

Progress Report

Ineligible Complaint Closure Report
Project No 43922-014
Approval Number 7308/2620
October 2016

Zvartnots International Airport Terminal Expansion Project Phase 2

(Armenia)

This Closure Report is based on staff back to office reports, minutes of meetings and external monitoring reports from 2013-2014, ADB and AIA responses to the complaint made during 2013, 2014; the extended annual review report in 2014; and the data and information available from AIA in October 2016.

I. Background

1. A \$40 million loan was approved in March 2010 by ADB to Armenia International Airports (AIA - the Client) for the Zvartnots Airport Expansion Project (Phase 2). The funds were used to finance the construction of a new landside terminal building and install equipment and facilities to supplement the air-side concourse built during phase 1. Cofinanciers were the European Bank for Reconstruction and Development (EBRD), which lent \$40 million in December 2009, and Deutsche Investitions und Entwicklungsgesellschaft (DEG), which lent €15 million.

2. The new terminal has been built southeast of Terminal 1 on vacant land owned and no land acquisition or involuntary resettlement was required. However, as part of the airport rehabilitation master plan, the Government of Armenia (GOA) was supposed to relocate 506 residents in four residential buildings inside the airport territory. GOA lacked the financial resources to do so and AIA agreed to help and assume the responsibility. In 2009, AIA prepared a resettlement action plan (RAP) in line with EBRD's Performance Requirement number 5 on Land Acquisition and Resettlement and ADB's SPS Safeguards Requirements 2 on Involuntary Resettlement. While the relocation of building residents was not a result of the Project, as it affected more than 500 persons and AIA assumed the responsibility to relocate the residents, it was nonetheless categorized "A" for involuntary resettlement. All residents were of Armenian descent, some living in Russia where they have obtained Russian citizenship. The project did not trigger ADB's safeguards requirements on Indigenous Peoples.

3. Implementation of the 2009 RAP had been delayed due to many reasons including delays in reallocating land and protracted negotiations with complaining residents. An updated RAP was also prepared and endorsed by ADB in June 2013 and disclosed on ADB website.

4. Stakeholder engagement presented a challenge from early days. In 2011 AIA's focus on completing airport construction by the targeted completion date meant this was prioritized, while interaction with residents was initially limited. The GoA also reallocated the designated relocation land to other parties, resulting in delayed construction of replacement buildings and reluctance of residents to believe they would actually have to move (from first being informed in 2002). Delay of construction and relocation of the replacement buildings C&D Phase II further caused disappointment rather than mistrust among the residents of the buildings C&D for not being relocated in line with A&B building residents, but have to wait because of the unanticipated issue regarding the land relocation by the GoA. This led to an atmosphere of mistrust among residents, and complaints increased. EBRD and ADB worked with AIA to overcome these difficulties, and AIA instituted more regular community meetings to address questions and concerns with regular participation from the ADB and EBRD social experts. These meetings were also held to disclose to the residents the recent information and keep the residents updated periodically on the progress. At first, these meetings were held every 60 days, but as construction approached and residents of some buildings moved into their new accommodation, these were reduced to every quarter.

5. As part of lenders' due diligence, the status of the resettlement process was reviewed regularly in compliance with Lenders' policy requirements¹. EBRD had conducted its own monitoring since 2006. ADB's social experts monitored implementation through joint monitoring missions with EBRD from 2009. Joint ADB and EBRD missions were conducted quarterly and later semi-annually from 2012, with a concluding mission in December 2014 for ADB. AIA

¹ <http://www.adb.org/projects/documents/zvartnots-international-airport-terminal-expansion-phase-ii>

prepaid its loan to ADB on 12 February 2015. EBRD continued its monitoring up to 2016.

6. AIA established a three-step approach (Figure 3, RAP 2013) to ensure both a transparent and accessible process for project-affected people, as well as the opportunity to reduce potential legal costs. The first step was application to the designated person in AIA's Maintenance and Environmental Department (MED) responsible for the relocation process in each of the cluster of buildings (A&B/C&D). Most issues were resolved at this stage. However, if the complaint could not be addressed satisfactorily, it was then forwarded to the General Department of Civil Aviation (GDCA), which represented the City Government of Yerevan. If the complaint still could not be resolved at this second stage, it could next be taken through the national legal system. Complaints were also received by ADB from the building residents about noise and dust during airport construction, as well as lack of repairs of common areas and power and water utilities at the old hostels. AIA addressed these complaints and implemented the required repairs.

