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MICI-CII-CO-2018-0133

COMPLIANCE REVIEW REPORT

ITUANGO HYDROELECTRIC PROJECT

(11794-04)

(11794-04, 3818C/OC-CO-1, 3818C/OC-CO-2, 3818/CH-CO)

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THE MICI COMPLIANCE REVIEW PROCESS

General objective. Compliance Review aims to help the Board of Executive Directors of the IDB Group promote compliance with its operational policies, support positive development outcomes of the operations it finances, and foster institutional learning.

Specific objectives. The purpose of a compliance review is to impartially and objectively investigate Requesters' complaints alleging that the Bank has failed to comply with its Relevant Operational Policies and has caused or may cause harm to the requesters.

MICI's scope of action and application. MICI is the Independent Consultation and Investigation Mechanism of the IDB Group and its scope of application is defined by the Relevant Operational Policies in force. Therefore, Compliance Review only addresses compliance with the Relevant Operational Policies applicable to the IDB Group, drawing no conclusions regarding the actions of any other party in connection with the IDB Group-financed operation. MICI has no authority over judicial proceedings and is not a substitute for judicial or regulatory proceedings of any kind in the host countries. It is not a judicial or law enforcement mechanism. MICI reports focus on the applicability of the Relevant Operational Policies of the IDB Group to the project or financing that is the subject of the request and are not intended to be used in domestic judicial or regulatory proceedings; nor are they intended to attribute causation or liability. In addition, the MICI reports will systematically include corrective actions in their recommendations so that the projects comply with the Relevant Operational Policies in cases in which non-compliance is established, with a view to ensuring that the Requesters who present their claims obtain concrete results. The MICI recognizes that the ability to make these recommendations is limited when the contractual relationship is terminated or modified in the public or private sector of the IDB Group and the financing activity ends¹.

¹ The Office of Evaluation and Oversight (OVE), in its Evaluation of the Independent Consultation and Investigation Mechanism (MICI) of 2021, also recognizes this limitation. (p. 58.)

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LINKS	
1.	Case record MCI-CII-CO-2018-0133 in the MICI-IDB Invest Public Registry https://www.iadb.org/en/mici/request-detail-iic?ID=MICI-CII-CO-2018-0133&nid=23506
2.	Original Request and Annexes http://www.iadb.org/document.cfm?id=EZSHARE-1002559224-169 http://www.iadb.org/document.cfm?id=EZSHARE-1002559224-134 http://www.iadb.org/document.cfm?id=EZSHARE-1002559224-257 http://www.iadb.org/document.cfm?id=EZSHARE-504054498-101
3.	Response of IDB Invest Management to Request MICI-CII-CO-2018-0133 regarding the Ituango Hydroelectric Project (11794-04, 3818C/OC-CO-1, 3818C/OC-CO-2, 3818/CH-CO) and Annex https://www.iadb.org/document.cfm?id=EZSHARE-1002559224-255
4.	Eligibility Determination Memorandum – Request MICI-CII-CO-2018-0133 https://www.iadb.org/document.cfm?id=EZSHARE-1002559224-271
5.	IDB Invest website for the Ituango Hydroelectric Project – (11794-04, 3818C/OC-CO-1, 3818C/OC-CO-2, 3818/CH-CO) https://idbinvest.org/en/projects/ituango-hydroelectric-project
6.	Recommendation for Compliance Review and Terms of Reference MICI-CII-CO-2018-0133 http://www.iadb.org/document.cfm?id=EZSHARE-1002559224-460
7.	Environmental Impact Studies (EIS) for the Ituango Hydroelectric Project – (11794-04, 3818C/OC-CO-1, 3818C/OC-CO-2, 3818/CH-CO) https://www.idbinvest.org/sites/default/files/2018-03/cap_01_eia_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_02_eia_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_03_eia_areas_influencia_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_03_eia_medio_biotico_acuatico_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_03_eia_medio_biotico_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_03_eia_medio_fisico_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_03_eia_medio_social_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_03_eia_zonificacion_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_04_eia_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_05_eia_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_06_eia_ituango_0.pdf https://www.idbinvest.org/sites/default/files/2018-03/cap_07_eia_ituango_0.pdf

https://www.idbinvest.org/sites/default/files/2018-03/cap_08_eia_ituango_0.pdf
https://www.idbinvest.org/sites/default/files/2018-03/cap_09_eia_ituango_0.pdf
https://www.idbinvest.org/sites/default/files/2018-03/cap_10_eia_ituango_0.pdf
https://www.idbinvest.org/sites/default/files/2018-03/cap_11_eia_ituango_0.pdf

8. List of meetings and interviews conducted during the investigation
<http://www.iadb.org/document.cfm?id=EZSHARE-1002559224-56287>
9. Bibliography and documents reviewed
<http://www.iadb.org/document.cfm?id=EZSHARE-1002559224-56408>
10. Infographics provided by the requesters in the request
<http://www.iadb.org/document.cfm?id=EZSHARE-1002559224-162>
11. Photographic record of the compliance review mission
<http://www.iadb.org/document.cfm?id=EZSHARE-1002559224-56288>

ABBREVIATIONS

ANLA	Autoridad Nacional de Licencias Ambientales [National Environmental Licensing Authority]
APBES	Action plan for the integrated management of biodiversity and ecosystem services
AUC	Autodefensas Unidas de Colombia [United Self-Defense Forces of Colombia]
CEP	Critical event protocol
CGR	Contraloría General de la República de Colombia [Office of the Comptroller General of the Republic of Colombia]
CIA	Cumulative impact assessment
CIAM	Cumulative impact assessment and management
CP	Consultation phase of MICI
CP	Contingency plan
CRP or Phase	Compliance review phase of MICI
DANE	Departamento Administrativo Nacional de Estadística de Colombia [National Administrative Department of Statistics of Colombia]
DRMPPPE	Disaster risk management plan for public and private entities
EA	Environmental assessment
ECP	Emergency and contingency plan
EHS Guidelines	Environmental Health and Safety Guidelines – World Bank Group
EIA	Environmental impact assessment
ELN	Ejército de Liberación Nacional [National Liberation Army]
EPM, company, or client	Empresas Públicas de Medellín
ESAP	Environmental and social action plan
ESDD	Environmental and social due diligence
ESMS	Environmental and social management system
ESRS	Environmental and social review summary
FARC	Fuerzas Armadas Revolucionarias de Colombia [Revolutionary Armed Forces of Colombia]
GDP	Gross domestic product
GN	Guidance Note
IAP	Independent advisory panel
IDB	Inter-American Development Bank
IDB Invest	IDB Group institution that supports the private sector, formerly the IIC
IDBG or IDB Group	The IDB Group consists of the Inter-American Development Bank, IDB Invest, and IDB Lab (previously MIF)
IESC	Independent environmental and social consultant for the Ituango Hydroelectric Project
IFC	International Finance Corporation
IHP, project, or Hidroituango	Ituango Hydroelectric Project
IIC	Inter-American Investment Corporation

