractual obligations.
- 1.2. The main allegations focused on the implementation of the RAP and especially the identification of households entitled for compensation, land titling to Project-Affected Persons (PAPs), the restoration of livelihood with special consideration to vulnerable people and the effectiveness of the project grievance redress mechanism.
- 1.3. A similar complaint was presented to the Inspection Panel of the World Bank, a co-financier of the project. The EIB-CM and the World Bank Inspection Panel (WB-IP) agreed to cooperate regarding the complaints presented, being understood that each mechanism would prepare a separate report with conclusions adapted to the policies and practices of the respective financial institutions.
- 1.4. Following the publication of the Initial Assessment Report (IAR) in March 2015, Kenya Electricity Generating Company Ltd. (the Promoter) and the Complainants accepted the EIB-CM's proposal to proceed with a compliance review together with WB-IP and, furthermore, to engage in a mediation process to address structural and recurrent issues.

2. BACKGROUND INFORMATION

- 2.1. The project is aimed at expanding the electricity generating capacity of the Olkaria geothermal steam field by extending the existing Olkaria I station by two 70 MWe units (units IV and V) and constructing two 70 MWe units at the Olkaria Domes field (Olkaria IV power station), including the required infrastructure, transmission lines and substations. The project area is located some 85 km northwest of the capital Nairobi, partly in the Hell's Gate National Park, where other power stations (Olkaria I, II and III) are already in operation.
- 2.2. The EIB loan to the Government of Kenya amounts to up to EUR 119 million, the Promoter being a Kenyan company established by the Ministry of Energy and Petroleum.

3. MEDIATION PROCESS AND REPORT

- 3.1. The EIB-CM put in place a mediation team, composed of a mediation officer of the EIB-CM and two local mediators as well as a representative of the World Bank Grievance Redress Service (GRS) as co-facilitator.¹
- 3.2. Mediation parties were the Complainants, the Representatives of the Resettlement Action Plan Implementation Committee (RAPIC) and the Kenya Electricity Generating Company (KenGen). The process was observed by the EIB-CM management, GRS, the members of the Ewangan Sinyati Welfare Society (the entity representing the project-affected people) and the Ministry of Energy and Petroleum.
- 3.3. The mediation process lasted from August 2015 until the signature of the Mediation Agreement on 28 May 2016.
- 3.4. The Mediation Agreement² identified a broad set of agreed measures and actions to be undertaken by the parties. The four main areas of actions focused on:
 - Identification of PAPs that may have been omitted in the compensation and vulnerable people;
 - Consultations, participation and grievance redress;
 - Adequacy of resettlement site, infrastructure and amenities;
 - Livelihood restoration.
- 3.5. The agreement became effective on 29 September 2016 following the vacation of the Cultural Centre by the community members (which was a pre-condition for the effectiveness of the Mediation Agreement). All deadlines mentioned in the agreement were postponed (due to the equivalent delay in effectiveness of the agreement), which was confirmed to all participants of the mediation.
- 3.6. The Mediation Report dated 12 March 2018³ described in more detail the mediation process and first implementation measures carried out between signature of the Mediation Agreement and said report.

¹ In order to maximise synergies, the EIB-CM and the World Bank decided to cooperate during the mediation process and a Memorandum of Understanding (MoU) was signed by the two parties to formalise this cooperation.

² <https://www.eib.org/attachments/complaints/sg-e-2014-07-olkaria-i-iv-mediation-agreement-en.pdf>

³ <https://www.eib.org/attachments/complaints/sg-e-2014-07-sg-e-2014-08-olkaria-i-and-iv-mediation-report.pdf>

4. IMPLEMENTATION

4.1. Implementation of the agreed measures started immediately and two joint monitoring visits by the EIB-CM and GRS took place in May 2017 and February/March 2018. In addition, the local mediators met regularly with the Promoter and the community to check the progress of implementation (on average every two months).

4.2. The implementation of the following measures was immediately started:

- vacation of the Cultural Centre,
- preparation for the review of 236 cases during a clinic, resulting in the identification of eight cases of non-compensated PAPs,
- works on roads and water networks,
- identification of vulnerable PAPs,
- start of training sessions for women, youth and the Welfare Society.

