



The Independent Accountability Mechanism for IFC & MIGA

CAO ASSESSMENT REPORT

Regarding the Seventh Complaint Received in Relation to IFC Investments and the Sixth Complaint Received in Relation to MIGA Guarantees in Benban Solar Park in Egypt (IFC #37633, #40386, #40390, #37636, #37637, #39728, #37580, #40019, #37713, #37591, #39995, #39997, #39729 and MIGA #14043, #14059, #14080, #14516, #14517, #14518, #14519, #14520, #14521, #13956, #13952, #13971)

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Office of the Compliance Advisor Ombudsman
for
the International Finance Corporation and
the Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism of the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. CAO reports directly to the IFC and MIGA Boards of Executive Directors. CAO's mandate is to facilitate the resolution of complaints from people who may be affected by IFC and MIGA projects in a manner that is fair, objective, and constructive; enhance environmental and social outcomes of projects; and foster public accountability and learning to enhance the environmental and social performance of IFC/MIGA and reduce the risk of harm to people and the environment.

For more information, see www.cao-ombudsman.org

About CAO Assessments

Any person who believes they may be harmed by an IFC or MIGA project can lodge a complaint to CAO. We apply three simple eligibility criteria to accept a complaint. For eligible complaints, we then conduct assessment of the concerns with the Complainant(s), project sponsor, and other relevant stakeholders. Once a complaint is determined to be eligible, we review the concerns raised in it. This assessment is conducted in consultation with the Complainant(s), IFC and MIGA client and project teams, and other relevant stakeholders.

Purpose

The objective of the CAO assessment process is to develop a thorough understanding of the issues the complaint raises, work to understand all perspectives, engage with all key stakeholders to the complaint, consult with them to determine the process they choose to address the complaint, and consider the status of other grievance resolution efforts made to resolve the issues raised. The CAO assessment process does not entail a judgment on the merits of the complaint; rather, it seeks to understand the facts and empower those involved to make informed decisions on how to address the issues raised.

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LIST OF ACRONYMS

BSDA	Benban Solar Developers Association
CAO	Office of the Compliance Advisor Ombudsman
H&SH	Health and Safety Home
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency

OVERVIEW

In December 2022, CAO received a complaint from a former security guard (“the Complainant”) of SWAT Security and Guards Company, a subcontractor for the Benban Solar Park in the Arab Republic of Egypt. The Complainant alleged that despite the fact that he worked for SWAT for three years, he did not receive a contract renewal offer in a timely manner and he was forced to resign. The Complainant claims that his resignation is a result of intimidation by the Benban Solar Developers Association (BSDA) in retaliation against him submitting a complaint through the Association’s grievance process.

Prior to submitting this complaint, the Complainant had filed a complaint with CAO in June 2022 with other security guards who shared the same concerns over the renewal of their contract. The issues raised in the former complaint was resolved through direct engagement between the parties during the assessment phase and the case was closed, but the Complainant did not accept the company’s renewal offers that required a three-month probation period and decided to file a new complaint with CAO.

The CAO complaint is related to labor conditions in 13 active projects by the International Finance Corporation (IFC)¹ and in 12 active projects supported by the Multilateral Investment Guarantee Agency (MIGA)² in the Benban Solar Park in Egypt (“the Project”).

In January 2023, CAO determined that the complaint met its three eligibility criteria and began an assessment of the complaint.

During CAO’s assessment, the Complainant and the Benban Solar Park representatives expressed an interest in engaging in a CAO dispute resolution process to address the issues raised in the complaint. In accordance with the CAO Policy, the complaint will now be handled by CAO’s Dispute Resolution function.

This Assessment Report provides an overview of the assessment process, including a description of the project, the complaint, the assessment methodology, and next steps.

BACKGROUND

2.1 The IFC and MIGA Projects

IFC is part of a consortium of 9 international banks that are providing \$653 million (\$225 million from IFC) for the construction of 13 of the 41 solar power plants that make up the Benban Solar Park.³ The Park is a 36 sq km plot composed of 32 operational power plants that are operated by different companies, near the village of Benban. MIGA is supporting either equity sponsors or lenders, and in some cases both, in 12 active projects in the Benban Solar Park. Of these 12 projects, 3 are financed by the IFC-led consortium and 9 by the consortium led by the European Bank for Reconstruction and Development (EBRD).