Management	The IIC manager or managers, executives, or chiefs of division in charge of the relevant IIC-financed operation, or any delegate thereof ²
MICI or Mechanism	Independent Consultation and Investigation Mechanism of the IDB Group
MICI Policy	Policy of the Independent Consultation and Investigation Mechanism of the IIC (document CII/MI-1-1)
MRV	Movimiento Ríos Vivos [Living Rivers Movement]
Operation	Operation CO-11794-04 financed by IDB Invest
Operations	IDB-financed TC CO-T1250 and IDB Invest-financed Operation CO-11794-04
OVE	Office of Evaluation and Oversight
Parties	the requesters, Management, the borrower, and/or the client, if applicable
Phases	Consultation phase and compliance review phase of MICI
PS	Performance Standard
ROPs	Relevant Operational Policies
SMP	Social management plan
UBN	Unmet basic needs

² In November 2017, the IIC was rebranded as IDB Invest (in English) and BID Invest (in Spanish, French, and Portuguese).

EXECUTIVE SUMMARY

A. Geographic and social context

A fragile context with a history of violence and insecurity

The Ituango Hydroelectric Project (the Project) is a hydroelectric power project on the Cauca River in the northwestern part of the department of Antioquia, 170 kilometers from Medellín. The Project's main works are in the municipalities of Ituango and Briceño, in an area that faces significant challenges in terms of poverty, public services, and security (the Norte, Occidente, and Bajo Cauca subregions). The main economic activities of the inhabitants of these subregions are agriculture, livestock, fishing, and artisanal mining or *barequeo*.

The municipalities of the department of Antioquia have historically been affected by the armed conflict. Despite the signing of the Peace Agreements with the FARC and their demobilization process, violence in Bajo Cauca persists. Armed groups have reconfigured themselves into other unlawful organizations that continue operating in the territory. These groups exploit both legal and illegal sources of revenue and commit acts of violence, including targeted killings of community leaders and human rights defenders. The subregion is experiencing a humanitarian crisis fueled by the increase in forced displacement, massacres, and practices of social control.

B. The Project

The Ituango Project: the largest energy project in Colombia

The Ituango Hydroelectric Project includes the construction of a 225-meter-high dam on the Cauca River just upstream from the mouth of the Ituango River and an underground power station with an installed capacity of 2,400 MW and an average annual energy output of 17,460 GWh that, after being completed, would account for 17% of the country's installed capacity. The Project also includes works for the temporary rerouting of the Cauca River on the right and left banks, as well as associated works that included the powerhouse access tunnel, ventilation tunnel and emergency exit, surge tank ventilation and exhaust shafts, and various infrastructure works (camps, transmission line, construction substation and access routes, in particular the road from Puerto Valdivia to the dam site).

The 2018 contingency

In April 2018, a blockage in the auxiliary diversion gallery caused an emergency, leading authorities to declare a public disaster. Areas near the dam were flooded, ultimately resulting in the evacuation of some 17,000 people from the most at-risk communities.

IDB Invest and the Project: late entry and early exit

IDB Invest (then the IIC) began its involvement with the Project in November 2016, following approval of the corporate loan contract by the Board of Executive Directors, with Empresas Públicas de Medellín (EPM) as the borrower. The Project was given a Category A environmental

classification, due to the identification of highly significant environmental and social impacts and risks. In December 2021, due to EPM's early repayment of the loan, IDB Invest exited the Project. As of the writing of this report, two of the generation turbines have come into operation.

C. The MICI process

The Request: allegations of incomplete and inadequate assessment of social and environmental impacts, among others.

On 5 June 2018, MICI received a Request filed by *Movimiento Ríos Vivos* [Living Rivers Movement] (MRV) and signed by 472 individuals. The MRV claims that the communities of the Antioquian municipalities of Briceño, Ituango, Toledo, San Andrés de Cuerquia, Valdivia, Sabanalarga, Peque, and Caucasia have been harmed by the Project.

The Requesters allege, among others, the following instances of noncompliance: (1) inadequate and incomplete environmental impact assessment, and no cumulative impact assessment; (2) inadequate analysis of the risk of a possible emergency; (3) inadequate social impact assessment to identify all affected people and properly characterize the affected population; (4) failure to implement effective procedures for citizen participation and access to information to include all affected populations; (5) communities and social leaders who have opposed the project have been criminalized; in some cases, they have received death threats and been murdered; (6) forced evictions with disproportionate use of force have been documented; (7) no adequate compensation has been provided for the evictions; (8) no plan was in place for involuntary resettlement prior to the start of construction of the Project; (9) the Project's investment approval process did not include a gender perspective; and (10) access to information about the Project and its imminent risks has been difficult and at times nonexistent.

From consultation to compliance review

Although the Request was initiated in the Consultation Phase (as the requesters had asked), MICI concluded, upon analysis, that conditions were not suitable for a possible dialogue process. The Request was therefore transferred to the Compliance Review phase.

The Recommendation and the structuring of the topics for investigation

On 29 October 2019, the Board of Executive Directors approved the [Recommendation for a Compliance Review and Terms of Reference](#). The Recommendation determined the goal was to investigate compliance with the Bank's operational policies in regard to the following topics:

Thematic axis 1. Identification of the affected or potentially affected population, which includes a) Definition of the area of influence, b) Definition of emergency areas and disaster risk management, c) Consultation processes and forms of participation, d) Gender-differentiated impacts. **Thematic axis 2.** Assessment of social and environmental impacts and their management measures, which includes a) social impacts and management measures in relation with cultural and archaeological heritage; social impact and migratory pressure, involuntary resettlement process, conflict, security and violence, and b) Environmental impacts and management measures in relation with biodiversity, natural habitats, ecosystem services, water flows and cumulative impacts.