4.3. The following six action points remained to be completed following the Mediation Report:

- Completion of land title transfer,
- Measures to enhance RAPLand productivity and road conditions,
- Construction of five additional houses for PAPs,
- Measures to support vulnerable PAPs,
- Completion of a water supply system and construction of a concrete water tank,
- Fencing off of the Cultural Centre's premises and funding of a business development plan for the Cultural Centre.

4.4. A third monitoring mission was carried out in collaboration with the World Bank in February 2020 and the implementation of all but one action point was confirmed.

The only action point not fully implemented at the time, was the transfer of land titles for the 14 acres of the Cultural Centre land to the Welfare Society. The completion of this action point was confirmed by KenGen to the EIB-CM in September 2021.

The Annex provides more details regarding the complete set of action points and the implementation measures carried out. All action points agreed in the Mediation Agreement are deemed to be concluded.

4.5. During the consultation meetings taking place in February 2020, the community expressed its overall satisfaction with the issues addressed and implementation measures taken.

Annex: Implementation status of the Mediation Agreement⁴

- 1. RAPLand productivity:** Improve the productivity of the land through soil stabilisation and erosion prevention. To this end KenGen will undertake studies with expert technical advice to assess and recommend practical and sustainable interventions to improve soil stability and productivity of pasture and small holder agriculture, as follows:

Action	Comment	Completed	Completion reported in:
(a) Identify four major gullies that require stabilisation. Identifying contractor and hiring equipment by 15 October 2016.	<p>Beyond the four gullies initially agreed, a total of 17 (no) major and minor gullies were mapped by Eco Move Consultants and documented in the Final report on RAPLand productivity assessment, improvement and stabilization study (2018).</p> <p>Between 2018 and 2019, eight major gullies and 15 minor gullies (23 in total) were rehabilitated. Due to repeated heavy rains, repairs were needed a number of times and carried out by KenGen. According to information provided by KenGen, a contractor has been awarded a contract to engage in further gulley stabilization measures, starting in October 2020.</p>	✓	2020
(b) Select species of grass and trees upon expert advice and start planting by June 2017.		✓	2018
(c) Involve a RAPIC sub-committee in monitoring implementation of the above.	According to KenGen, the following two RAPIC sub-committees have been involved in the monitoring: the Road Network and the Environmental Conservation sub-project committees. These sub-committees have been registered with the Department of Social Development Officer, Ministry of East African Community, Labour & Social Protection as a Self-help Group/Project.	✓	2021

⁴ The deadlines provided in the Mediation Agreement were extended (as mentioned in section 3.5 of this report) and communicated to all the participants in the mediation.

2. Land titles

Action	Comment	Ongoing	Completed	Completion reported in:
Transfer titles for 1,500 acres at RAPLand and 14 acres at the Cultural Centre to the PAPs' land holding entity, the Ewangan Sinyati Welfare Society. KenGen will complete the process of title transfer once the community has fulfilled its obligations under Article 3, paragraphs 6 and 7 of the Agreement. KenGen will transfer the titles within 90 days upon receipt of the required documentation from the community in line with the above requirements.	The 999-year leasehold title for the 1,500 acres in RAPLand was handed over to the PAPs in March 2019.		✓	2020
	KenGen has handed over the certificate title to the trustees of Ewangan Sinyati Welfare Society on 15 June 2021.		✓	2021
Process and hand out subdivided titles to the government and other institutions responsible for the road network, health facility, school and other registered social amenities, such as churches by 15 November 2016.	Road network and health facility.		✓	2020
	Local administration, social hall and schools: certificate of title in KenGen's custody for handover to the Welfare Society.		✓	2020
	Churches: KenGen was awaiting action from church officials/leader needed to process the transfer of each property.		✓	2020
Provide to RAPIC the RAPLand plans and accounts for the 200 acres of social amenities by 30 September 2016.			✓	2017

3. Vulnerable PAPs

Action	Comment	Completed	Completion reported in:
Share the criteria used for assessing vulnerability with RAPIC by 15 October 2016.	<p>Shared on 27 September 2016.</p> <p>A database of vulnerable PAPs was created to give them priority in future employment opportunities.</p> <p>KenGen partnered with the social services department to raise the RAP community's awareness of the existing social security safety programme for the vulnerable. A wide array of training was offered, including training on financial literacy, livestock management, entrepreneurship and business management skills, etc.</p>	✓	2017
Reassess the status of the six individuals whose names were submitted in addition to the eight individuals already identified by KenGen. Within 30 days of receipt of full name per ID, name of household head, address and contact details of all such individuals, KenGen will submit the result of the assessment to the mediators who will inform the community.	<p>KenGen received nine names from the community, of which only three met the vulnerability criteria. This was disclosed to RAPIC on 4 May 2017.</p> <p>Ten PAPs met the vulnerability criteria until 2020. Eight PAPs were compensated, and two declined offers for casual employment.</p>	<p>✓</p> <p>✓</p>	<p>2017</p> <p>2020</p>

