

The American Bar Association (ABA) Center for Human Rights welcomes Gener 2's engagement with its report, "Communities under Pressure – Findings from Valbona, Albania" and its written commitment to respect human rights, to consult with impacted communities, and to remedy any harm caused by its activities in the region. In its response, Gener 2 asserted that they are in continuous consultations with the communities, that they have a grievance mechanism in place, and have addressed all of the complaints that have been put forward to date through that process. The Center notes that at the time of its report, and up until this response, there has been no information about such a mechanism on Gener 2's website. Nor were any interviewees aware that such a mechanism was in place.

The Center urges Gener 2 to ensure that their grievance mechanism is both public and accessible to impacted communities. In particular, it urges the company to disclose:

1. The details of the process: how are communications received, who reviews complaints and decides on a course of action, whether members of the community are involved in the process at any stage, and what, if any, appeal process is available;
2. The number of complaints received to date and the percentage of those that have been resolved or generated a company response.

Similarly, the Center urges Gener 2 to disclose the results of its consultation process, including how many members of impacted communities participated and in what way, the response and input they received from the communities, and how the company resolved any issues raised during that process. Moving forward, the Center urges Gener 2 to engage in meaningful consultations with impacted communities and post notice of any such consultations in advance in media that is accessible to the local population, as required by law. The Center stresses the value of meaningful consultations at each step of the project, including any rehabilitation steps taken by the company (such as planting trees and restoring other flora).

Regarding the Center's findings and recommendations, we would like to note the following:

1. The report does not take a position on Albania's electricity needs, the use of hydropower, or its impact on Albania's economy. As Gener 2's response acknowledges, the report focuses on an apparent pattern of harassment of community members who have been outspoken on the proliferation of HPPs in Valbona valley, including on the territory of a protected area.
2. Gener 2 notes that the authors spoke to a group of like-minded people who were already critical of the number and impact of HPPs in the area. As noted above, the purpose of the report was to document whether people have experienced any intimidation or retaliation in relation to their demand for information and participation in decision making. Therefore, the key population the researcher spoke with were those who have been active in seeking such information or expressing criticism of the increased number of HPPs and their impact on the area.
3. The researcher recruited by the ABA CHR reached out to Gener 2 to seek the company's views. Although Gener 2 initially indicated it would respond to a written questionnaire, the representative of Gener 2 subsequently declined to respond, referencing ongoing litigation. ABA's researcher, who was an independent expert, offered to provide credentials and proof of their relationship with the ABA, but the Gener 2 representative did not respond to that offer. Gener 2 asserts that they reached out to ABA to confirm that the consultant was recruited by ABA. They did not specify the email address they used and a search of all accounts associated with the ABA Center for Human Rights indicates we did not receive any such inquiries.

4. As acknowledged by Gener 2, the Center's report makes it clear that the apparent pattern of harassment described is as reported by interviewees. Where possible, the researcher cross-referenced the reported incidents. The Center has guaranteed the interviewees' anonymity due to their fears of reprisal. Gener 2's response dismisses community members' concerns to report incidents of harassment to the police. The Center notes that out of hand dismissal of such concerns does not indicate a desire to understand or address such fears, if they are indeed misplaced.
5. Gener 2 suggests that they were not required to conduct public consultations and did so only to comply with their own internal commitment to corporate social responsibility (CSR). They assert that therefore the instances where the company relied upon falsified signatures for "attendees" of public consultations is irrelevant to whether they have met or failed to meet their obligations under the law. The Center notes that Albania's Law No. 10 440, of 2011, "On Environmental Impact Assessment," fully implemented the European Union's Environmental Impact Assessment (EIA) Directive into Albanian national law.<sup>1</sup> Article 6 of this Directive requires public consultations as a part of the EIA process, and articles 7 and 8 require that the consultations are meaningful, i.e., that communities inputs are taken into account in decision making at different stages of the project and that any decision by a company that does not comply with community inputs must be justified.<sup>2</sup> The environmental permit for Dragobia Project was issued in 2013. However, even if Gener 2 engaged in consultations out of its own initiative, the issue of falsification of signatures does not become irrelevant. Falsification of signatures is against the law and raises significant questions about the integrity of any purported consultations or CSR initiatives.
6. Finally, Gener 2 asserts that the Center's report references the wrong number of HPPs to be built in the area and claims that such inaccuracy is indicative of other possible inaccuracies in the report. The difficulty of obtaining information on the exact number of HPPs is indicative of a general lack of transparency surrounding HPPs. As the report indicated, the three relevant regulatory agencies have indicated three different numbers for total number of HPPs. The number used in the report is based on research conducted by TOKA and World Wildlife Fund Adria, which submitted access to information requests and reviewed company websites.

The Center's mandate includes the protection of individuals, communities, and civil society who face intimidation and retaliation for defending their rights or the rights of others, including the right to access information, to public participation, and to freedom of expression and opinion. It remains concerned by the reports it has received regarding intimidation and harassment of local community members who have criticized or attempted to protest the proliferation of HPPs in Albania and would welcome a chance to learn more about Gener 2's plans to address these reports meaningfully.

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<sup>1</sup> Environmental Performance Review, Albania, UNECE 2012.

[http://www.unece.org/fileadmin/DAM/env/epr/epr\\_studies/Synopsis/Albania\\_II\\_EN\\_Synopsis.pdf](http://www.unece.org/fileadmin/DAM/env/epr/epr_studies/Synopsis/Albania_II_EN_Synopsis.pdf)

<sup>2</sup> Directive 2011/92/EU of 13 December 2011 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0092&from=EN>