The CRP investigates compliance or noncompliance with the following operational policies: the Environmental and Social Sustainability Policy of the IIC, OP-703 (Environment and Safeguards Compliance Policy), OP-710 (Involuntary Resettlement), OP-704 (Disaster Risk Management), OP-761 (Gender Equality in Development), and Performance Standards (PS) 1 (Assessment and Management of Environmental and Social Risks and Impacts), 3 (Resource Efficiency and Pollution Prevention), 4 (Community Health, Safety, and Security), 5 (Land Acquisition and Involuntary Resettlement), 6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources), and 8 (Cultural Heritage).

The Compliance Review Panel comprised the Compliance Review Phase (CRP) coordinator and two independent experts for the social and environmental components, respectively; in addition, three experts were brought in as advisors to develop the disaster risk, gender, and security and violence components.

Outside the scope of the investigation

The investigation excluded matters relating to possible compensation for alleged damages, including nonpecuniary damages, arising from the suffering, anguish, and anxiety caused by the risk of a dam collapse (which were also the subject of domestic legal proceedings), and the analysis of the possible causes or technical or natural reasons behind the 2018 contingency.

An ongoing investigation despite the pandemic

The investigation focused on the documentary review of the period of IDB Invest's involvement in the Project (from November 2016 to December 2021), included the review of around 700 documents related to the Project), gathering of testimonies and information through interviews and meetings (virtual, as part of the investigation took place during 2020 and 2021, in the midst of the COVID-19 pandemic) and a field mission in June 2022, when public health conditions allowed.

Risk of reprisals during the process

The Requesters reported having been victims of various types of reprisals targeting the MRV and its members; however, they did not request confidentiality, considering the public disclosure of their names to be a preventive measure. MICI implemented a Joint Plan to Reduce Risk of Reprisals (JPRR) and has been in constant contact with the Requesters throughout the process to update the plan.

D. General reference framework

Due Diligence prior to operation involvement

Under Directive B.1 of OP-703 and the Environmental and Social Sustainability Policy of the IIC, applicable to the Project to which this investigation refers, IDB Invest could only finance operations and activities that followed the guidelines of this policy and were consistent with the relevant provisions of other policies of the institution. To verify this, as part of its Due Diligence (ESDD), IDB Invest reviews the quality of the documents related to the environmental assessment

process. If IDB Invest finds any gaps between what is identified in the ESDD and what is required by the operational policies, it will request the client to take actions to close those gaps in the Environmental and Social Action Plan (ESAP). IDB Invest's ESDD must also verify that the client's efforts to identify a project's social and environmental risks are commensurate with the type, size, and location of the project.

MICI found that IDB Invest prepared the Project's ESDD between July and October 2016.

Compliance supervision during Project implementation: a challenge when construction is already well underway

In addition to review during a project's initial stages, the Environmental and Social Sustainability Policy of the IIC in force at the time also required that the environmental and social performance of its investments be monitored during project implementation as an integral part of its portfolio management program. Thus, IDB Invest had the obligation to review the annual environmental and social monitoring reports prepared by the Client and supervise compliance with the environmental and social commitments in the contract, as well as progress on the ESAP's implementation.

From the time IDB Invest became involved in the operation, IDB Invest had an independent environmental and social consultant (IESC) who reviewed the environmental and social compliance reports prepared by the Client and verified compliance with the Environmental And Social Management Plan and the ESAP. This supervision was initially undertaken on a quarterly basis, but later became semiannual. The Project team also carried out environmental and social supervision on a quarterly basis.

MICI understands the challenge faced by the institution in ensuring that the environmental and social policies applicable to a project are observed and continue to be applied until the end of construction and subsequent start of a project, especially when construction is well underway at the time of the Bank's involvement. It also understands that the Project had several overlapping supervision levels and systems, in addition to those implemented by the institution, such as those implemented by the National Environmental Licensing Authority (ANLA).

E. Thematic analysis

Two thematic axes: affected population and impact assessment

As previously stated, the CRP analysis was structured under two thematic axes: (1) identification of the affected and potentially affected population and (2) assessment of social and environmental impacts and their management measures. Identifying the affected population is the investigation's starting point, and it is key to developing the findings of the second thematic axis.

MICI's findings on each of these topics are described below.

1. Definition of the area of influence

The ESDD did not assess whether the area of influence was adequately identified, nor if the affected population, specifically the most vulnerable, such as the victims of the violence linked to the armed conflict, when the funding started.

What do the Requesters allege? The Requesters allege the inadequate identification of both the Project's area of influence and the affected population and, consequently, the impacts on that population.

How did Management respond? Management stated that it adhered to the Sustainability Policy by undertaking a rigorous ESDD process, reviewing all information, meeting with all relevant stakeholders, and preparing an ESAP to close identified compliance gaps. It further reported having collected socioeconomic data on affected persons and identifying vulnerable families. Management also asserted that a distinction should be made between "area of influence" and "emergency area," which comprises "areas affected by emergency situations, which should not be confused with the areas of influence of a project under normal conditions."

What were MICI's findings? MICI found references to the Project's area of influence in the environmental impact assessment (EIA), the Social Management Plan (SMP), the Environmental and Social Review Summary (ESRS), and the ESAP. However, there is no evidence that, when IDB Invest conducted its ESDD in 2016, it had verified through an assessment that the area of influence was, at that time, defined according to the environmental and social policies, local laws, and international environmental impact assessment best practice in place at that time for its operations. As a consequence, there was also no evaluation of the identification of the affected population and particularly of vulnerable population groups, such as victims of the violence generated by the armed conflict.

Did the Bank comply with the ROPs? IDB Invest failed to comply with PS1 by not assessing whether the identification of the area of influence in the EIA was correct; it also failed to assess during the ESDD whether the affected populations, particularly the most vulnerable, were adequately identified, thus failing to comply with PS1 and PS4.

Has noncompliance with the ROPs caused, or could it cause, harm? The instances of noncompliance could have resulted in harm to the Requesters in relation to their health and safety in emergency situations.

2. Definition of emergency areas and disaster risk management

Failure to identify emergency areas and potentially affected communities. Incomplete Contingency Plan and catastrophic dam failure considered an improbable scenario.

What do the Requesters allege? The Requesters allege that the risk of a possible emergency situation was not adequately analyzed during the Project's environmental impact assessment.

How did Management respond? IDB Invest stated that it complied with the Environmental and Social Sustainability Policy of the IIC and that it carried out a rigorous ESDD with the support of two independent consultants.