4. Suitability and overcrowding of the houses

Action	Comment	Completed	Completion reported in:
KenGen clarifies that PAPs are free to construct any other housing structures within RAPLand.	No action required	n.a.	n.a.

5. Census

Action	Comment	Completed	Completion reported in:
Convene clinic where the cases of those names submitted by the Complainants will be re-examined, and a decision on entitlement will be made on a case-by-case basis in the presence of KenGen, GIBB, and EIB and World Bank representatives by 15 November 2016. KenGen will announce the dates and venue of the clinic at least two weeks in advance to the community through RAPIC, the mediators, the World Bank and the EIB.	Post-RAP clinic, which examined 236 individual cases, took place from 24-28 October 2016. The Post-Resettlement Clinic Report was handed over to KenGen on 4 May 2017. Notices were issued on 8 and 9 October 2016.	✓ ✓	2017 2017
Commit to provide any cash compensation for eligible PAPs who were wrongly omitted, based on the outcome of the verification / examination mentioned above. KenGen to provide such compensation within 30 days after confirmation of names.	Three eligible PAPs were found to have been wrongly omitted and were compensated in line with RAP.	✓	2018
Commit to provide additional houses for eligible PAPs who were wrongly omitted, based on the outcome of the verification/examination mentioned above. KenGen to start the process for constructing such houses within one month after confirmation of names.	Five eligible PAPs were wrongly omitted from housing entitlements. Additional houses were handed over in September 2018.	✓	2020

6. Resettlement allowance

Action	Comment	Completed	Completion reported in:
Reimburse the power connection fee of approximately KSh 32 000 in consideration for the community dropping items 7, and marking as agreed items 8, 9 and 10 as written below. Payment will be made within 60 days upon confirmation that the Cultural Centre is fully vacated by 28 November 2016.	Compensation for the power connection fee was paid to PAP household heads.	✓	2017

7. KSh 500 000

Action	Comment	Completed	Completion reported in:
Acknowledges that the community has dropped this demand.	No action required.	n.a.	n.a.

8. Profit sharing

Action	Comment	Completed	Completion reported in:
KenGen will be guided by the upcoming national legislation on modalities of any profit sharing.	No action required.	n.a.	n.a.

9. Benefit sharing

Action	Comment	Completed	Completion reported in:
KenGen will be guided by the upcoming national legislation on modalities of any profit sharing.	No action required.	n.a.	n.a.

10. Subsidised electricity

Action	Comment	Completed	Completion reported in:
KenGen is not able to subsidise electricity costs since a different institution (KPLC) is in charge of electricity distribution and retailing. It is noted that the tariff regime for low volume consumers is already highly subsidised.	No action required.	n.a.	n.a.

11 A. Youth empowerment and employment

Action	Comment	Completed	Completion reported in:
Identify existing youth groups, sustainable income opportunities and required support for youth to access those. Identify training needs for entrepreneurial activities in line with local market demands, and develop and provide a training programme for youths to start by 30 April 2017.	The National Youth Service ensures access to technical skills training and apprenticeships.	✓	2018
Ensure youth representation in future Stakeholder Coordination Committees (SCC) to facilitate communication on arising job opportunities by 15 November 2016.	New SCC included seven women and eight youths and was launched on 2 February 2017. Refresher training for SCC members was conducted in June 2019.	✓	2017
Engage with the National Youth Service (NYS) to seek to create a partnership for RAPLand by 30 November 2016.	Two youths from RAP village were chosen for positions in the NYS, and 69 persons attended the sensitization.	✓	2017