The lenders supporting projects within the park are IFC, EBRD, the Asian Infrastructure Investment Bank (AIIB), the African Development Bank (AfDB), the British International

¹ Projects 37633, 40386, 40390, 37636, 37637, 39728, 37580, 40019, 37713, 37591, 39995, 39997, 39729.

² Projects 14516, 14517, 14518, 14519, 14520, 14521, 13956, 14043, 13952, 13971, 14080, 14059.

³ Benban Solar Park is subdivided into 41 separate plots (projects) assigned to different developers for the development of solar power plants, 32 of which are now operational, generating and transmitting electricity to the national grid.

Investment (BII), Finnfund (Finland), the Industrial and Commercial Bank of China (ICBC), Europe Arab Bank, the Arab Bank of Bahrain, the Green for Growth Fund, Proparco (France), the Austrian Development Bank (OeEB), and the Dutch Entrepreneurial Development Bank (FMO).

All the project developers have joined together to form the Benban Solar Developers Association (BSDA) to manage the entirety of the Solar Park. BSDA hired a facility management company, Health and Safety Home (H&SH), to manage the operation and maintenance of the Solar Park and address environmental and social (E&S) and other relevant issues for the entire park.⁴ H&SH, in turn, hired SWAT Security and Guards Company as a private security provider to provide security services to the Solar Park.

2.2 The Complaint

In December 2022, CAO received a complaint from a former security guard of SWAT Security and Guards Company. The Complainant alleged that despite the fact that he worked for SWAT for three years, he did not receive a contract renewal offer in a timely manner in reprisal for submitting a complaint through BSDA's grievance mechanism, and he was forced to resign.

The issues raised during the assessment are described in more detail below.

ASSESSMENT SUMMARY

3.1 Assessment Methodology and Findings

The aim of the CAO assessment process is to clarify the issues and concerns raised by the Complainant(s), gather information on the views of different stakeholders, and determine whether the Complainant(s) and the IFC/MIGA client(s) would like to pursue a dispute resolution process facilitated by CAO, or whether the complaint should be handled by CAO's Compliance function for appraisal of IFC's and MIGA's performance (see Appendix A for more on CAO's complaint-handling process).

CAO's assessment of the complaint included:

- a desk review of project documentation;
- telephone conversations with the Complainant;
- virtual meetings with representatives of BSDA on behalf of the Benban Solar Park, H&SH, and SWAT Security and Guards Company; and
- virtual meetings with IFC/MIGA project teams.

The assessment was conducted by the CAO team with the support of a local mediator based in Cairo. The CAO team and the mediator communicated with the Parties and collected information through in-depth telephone conversations.

This report summarizes the views heard by the CAO team from the parties and describes the next steps based on the decisions taken by the Complainant and the Benban Solar Park.

⁴ Other issues include security and crisis management, traffic and roads management, solid waste management, wastewater management, community liaison and communications, central facilities services, and H&SH oversight and governance.

3.2 Summary of Views

Complainant's perspective

The former security guard explained that he started working at the Benban Solar Park in 2018 and started working for SWAT in 2020. In 2019 and 2020, he joined with other colleagues to submit a complaint through BSDA's grievance mechanism regarding low salaries and insufficient payment of transportation costs. BSDA responded and put them in contact with its legal department, but ultimately, the complaint was closed without any resolution.

In September 2021, the Complainant received a written message from the manager of H&SH that his contract was not going to be renewed. He alleges that this was a reprisal against him for submitting a complaint through BSDA's grievance mechanism. Prior to submitting the complaint, the Complainant had filed a complaint with CAO in June 2022 with other security guards who shared the same concerns over the renewal of their contract.⁵ The CAO assessment for the former complaint started in July 2022 and during the assessment process, the complainants and the Benban Solar Park representatives resolved the issues raised in the complaint through direct engagement. In accordance with the CAO Policy, the case was closed in February 2023.

During the assessment phase, BSDA directly reached out to the Complainants to discuss the alleged issues and offered renewal offers with a three-month probation period. The Complainant contested the probation period and refused the offer, explaining that Egyptian law does not require a new probation period if the person was employed in the same company previously.