What were MICI's findings? MICI found that the project risk assessment and analysis conducted in the Contingency Plan as part of the 2011 EIA update—before IDB Invest became involved in the Project—excluded key concepts and considerations (e.g., the parameter of magnitude of the effects of a disaster, or the fact that preparedness and response plans addressed only communities in the area of influence and not communities in emergency areas, which IDB Invest failed to detect) from its analysis. It also failed to detect that neither the emergency areas of the anticipated risk scenarios, nor the potentially affected communities (including vulnerable communities) in those scenarios, including the scenario of a possible catastrophic dam failure, were adequately identified. In the latter scenario, the Contingency Plan considered failure to be “unlikely”, so no response plan was provided; IDB Invest required one, but for the start of the operation phase. Following the 2018 emergency, some key tools were developed that were helpful for disaster risk management, such as the Disaster Risk Management Plan for Public and Private Entities (hereinafter DRMPPE) and the Emergency and Contingency Plan (hereinafter ECP). However, while these instruments did address some of the shortcomings of the previous instruments (such as the inclusion of the magnitude parameter), they failed to remedy important deficiencies such as the failure to develop a communication system with all affected communities to present them with options for their protection or to identify vulnerable populations and the appropriate differentiated management actions. MICI requested supporting documentation on the disclosure of these emergency plans but IDB Invest did not provide it.

Did the Bank comply with the ROPs? MICI considers that the disaster risk assessment was not done properly and that it overlooked some ROPs and international good practice requirements, and that IDB Invest neither detected these instances of noncompliance nor monitored them during supervision, thus failing to comply with the Environmental and Social Sustainability Policy of the IIC; OP-704; Directives B.4, B.5, and B.7 of OP-703; PS1; and PS4. MICI also found that the instruments that are part of the Project's disaster risk management failed to meet all the requirements established in the ROPs to respond to a potential emergency, and that IDB Invest did not require the Client to remedy these instances of noncompliance. It also failed to detect that the preparedness and response measures did not include all of the population that would potentially be affected by an emergency, thus failing to comply with PS1.

Has noncompliance with the ROPs caused, or could it cause, harm? MICI concluded that noncompliance with several ROPs related to the assessment of disaster risk assessment and to the Contingency Plan to minimize and adequately respond to the impacts associated with a possible disaster event could result in harm to communities affected by emergencies.

3. Consultation processes and forms of participation

No evidence of consultation processes and forms of participation consistent with ROPs requirements

What do the Requesters allege? The Requesters allege that access to Project information has been inconsistent, complicated, or nonexistent. They also note that the participation process has been inadequate due to deficiencies in the census and the failure to consider the political and social context.

How did Management respond? Management stated that the consultation process included all communities and that hundreds of talks, workshops, and meetings were held to explain the Project and its works in simple and easy-to-understand terms, and that these spaces served as opportunities for feedback on community concerns. Management also points out that the Project has several information and participation mechanisms and programs (such as the Community Spokespersons Program).

What were MICI's findings? MICI found no evidence, despite having requested it from IDB Invest, that IDB Invest verified how stakeholder engagement was carried out in practice and how it addressed, for example, vulnerable groups, either during the ESDD phase or during the supervision phase. MICI also found no evidence that IDB Invest had verified that informed consultation and participation exercises were ongoing and iterative, and that they included gathering communities' concerns, commitments made during the participation exercises, or information regarding how the communities' opinions influenced the Project's planning and execution. IDB Invest was also unable to demonstrate the existence of consultations and participation processes carried out with consideration to gender differences.

Did the Bank comply with the ROPs? IDB Invest failed to comply with Directive B.6 of OP-703 by failing to ensure that the participation processes involving the affected communities were meaningful and of sufficient depth and quality. MICI saw no evidence that IDB Invest verified that the consultations with the communities were documented and taken into account, as required by paragraph 30 of PS1, nor that it verified that there was a process of informed consultation and participation, as required under paragraph 31. Finally, IDB Invest failed to ensure that a gender-sensitive consultation process had been carried out, thus failing to comply with OP-761 and PS1.

Has noncompliance with the ROPs caused, or could it cause, harm? MICI found that the instances of noncompliance described above could result, among other things, in potential harms such as a lack of knowledge about Project impacts and risks and their management measures, as well as a lack of information about contingency, emergency, risk management, or disaster response plans.

4. Gender-differentiated impacts

No evidence of identification and attention to adverse impacts and risks of exclusion for gender-related reasons

What do the Requesters allege? The Requesters have stated that the Project approval process did not consider the differentiated needs of women and did not include mitigation measures for potentially adverse gender impacts.

How did Management respond? IDB Invest has maintained that socioeconomic information on the affected families was considered in the SMP included in the ESDD, taking the gender perspective into account and establishing ways to serve these identified groups in a differentiated manner.

What were MICI's findings? MICI found no evidence that IDB Invest had confirmed the identification of gender-based risks, differentiated impacts, or their management measures, based on the effective participation of women in the consultation processes. Nor did it find any evidence of a specific assessment of adverse Project impacts on women and girls prior to IDB Invest's involvement. This has resulted in a potentially negative impact on women's economic activities and a potential increase in gender-based violence. MICI found no evidence that IDB Invest had requested information on whether the Project carried out a risk mapping of such risks, or an assessment of this risk during the project's development and financing. The inadequate assessment of gender risks and impacts would have also affected the development of management measures to prevent or mitigate such risks and impacts. Thus, IDB Invest did not verify the development of management measures that would have helped to close gender gaps.

Did the Bank comply with the ROPs? IDB Invest failed to comply with OP-761 (1) by failing to include a gender perspective in the consultation processes; (2) by failing to identify the Project's potential adverse gender-related risks and impacts and management measures to address them; and (3) by not actively identifying opportunities for gender mainstreaming. It also failed to comply with Directive B.7 of OP-703 because it did not supervise the development of the gender policy provided for in the ESAP.

Has noncompliance with the ROPs caused, or could it cause, harm? The lack of an initial gender analysis made it impossible, among other things, to determine the differential impact of the Project's development on women's economic activities or to assess the Project's impact on gender-based violence in the area of influence. It also affected the design of measures to mitigate these risks and the implementation of measures that could have closed the identified gender gaps. These impacts were corroborated by the testimonies collected from women during the field mission. Therefore, the absence of a gender-differentiated impact assessment and the consequent failure to design and implement prevention or mitigation measures in consultation with women could result in the occurrence of the alleged harm.

5. Cultural and archaeological heritage

IDB Invest complied with all the requirements of the ROPs related to cultural and archaeological heritage by supervising their identification, risks, and protection measures.