11 B. Women empowerment and equal access to opportunities

Action	Comment	Completed	Completion reported in:
Identify existing women businesses and suggest sustainable income opportunities and required support for RAPLand women to access those by 28 February 2017.	Training, advice and support on sustainable production of wares, advertising and marketing as well as other sources of income like agriculture and entrepreneurship were provided.	✓	2018
Identify training needs for women entrepreneurial activities in line with local market demands by 28 February 2017.	See above.	✓	2018
Develop and provide a training programme for women based on the above by 30 April 2017.	See above. In addition, training on forming cooperatives and information on microfinance facilities were provided. Support on effective marketing is ongoing.	✓	2018
Ensure representation of women in future SCC to facilitate communication on arising job opportunities by 30 November 2016.	New SCC included seven women and eight youths and was launched on 2 February 2017. Refresher training for SCC members was conducted in June 2019.	✓	2017
Support community efforts to form and register a women's businesses group.		✓	2017
Engage with the Catholic Church and the AIC church to seek to create a partnership for RAPLand women by 30 April 2017.		✓	2017
Consider ideas on how to help orphans in the community.	Information on enrolment with the National Social Security and Safety Net Programmes.	✓	2017
Work with the community to help vulnerable PAPs secure monthly government support by registering for this support.	Information on enrolment with the National Social Security and Safety Net Programmes. Targeted information session by the Government line ministries on existing opportunities – such as social safety programmes, Uwezo funds, Women Empowerment Trust Fund, and Youth Fund – was conducted between 14-18 March 2017.	✓	2017

12. Water services

Action	Comment	Completed	Completion reported in:
Provide PAPs with enough and reliable water for both humans and livestock at RAPLand.		✓	2018
Continue to ensure reliable interim measures through KenGen's water bowsers while the RAPLand water line is being restored.		✓	2018
Restore and expand a permanent water line at RAPLand by 30 April 2017.		✓	2018
Support the establishment of a Water Resource Users Association to ensure sustainability.	Completed. RAPLand water sub-committee trained and awareness created within the wider PAPs community on water conservation initiatives in March 2017. Registration of the RAPLand water sub-project committee as a Water Resource Users Association to start charging a fee to cater for water line operations and maintenance including payment of salary for a community water technician.	✓ ✓	2018 2020
Train PAPs on water harvesting and conservation, and on maintenance of water line systems by 30 April 2017.	See above.	✓	2018
Re-route pipelines away from the road sides and build bridges to support the pipes over the gullies by 30 April 2017.		✓	2018
Repair the road to unreachable houses beyond the school by 30 April 2017.		✓	2020
Repair one water storage tank and install one additional water tank at Olkaria IV site starting 31 July 2017.	Water supply system was put in place, construction of a 200m ³ concrete water tank was finalised as well as the direct line to the Cultural Centre. Water is pumped to the tank at least twice a week. The community's water sub-committee has hired a technician with the aim to develop a solution for even water consumption between	✓	2020

	the four villages. The remaining governance issues regarding water use have to be addressed by the community internally.		
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13. Roads

Action	Comment	Completed	Completion reported in:
Mobilise own resources for short-term support to repair flood-related road conditions.		✓	2017
Upgrade RAPLand roads to all-weather condition, according to the standards of Kenya Rural Roads Authority (KeRRA) by 30 April 2017.		✓	2018
Register and hand over the roads to KeRRA to ensure government maintenance after 1 year of receipt of the completion certificate.	RAPLand roads are classified as county roads and are therefore under the responsibility of the Nakuru county government (NCG). KenGen is working on the handover to NCG. In the meantime, KenGen remains committed as a matter of social responsibility to maintaining access roads until NCG takes over.	✓	2020
Review technical feasibility of community suggestion to use box culverts across gullies by 15 October 2016.		✓	2018
Maintain roads for at least one year after completion of works (receipt of the completion certificate), prior to handing over to KeRRA.	Ongoing maintenance carried out by KenGen.	✓	2018
Identify the areas where additional works are needed and deploy more equipment by 15 October 2016.		✓	2018

14. Eroding gullies and quality of grazing land

Action	Comment	Completed	Completion reported in:
Settled as per # 1 above.	No action required.	n.a.	n.a.