The Complainant started looking for another job and received a job offer from another company in 2022. To complete his application, he needed his records of employment and an official release letter from SWAT. He alleges that H&SH informed him that he would need to submit his resignation first as a condition for them to release any official letters related to his employment. He was concerned that if he did not get the necessary release papers, he would not be able to secure the new job and therefore he felt that he submitted his resignation under pressure from the company. He explained that he did not want to resign before securing his entitlement for benefits for the three years he worked at the Benban Solar Park. As a result of these developments, he filed a new complaint with CAO in December 2022. The CAO assessment for the new complaint started in January 2023.

The Complainant also alleged that other colleagues who were not involved in submitting the complaint through BSDA's grievance process received compensation from their employer for the period that their contracts were not renewed, while he did not receive any compensation nor benefits related to the end of his service with the company. He is requesting that he be treated equally and fairly and that he should receive compensation and the benefits related to the end of service.

The Complainant expressed interest in engaging with BSDA representatives in a dispute resolution process facilitated by CAO.

Clients' perspective

BSDA, on behalf of the Benban Solar Park, H&SH, and SWAT, explained that the Complainant resigned from his work in November 2021 and started working for another company. When his one-year contract with the other company expired, he indicated his willingness to come back to SWAT, but there was no vacant position in SWAT. BSDA stated that the Complainant was not forced by the company to resign from his work. BSDA also stated that he was not on the list of laborers who received compensation as he was not part of the initial case filed with CAO

⁵ <https://www.cao-ombudsman.org/cases/egypt-benban-solar-03>.

and left the work before he filed the new complaint. BSDA indicated that they are open to engage in a mediation process with the Complainant to address the issues raised.

ASSESSMENT CONCLUSION AND NEXT STEPS

During CAO's assessment, both the Complainant and the BSDA, on behalf of the Benban Solar Park, H&SH, and SWAT, expressed an interest in addressing the issues raised in the complaint through a voluntary dialogue process convened by CAO's Dispute Resolution function. CAO will facilitate the process, including assisting the parties in preparing for dialogue, agreeing on ground rules and on the scope of the dialogue, and working together in a collaborative way to try to reach a resolution of the issues raised in the complaint and summarized in this assessment report.

APPENDIX A. CAO COMPLAINT-HANDLING PROCESS

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO Dispute Resolution specialists. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the Complainant(s); (2) gather information on how other stakeholders see the situation; and (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function or whether the case should be reviewed by CAO's Compliance function.

As per the IFC/MIGA Independent Accountability Mechanism (CAO) Policy,¹ the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgment** of receipt of the complaint.

Step 2: **Eligibility:** Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 business days).

Step 3: **Assessment:** Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 90 business days, with the possibility of extension for a maximum of 30 additional business days if after the 90-business day period (1) the Parties confirm that resolution of the complaint is likely; or (2) either Party expresses interest in dispute resolution, and there is potential that the other Party will agree.

Step 4: **Facilitating settlement:** If the Parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the Parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the Parties affected.²

OR

Compliance Appraisal/Investigation: If the Parties opt for an investigative process, the complaint is transferred to CAO's Compliance function. The complaint is also transferred to the Compliance function when a dispute resolution process results in partial or no agreement. At least one Complainant must provide explicit consent for the transfer unless CAO is aware of concerns about threats and reprisals. CAO's Compliance function reviews IFC/MIGA's compliance with environmental and social policies, assesses related harm, and recommends remedial actions where

¹ For more details on the role and work of CAO, please refer to the IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/889191625065397617/ifc-miga-independent-accountability-mechanism-cao-policy>

² Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President, and Board of the World Bank Group, and the public that CAO Dispute Resolution has concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

appropriate following a three-step process. First, a compliance appraisal determines whether further investigation is warranted. The appraisal can take up to 45 business days, with the possibility of extending by 20 business days in exceptional circumstances. Second, if an investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC/MIGA's performance. An investigation report will be made public, along with IFC/MIGA's response and an action plan to remediate findings of noncompliance and related harm. Third, in cases where noncompliance and related harm are found, CAO will monitor the effective implementation of the action plan.

Step 5: **Monitoring and Follow-up**

Step 6: **Conclusion/Case Closure**