What do the Requesters allege? The Requesters allege lack of access to ancestral roads that they once frequented, impacts on 55 sites along the Cauca Canyon that are of great social and cultural importance, and the absence of a protection plan. They further allege impacts on intangible cultural heritage, including the traditional cultural practice of *barequeo* (gold panning).

How did Management respond? Management has stated that the Project's Archaeological Management Plan identified 24 probable sites in the reservoir flood zone. Of these 24, only 13 have undergone any type of intervention because survey activities at the other 11 sites indicated a very low probability of finding any significant remains.

What were MICI's findings? MICI found that IDB Invest verified that the Project had identified potentially affected cultural heritage sites and had a management plan in place to address the risks to these sites. It also found that, during the environmental and social impact assessment process, IDB Invest checked to make sure that the Project's Archaeological Management Plan was aligned with the requirements of the ROPs. In relation to community participation, MICI found documents on participation related to the Project's impact on cultural heritage. As for the allegations related to *barequeo* as intangible cultural heritage, MICI considers that *barequeo* does not constitute intangible heritage in the terms described by the ROPs. However, MICI found that *barequeo*, as a livelihood of significant relevance to the communities, was considered an ecosystem service, this is an issue analyzed in this report. Finally, regarding impacts on community members whose use of ancestral roads has been affected, MICI found that these restrictions were temporary, put in place for security reasons.

Did the Bank comply with the ROPs? IDB Invest complied with Directive B.9 of OP-703 and with PS8 by ensuring that the Project properly identified cultural and archaeological heritage, involved the community in the process, and supervised the measures designed to mitigate these impacts. The Project also has a chance find procedure.

Has noncompliance with the ROPs caused, or could it cause, harm? Since no noncompliance has been found with respect to this issue, MICI need not assess the harm.

6. Social impact and migratory pressure

Risks and measures were identified but supervision was lacking

Did IDB Invest ensure that the potential social impacts of migratory pressure were assessed and characterized and that management and mitigation plans for these impacts were developed? Have the appropriate monitoring measures been put in place?

What do the Requesters allege? The Requesters allege impacts on the social fabric of their communities due to project-related migratory flows, including the influx of workers into the area, which have altered the socioeconomic and cultural environment, giving rise to social conflicts.

How did Management respond? Regarding the effects of migratory pressure, Management reported that the ESDD assessed the impact of the presence of some 8,000 workers in the region during peak demand. However, these impacts were considered low, since all workers would be housed in camps and would leave the Project area during their time off, which would limit their interaction with the community.

What were MICI's findings? MICI found that Project-induced migration is identified as an impact in the EIA, which also highlights several issues related to the risk of social conflict, inflation, crime, public health, and increased use of public services, among others, that could affect social cohesion. During the 2016 ESDD process, IDB Invest acknowledged these risks and considered the risk mitigation measures set out in the SMP to be adequate. IDB Invest did not require an analysis of the efficiency of the mitigation measures.

Did the Bank comply with the ROPs? MICI found that IDB Invest complied with PS1 by verifying that the social risks associated with migratory pressure were identified and that the relevant mitigation measures were put in place. However, despite the existence of data on the results of migratory pressure monitoring, MICI found no analysis of these data. Nor did it find any assessment of the effectiveness of the mitigation measures. Therefore, IDB Invest failed to comply with its duty of supervision in relation to the behavior of the identified impacts of migratory flow and the measures to manage these impacts under PS1 and Directive B.7 of OP-703.

Has noncompliance with the ROPs caused, or could it cause, harm? The failure to adequately supervise the behavior of the impacts and the effectiveness of the implementation of measures to prevent or mitigate risks due to migratory pressure could lead to the occurrence of harm linked to situations described by the Requesters, such as social conflicts and material, social, and cultural alienation.

7. Involuntary resettlement process

IDB Invest verified proper implementation of the compensation process but failed to verify the development of a matrix, key to understand the initial baseline of people to be resettled and did not supervise two related ESAP actions.

What do the Requesters allege? The Requesters allege that the resettlement process was inadequate, as there was no study of alternatives to minimize the need for resettlement; nor was an involuntary resettlement plan developed with the relevant analyses before the start of construction. They mention shortcomings in the identification of the number of affected persons, inadequate compensation, and evictions without prior notice.

How did Management respond? Management noted that this Project has an SMP that constitutes the Involuntary Resettlement Plan, the stated objectives of which are to: (1) compensate families that are physically and economically displaced; (2) ensure that their economic conditions are at least equal to what they had before they were displaced; and (3) assist displaced people in reconstituting their social networks. Moreover, the final list of displaced

individuals allowed for adjustments to be made for nearly a year after the census and families or individuals can still be included. Management also reported that the resettlement process was supported by a consultation process.

What were MICI's findings? MICI verified the need to acquire land for various purposes, which resulted in physical and economic displacement of mining and farming populations for whom the Cauca River was not only an integral part of their lives but also the most important source of basic resources and their economic livelihood. MICI underscores that, by 2016, when IDB Invest began its participation in the Project, the physical displacement process was nearing completion and the economic displacement process had already begun. Even so, IDB Invest detected gaps between the SMP and OP-710 and PS5 and included actions in the ESAP to close these gaps (although it did not request the implementation of some of them, such as the development of a resettlement matrix, critical to understanding the initial baseline of people identified for resettlement). IDB Invest ensured that the acquisition, compensation, and rehabilitation procedures related to property, including land, buildings, crops, forests, and timberland, were carried out properly. IDB Invest also verified that compensation for economic displacement was aligned with the ROPs in terms of providing detailed information on the methodology for identifying affected persons, as well as the consultation and information process to be carried out. MICI found no evidence of the forced eviction of resettled persons.

Did the Bank comply with the ROPs? MICI determined that IDB Invest complied with the first principle of OP-710 and with paragraph 8 of PS5; since the Project was already well underway at the time of IDB Invest's involvement, updating the alternatives studies was not feasible because the location was irreversible. It also complied with PS5 in relation to verifying the implementation of the process for compensating individuals affected by physical and economic displacement. However, MICI found that IDB Invest failed to verify the existence of an initial census or baseline, as required by paragraph 12 of PS5, and failed to sufficiently monitor and evaluate two ESAP actions related to resettlement actions, thus failing to comply with paragraph 14 of PS5, OP-710, and Directive B.7 OP-703.

Has noncompliance with the ROPs caused, or could it cause, harm? The absence of some essential requirements of OP-710, in particular the failure to establish a complete social baseline and the requirements for monitoring and evaluating the plan's implementation, may have resulted in some people being left out of the baseline and, even today, being excluded from the resettlement plan. This could have resulted in the failure to restore their living conditions to those they enjoyed before, as alleged by the Requesters.