15. Restoration of livelihoods

Action	Comment	Completed	Completion reported in:
Train women traders on sustainable production of wares and marketing of their products.		✓	2018
Explore and sensitize women traders on benefits of trading as groups and/or cooperatives to enhance their marketing abilities, as well as ensuring that they remain visible.		✓	2018
Explore possibilities of starting a micro credit facility to ensure access to small business finance at RAPLand.		✓	2018
Advise and support PAPs to advertise and effectively market their wares.		✓	2018
Advise PAPs of alternative income sources beyond livestock and tourism, e.g. agricultural production, entrepreneurship, craftwork, etc.		✓	2018

16. Support for school

Action	Comment	Completed	Completion reported in:
Provide bookshelves for school library by 31 January 2017.		✓	2018
Continue supporting RAPLand children's education through Scholarship Fund.	Education/Scholarships: KenGen's Corporate Social Responsibility programme will continue to provide further scholarships for secondary school education. So far, 11 students from RAPLand have been sponsored for secondary education. KenGen also encouraged other businesses to support education of PAPs, following which two companies started to provide university scholarships.	✓	2020

17. Chairs for the social hall and churches

Action	Comment	Completed	Completion reported in:
This was completed. 200 chairs for the social hall and 100 chairs each for the three churches were delivered in November 2015.	No action required.	n.a.	n.a.

18. Furniture and equipment for the clinic

Action	Comment	Completed	Completion reported in:
Deliver further equipment by 31 January 2017.		✓	2017
Provide clinic shelves, fence and gates by 31 April 2017.		✓	2018
Discuss staffing issues with the County Government to achieve compliance with legal requirements (County to provide more than one staff member).		✓	2018

19. Chief's office

Action	Comment	Completed	Completion reported in:
KenGen already provided the building to accommodate the chief and will monitor the community's efforts in pursuing establishment of RAPLand as a sub-location in order to strengthen local government.	No action required.	n.a.	n.a.

20. Commercial centre

Action	Comment	Completed	Completion reported in:
KenGen accounted for the 200 acres of community facilities, which did not include space for the commercial center and which will have to be located within the remaining 1,500 acres.	No action required.	n.a.	n.a.

21. Mosque

Action	Comment	Completed	Completion reported in:
Any construction of a mosque is a matter for interested parties to negotiate with the community.	No action required.	n.a.	n.a.

22. New AKIRA steam well next to RAPLand

Action	Comment	Completed	Completion reported in:
Support information sharing on the status of the proposed AKIRA scheme on an ongoing basis.	No action required.	n.a.	n.a.

23. Grievances Redress Mechanism

Action	Comment	Completed	Completion reported in:
Consider and review community proposals for the establishment of an independent and effective GRM upon receipt of such proposals.	Following consultative meetings with a World Bank social specialist, the EIB-CM local mediators, KenGen and the PAPs community, the existing GRM structure with an eight-strong Community Advisory Council of Elders was strengthened with five additional elders from RAPLand duly registered with the wider Maasai Council of Elders Office.	✓	2018

24. RAPIC

Action	Comment	Completed	Completion reported in:
Consider additional PAPs from existing community sub-project committees under this agreement for inclusion in RAPIC, if deemed necessary by the community.	Following communities meetings, the communities were asked in 2017 by KenGen to present a proposal for additional persons to be included in RAPIC.	✓	2018

25. Welfare Society

Action	Comment	Completed	Completion reported in:
Avail training in corporate governance and accountability to enable the Welfare Society to act as a trustee for the PAPs' assets (including bookkeeping, accounting, annual reporting, trusteeship, society elections) by 31 January 2017.		✓	2018
Provide awareness training about the Welfare Society to the wider community by 31 January 2017.	Information session was carried out in March 2017.	✓	2018

26. Transport

Action	Comment	Completed	Completion reported in:
Convene a meeting by 3 June 2016 with the participants of this mediation to consider community proposals to resolve the transport issue.	The Welfare Society and the Cultural Centre Management Committee had an agreement which was implemented for only two months due to diverging needs and views within the community. The bus which had been provided by KenGen to the community for transportation was leased out to a third party. Meanwhile, additional private transport services to and from RAPLand entered the market and improved the availability of transportation.	✓	2017

27. Cultural centre

Action	Comment	Completed	Completion reported in:
Transfer the title as per agreement on #2. Support preparation of a feasibility study on potential options for business development for the Cultural Center by 30 April 2017.	Please refer to section 2 Land Titles.	✓	2018
Advise and support PAPs to advertise and effectively market their wares, as per agreement on # 15.	KenGen committed to ongoing support.	✓	
Fence the Cultural Center and provide signs to protect from encroachment by March 2017.		✓	2020
Support community efforts to ensure that no one is living in the Cultural Center, and jointly inspect the situation at the Cultural Center by 3 June 2016.		✓	2017