II. The Complaints and the Project's Response

7. A series of written complaints were made by residents of the buildings to ADB, and jointly to EBRD (the IFIs). Key issues (real or perceived) raised by affected people included: (i) residents of C and D blocks only received unofficial and partial information about entitlements and the relocation process; (ii) incorrect calculation of property measurements; (iii) not everyone receiving the same rights; (iv) lack of transparency in the consultation and relocation process; (v) requesting an independent external monitor. In consultation with AIA, ADB and EBRD responded to the first letter on 23 December 2011, clarifying that (i) information was being disseminated, an AIA contact person had been assigned, and quarterly consultations were held with residents since July 2011, (ii) the entitlements of all residents followed, at a minimum, the like-for-like principle (i.e. replacement cost) in the Resettlement Plan and were in compliance with the respective ADB and EBRD policies, (iii) common areas would be measured, (iv) an external monitor would be appointed in addition to the three resettlement specialists monitoring the project from the financing institutions. To improve communication between the Project and residents, the public meetings held by AIA every 60 days to inform about progress and respond to any queries, issues raised and agreed actions were documented and participants listed. ADB responded to the second letter on 3 February 2012 confirming that ADB had seen evidence that the measurements of the units occupied were validated and signed by residents in 2009 and that AIA had provided ADB with measurements of the common areas. The IFIs had responded to this complaint on 23 December 2011.

8. In 2013, two further complaints from residents of Buildings A&B were sent to the Office of the Special Project Facilitator (OSPF) under ADB's Accountability Mechanism which were received by and registered on 18 July 2013, acknowledged on 19 July, verified on 31 July and endorsed by OSPF for eligibility assessment on 1 August 2013. After investigation, OSPF concluded that: (i) both complaints were ineligible for the problem solving function of the Accountability Mechanism (ii) the relocation process undertaken was fair and according to requirements under ADB policy and procedures. OSPF also informed residents that the resettlement package which AIA is providing is in compliance with ADB's SPS and that they would no longer entertain complaints of such nature. Residents were also directed by OSPF to address their concerns at the project level.

9. OSPF did, however, recommend the following: (i) ADB, AIA and the complainants jointly should undertake an exercise to recalculate the exact space occupied by each resident in one

specific apartment and provide the replacement apartment according to the exact space occupied; (ii) the *legalizable* owner of a particular unit should be allocated a unit without the need to secure a property certificate for the current unit; (iii) information on the relocation package be provided through a brochure, poster or booklet in Armenian; (iv) and that AIA execute legally binding agreements with the residents so that residents will not change their minds at a later time.

10. Jointly with the complaining residents or their representatives, AIA, ADB and EBRD undertook measurement of the 3 apartments in question, to address the disputed calculation of communal areas in August 2013. They were all provided legal property ownership documents.

11. While AIA regularly communicated with residents during meetings and since most residents are airport employees, information could readily be obtained from assigned AIA staff. A resettlement information leaflet was provided in Armenian to the residents of 4 buildings in December 2013. AIA also wrote down the processes to be followed for certain circumstances primarily as internal guidance. During individual and quarterly meetings with the residents, these processes were clearly explained to residents, and agreed actions again documented.

12. Construction was again delayed when the wrong type of elevators were delivered to the site. This further created tensions between residents and the Project. AIA was advised by ADB in July 2014 that these delays could trigger further complaints from residents. With deadlines repeatedly missed and rescheduled, residents expressed their frustration during community meetings and a letter on this issue was submitted by the IFIs to AIA in 2014 which noted that delays were eroding the trust built up between AIA and residents of Buildings C & D.

13. Some residents continued to complain about the size of replacement apartments, even though these were very substantially larger, better lit and more accessible, than those formerly occupied. Some residents changed their minds after signing agreements, and as the minimum replacement area was already larger than the area lost, AIA explained it could no longer consider complaints about entitlements for even larger sized apartments free of charge. IFI Missions felt such claims were opportunistic rather than realistic and that all residents were receiving at least the same, and in most cases much more, than they were entitled to.

14. In August 2013, an external monitor was appointed to independently assess the AIA consultation and RAP implementation process, and ensure that it followed OSPF's advice and suggestions. The monitor undertook three missions to the Project, in November 2013, August and December 2014. Monitoring reports were prepared and disclosed on ADB's website.