8. Conflict, security, and violence

Failure to conduct a specific analysis on the impact of the Project in the security of the communities. Risk analysis is related to the security of the project.

What do the Requesters allege? The Requesters allege that their communities are experiencing a lack of public security, and that this situation has been aggravated by the Project because of

(1) criminalization of and death threats against leaders who have opposed the Project; (2) the intensified presence of armed actors in the Project area; (3) the various forms of violence that the Requesters claim to have faced since they organized Movimiento Ríos Vivos, including threats and murders. They also allege the disproportionate use of force and violence in forced evictions.

How did Management respond? IDB Invest indicated that the escalation of violence in the region has not discriminated between interest groups and that its victims include Project opponents as well as other stakeholders. It stressed that the Project's area of influence is a hotspot for violence, with the presence of illicit crops and illegal armed groups.

What were MICI's findings? MICI found no evidence that IDB Invest required the Client to provide a specific analysis of the risk that the Project could exacerbate an already sensitive local situation, such as the armed conflict in the area, which in turn could lead to new conflicts. The SMP refers at several points to social conflicts in the Project's area of influence as a key risk. It proposes mechanisms such as the creation of a sociopolitical observatory—which was ultimately never implemented—and a Community Spokespersons Program to help identify risks and levels of violence and crime in downstream communities. Neither the ESRS nor the SMP clearly identified the risks associated with the presence of private security services and public security forces (Army and Police). MICI finds that, although IDB Invest verified the existence of some risk management measures in the SMP, and the adoption of prevention and control measures in line with the ROP, it did not measure their effectiveness to adequately manage the security risks of the affected communities. IDB Invest ensured that a grievance mechanism was in place for affected communities, although it did not ensure that the mechanism investigated all allegations of unlawful or abusive acts of security personnel that came to its attention and that the necessary corrective actions were being taken. IDB Invest also ensured that human rights training programs were implemented for private security providers; however, no evidence was provided regarding the topics and frequency of such training.

Did the Bank comply with the ROPs? IDB Invest failed to comply with Directive B.4 of OP-703 and paragraphs 2 and 5 of PS4 regarding the obligation to require the clear identification of security risk factors and impacts on affected communities. As a consequence, IDB Invest also failed to comply with its obligation to design, with the Client, the appropriate management measures to manage these risks, thus failing to comply with Directive B.4 of OP-703. IDB Invest did not require, as part of its supervision, an assessment of the general measures that were in place, and although it did verify the existence and implementation of prevention and control measures, it did not supervise whether they were proving useful in adequately managing security risks. IDB Invest complied with paragraph 12 of PS4 in ensuring that the Client had a grievance mechanism for affected communities and provided training to security officers on the use of force and appropriate conduct toward workers and affected communities. However, it failed to comply with paragraph 14 of PS4 in that it failed to ensure that the Client was investigating all allegations of unlawful or abusive acts of security personnel that came to its attention and that the necessary corrective actions were being taken. It also failed to comply with paragraph 13 of PS4 in relation to verify that the Client assessed and documented risks arising from the Project's use of government security personnel deployed to provide security services to the Project.

Has noncompliance with the ROPs caused, or could it cause, harm? The Requesters have alleged that the Project's presence has made them less safe as Project opponents: they have been criminalized and stigmatized; they have received threats; they have faced reprisals and violent forced evictions; and several of their leaders have been murdered. However, MICI must evaluate whether the instances of noncompliance with the ROPs have effectively worsened, or played a role in worsening, the Requesters' lack of security. Given that it is a well-known fact that the Project is located in a context of decades-long armed conflict, tremendous crime, and violence, it is also highly likely that the reality remains unchanged and that individuals who oppose a given project will face reprisals." It is therefore not possible for MICI to ignore this contextual reality and establish a link—even in contributory terms—between IDB Invest's failures to comply with the ROPs and the harm alleged and experienced by the Requesters. In its comments to the Report, the MRV asked MICI to clarify this conclusion based on the information provided to MICI by the Office of the Ombudsperson of Colombia. In this regard, we can confirm that MICI analyzed several reports from the Colombian Ombudsperson's Office to examine the risk factors the Office had identified as leading to the exacerbation of violence and lack of public security. MICI examined the reports generated in the municipalities in the Project's area of influence since 2016, the year in which IDB Invest became involved in the Project. The information gleaned from these reports shows that violence and lack of public security as a risk to the civilian population in these municipalities, arises from and is fueled by the armed conflict in all its dimensions. The impacts derived from the violence of the armed conflict, and unfortunately endured by the population within and outside the area of influence, originated before IDB Invest's financing, have continued to this day, and are attributable to the territorial and social control processes of the armed conflict, its dynamics, and its progression. MICI is unable to conclude that even in the case of full compliance with IDB Invest's operating policies, it would have been possible to prevent the alleged harm from occurring.

9. Biodiversity, natural habitats, ecosystem services, and water flows

Absence of a metric framework to measure conservation results. Disconnected from the river: failure to identify and propose measures to manage impacts on ecosystem services

What do the Requesters allege? The Requesters allege that Project construction (1) has contributed to the disappearance of the habitats of endemic and endangered species and (2) has destroyed a large part of the tropical dry forest. They also contend that if flooding were to occur, the river flow could change, and water quality could deteriorate. In addition, although the original Request does not specifically mention impacts on ecosystem services, MICI identified this topic as relevant, because, throughout MICI's management of this case, the Requesters have indicated that reviewing this issue is vitally important to the investigation.

How did Management respond? Regarding the environmental and social assessment process, IDB Invest stated that it complied with the requirements of OP-703 and PS1. Management noted the creation of an "environmental and social management and occupational health and safety system" (ESMS-OHS), whose objective, among others, is to identify in advance possible impacts

that the EIA process would not have been able to identify. In this case, IDB Invest affirmed that the Project, in addition to having a well-prepared EIA, has a solid ESMS-OHS that has been in place even before the start of the Project's construction. Management also indicated that a Land Habitat Compensation Plan, an "adaptive plan to allow for the management of any species not identified when establishing the baseline for the development of the original plan," and an Integrated Management System for Biodiversity and Ecosystem Services were being implemented.

What were MICI's findings? With regard to **biodiversity and natural habitats**, MICI found that potential impacts on terrestrial and aquatic flora and fauna were identified and offset measures were designed. IDB Invest also verified the possible existence of critical habitats and the existence of a Land Habitat Compensation Plan and an Aquatic Habitat Compensation Plan. IDB Invest required the Client to address some gaps found in the ESDD and verified its compliance in the supervision phase. Nonetheless, failed to verify compliance with the obligation of implementing a metric framework to assess the conservation results. With regard to **ecosystem services**, MICI found that IDB Invest detected a gap in the identification of priority ecosystem services and their respective mitigation and compensation measures; to address this gap, IDB Invest requested an ecosystem services identification and characterization study, including consultations with affected communities and information on mitigation and compensation measures. The study identified *barequeo* and fishing as ecosystem services. However, in reviewing subsequent Project documents, MICI found that the deficiency remained in relation to the absence of management measures to address the impacts. **Water flows** were analyzed and studied both in the original EIA and in subsequent updates. The Project's impacts on water flows were duly analyzed, and management measures were established in a Contingency Plan that includes emergency prevention measures.

Did the Bank comply with the ROPs? Regarding biodiversity and natural habitats, MICI concluded that IDB Invest complied with Directive B.9 of OP-703 and with PS6, since, based on the ESDD, Management verified the existence of gaps and identified actions to address them in its ESAP. It also monitored compliance with biodiversity offset obligations for potential Project impacts on natural habitats in both terrestrial and aquatic environments and ensured that potentially existing critical habitats in the Project's area of influence would not be adversely affected by the operation. However, it failed to comply with its monitoring and supervision obligation (provided for in the Sustainability Policy of the IIC, Directive B.7 of OP-703, and PS6) by failing to ensure compliance with the obligation to implement a metric framework to evaluate conservation outcomes. Regarding ecosystem services, MICI concluded that IDB Invest failed to comply with Directive B.5 of OP-703 and PS6, because Project documents addressing the gaps identified in the ESAP in this area failed to identify and propose measures for managing impacts on ecosystem services, including *barequeo* and fishing. On the issue of water flows, MICI concluded that IDB Invest complied with Directive B.5 of OP-703 and with PS1 and PS3, since it adequately analyzed potential impacts, designed adequate management measures to address such impacts, and ensured that such measures were adequately implemented.

Has noncompliance with the ROPs caused, or could it cause, harm? In relation to biodiversity, MICI only found one instance of noncompliance: the lack of a metric framework to assess the conservation outcomes that would be generated by the land and aquatic compensation plans. Thus, the risk of generating a net loss of biodiversity (a risk that the ROPs seek to avoid) and, consequently, contributing to environmental harm, could potentially occur. With regard to ecosystem services, the failure to identify and propose measures to manage impacts on ecosystem services, like *barequeo* and fishing, that are related to the use of the Cauca River and changes to the community's environment and way of life could contribute to the occurrence of harm. Numerous corroborating testimonies from the claimants affirm that without understanding their worldview and their ancestral connection to the Cauca, it is impossible to gauge the harm that the Project has caused them. Since MICI found no instances of noncompliance related to water flows, it did not assess harm in connection with this issue.

10. Cumulative impacts

Failure to assess potential cumulative socioeconomic impacts, besides the environmental ones. Impacts in the most vulnerable population due to any cumulative loss of ecosystem services, included *barequeo* and fishing, were not considered.

What do the Requesters allege? The Requesters note that this Project compounds the pressure and seriousness generated by other interventions in the region, such as other hydroelectric plants and micro power stations in the same affected municipalities.

How did Management respond? Management stated that additional studies have been conducted on the Project's cumulative impacts.

What were MICI's findings? During the ESDD process, IDB Invest confirmed that a cumulative impact assessment had been conducted. IDB Invest's analysis of this cumulative impact assessment revealed gaps with respect to PS1. Having detected these gaps, IDB Invest included an action in the ESAP to update the study and align its methodology with international best practice. However, IDB Invest failed to verify the update. Nor did it ensure that the impacts on the local population of any cumulative loss of ecosystem services (including *barequeo* and fishing) had been considered or verify that an assessment of potential cumulative impacts—the risk of which were particularly high for vulnerable populations—had been carried out in relation to physical or economic displacement. MICI found that when IDB Invest exited the Project, it had failed to ensure the existence of a comprehensive cumulative impact assessment and its respective mitigation plan.

Did the Bank comply with the ROPs? MICI concluded that IDB Invest complied with the requirement to formally request the Client to update the cumulative impact assessment in the ESAP, in accordance with Directive B.5 of OP-703 and PS1. However, it failed to comply with Directives B.3 and B.5 of OP-703 and with PS1, as it did not verify that this update had occurred; nor did it verify that the cumulative environmental and social impacts of the Project on the affected

communities (especially the most vulnerable populations) had undergone a comprehensive assessment that included socioeconomic impacts, in addition to environmental impacts.

Has noncompliance with the ROPs caused, or could it cause, harm? The failure to assess the Project's cumulative impacts and, consequently, the lack of a mitigation plan for those impacts, could potentially give rise to social harm (impact on the livelihoods of the most vulnerable population) and environmental harm (water quality, geomorphological dynamics of the river, among others). The situations described by the Requesters are consistent with this potential occurrence of harm.

F. Conclusions

The challenge of ensuring compliance with environmental and social policies. MICI notes the challenge faced by the institution when verifying that applicable environmental and social policies are observed, and continue to be observed until the end of the construction and the operation, specifically when the construction is in an advanced stage when the involvement starts.

The ESDD process. The document analysis suggests that the limited on-the-ground opportunity to observe and understand the reality of the Project and its impacts, could have been a limitation to obtain a holistic and ample understanding of the complexities of the Project, as well as its risks and impacts, when IDB Invest decided to participate in it.

The ESDD did not adequately identify the population affected by the Project. The MICI concludes that the due diligence process carried out by IDB Invest did not evaluate whether the population that would be affected by the Project had been adequately identified and that it included the identification of vulnerable groups, especially those who have been victims of violence due to the armed conflict. Other compliance gaps with the ROPs are: 1) the contingency plan lacked a clear identification of the possible emergency areas (downstream and upstream), which consequently lacked a census of the populations located in said areas, 2) said plan having lacked the determination of vulnerable population groups, especially the groups that have been victims of violence due to the armed conflict, it also lacked differentiated management measures required to address the impacts on said populations, and 3) there were no management measures to address the impacts of the Project on ecosystem services, specifically, that of *barequeo* and fishing.

Table 1 of the Conclusions can be found in [Chapter III of this report](#). The conclusions, like the investigation, are structured by thematic axis and area of investigation.