15. All cases involving residents sharing common spaces and communal properties in Buildings A&B have been resolved. Instead of 43 sq.m., they had obtained larger apartments ranging from 66 up to 81 sq.m and their real estate alienation agreements issued in 2014/2015. The case of the legalizable resident who had been living outside Armenia for many years has been resolved. She was provided with a 47.5 sq.m. apartment with the property certificate signed in April 2016. All residents have transferred to their new apartments and certificates of ownership have been provided to building residents, with the last one issued in April 2016.

III. Conclusions and Recommendations

16. ADB assessed that the AIA made significant efforts to improve its communications and complaints response procedures, and to ensure regular updates on entitlements, construction and relocation timetables were provided. OSPF concluded that AIA had made substantial good faith efforts to respond to concerns and complaints raised by residents.

17. AIA adopted a robust approach with residents who continued to complain about the size of their replacement apartments. ADB considers that AIA has continued to be responsive to resident issues and generous in its response. As a result of its program of regular engagement with building residents and Government stakeholders, AIA improved its level of support to apartment owners, as reflected in the quality and standard of replacement apartments, and security of tenure. AIA was also very receptive towards addressing specific needs of residents, particularly the most vulnerable - e.g. families with a disabled member were provided replacement apartments on the ground floor and wheelchair access with ramps were constructed. Replacement apartments were well above the standard of those lost and far beyond what residents and owners would be entitled to under national law, while the location of these new apartments provided much better access to public facilities such as transport, schools and shops. AIA complied both with the project's updated RAP and with ADB policy requirements.

18. One key lesson learned is the need to establish from the start a good stakeholder engagement program involving close coordination with government and communities, an effective grievance procedure, and documentation of each and every discussion, issue and complaint raised. AIA started working on the process of resettlement in 2006 with the good intention of finally providing new and better quality apartments to building residents who had long been told by GoA that they would be relocated. When the implementation of the relocation project was yet again delayed by the misallocation of land by the Government, AIA actively and continuously engaged with GoA to accelerate the process and ensure that they allocate the needed land quickly and with the building residents to rebuild the trust which may have been slowly eroded. The issue was made more complicated by the involvement of an NGO and compounded by opportunistic claims by affected people and their (unaffected) relatives, and by frequent changes of mind in the hope of obtaining a better package of benefits as the months went by. Preparation and distribution of information leaflets were well received, as these specifically addressed the required course of action against each issue.

19. The external monitor is satisfied with the actions taken by AIA. As of its final Mission (December 2014), ADB had not received any new complaints. The PSOD Project Team thanks AIA, EBRD and DEG for the excellent cooperation in addressing all residents' concerns and for successfully completing the relocation program for the residents. As of this Closure Report, there were no outstanding complaints to ADB.

20. This Complaint Closure Report is submitted to the Complaint Receiving Officer of the Accountability Mechanism in compliance with the following provisions of ADB's Accountability Mechanism Policy of 2012; and Operations Manual (OM) Section L1/OP²

²²Available from <https://www.adb.org/sites/default/files/institutional-document/31483/oml1.pdf>

2012 AM Policy

Para. 196: "At the end of the process of addressing the ineligible complaints forwarded to the operations departments by the OSPF or CRP, the operations department will produce a report summarizing the complaint, issues, actions taken to address the problems or issues, decisions or agreements by parties concerned, results, and lessons."

OM Section L1/OP

Para. 24: "Operations departments play an essential role in problem prevention, problem solving, and ensuring compliance, as follows: xxx (ii) Operations departments handle complaints which were filed under the Accountability Mechanism but were found ineligible by the SPF or CRP for lack of prior good faith efforts by the complainants to solve the problems or issues with the relevant operations department; after handling such a complaint, the operations departments file a report with the CRO for posting on the Accountability Mechanism website."

Para. 90: "At the end of the process of addressing the ineligible complaints forwarded to the operations departments by the OSPF or OCRP, the operations department produces a report summarizing the complaint, issues, actions taken to address the problems or issues, decisions or agreements by parties concerned, results, and lessons. This report is posted on the Accountability Mechanism website within 14 days of its completion (para. 96)."

Para. 96: "In cases where a complaint ineligible for the Accountability Mechanism was forwarded to an operations department by the OSPF or OCRP for handling, an end-of-process report prepared by the operations department will be posted on the Accountability Mechanism website within 14 days of completion of the report."