G. Recommendations

Compliance review: a tool to serve IDB Group improvement

The added value of a Compliance Review Process such as this one is twofold. The first consideration is, of course, to strengthen the project's sustainability and ensure that it complies with the Group's operational policies. The second concerns institutional learning, since MICI

provides an independent perspective on those issues for which compliance presents challenges to the institution, thus strengthening the environmental and social safeguards system.

Therefore, based on the findings of this Compliance Review Report, MICI proposes a series of recommendations for the consideration of the Board of Executive Directors, including actions to be taken by IDB Invest to ensure that, in the future, projects comply with the operational policies, with the objective of preventing the recurrence of such noncompliance in other Bank-financed operations.

In addition, a recommendation to develop an instrument on responsible exit and a recommendation for IDB Invest to develop local support actions for the benefit of the Requesters, are proposed.

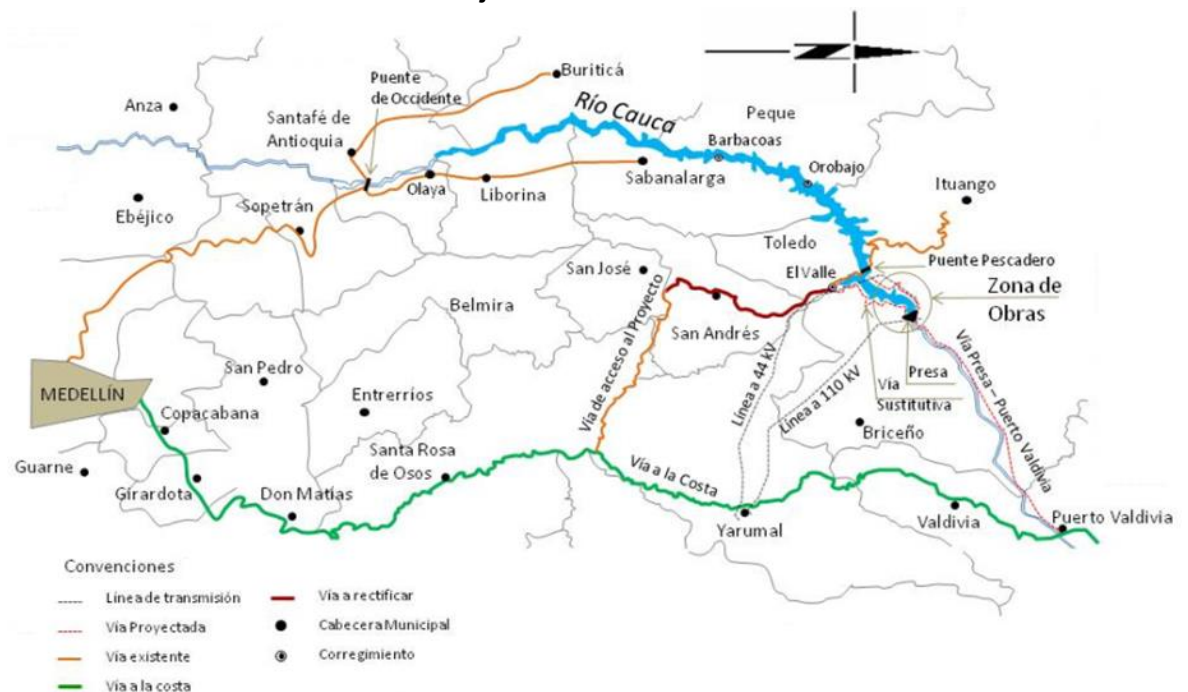
Table 2 of the Recommendations can be found in [Chapter III of this report](#). The recommendations as well as the investigation and the conclusions, are structured by thematic axis and area of investigation.

I. BACKGROUND

A. Geographic and social context

- 1.1 **The Project.** The Ituango Hydroelectric Project (“the project,” “IHP,” or “Hidroituango”) is located on the Cauca River, in the area known as the Cauca Canyon, in northwestern Antioquia, 170 km from Medellín. According to the Project’s environmental and social review summary (ESRS), its area of influence in the department includes municipalities in the Norte, Occidente, and Bajo Cauca subregions.³
- 1.2 **Location.** The Project’s main works are in the municipalities of Ituango and Briceño, while the municipalities of Santa Fe de Antioquia, Buriticá, Peque, Liborina, Sabanalarga, Toledo, Olaya, San Andrés de Cuerquia, Valdivia, and Yarumal provide land for activities such as environmental compensation and complementary Project works. According to the National Administrative Department of Statistics of Colombia (DANE), in 2018, the population of these municipalities was 145,063.⁴

Figure 1.
Project location



Source: EPM, [Specific action plan for the recovery of the Bajo Cauca River basin](#).

- 1.3 **Economic relevance of the region.** Antioquia is one of the most important departments in the country’s economy. In 2021, the department accounted for 15% of Colombia’s GDP,

³ Ituango, Briceño, Santa Fe de Antioquia, Buriticá, Peque, Liborina, Sabanalarga, Toledo, Olaya, San Andrés de Cuerquia, Valdivia, and Yarumal. ESRS, p. 3.

⁴ National Administrative Department of Statistics (DANE), [National Census of Colombia, 2018](#).

the second largest contribution after Bogotá D.C. (25.3%).⁵ However, the Norte, Occidente, and Bajo Cauca subregions face significant challenges in terms of poverty, access to public services, and security conditions.⁶

- 1.4 **Poverty.** Accordingly, the Bajo Cauca and Occidente subregions report the highest percentages of people living in poverty in the department. According to the DANE's measurement of unmet basic needs (UBN), as of June 2022, the populations of the municipalities of Ituango and Toledo had UBN levels of 35.71% and 23.91%, respectively.⁷
- 1.5 **Agriculture, livestock farming, fishing, and artisanal mining, main economic activities.** The main economic activities of the inhabitants of these subregions are agriculture, livestock farming, fishing, and artisanal mining. With regard to the latter, it is important to note that most of the people engaged in this activity are in the Bajo Cauca subregion. As of early 2019, the country's Open Data Portal listed approximately 17,386 registered gold panners (*barequeros*).⁸
- 1.6 **Conflict and violence in the area.** Regarding security challenges, municipalities of the department of Antioquia have historically been affected by the armed conflict. Since 1970, armed groups such as the Popular Liberation Army (EPL), National Liberation Army (ELN), Revolutionary Armed Forces of Colombia (FARC), and various paramilitary organizations have operated in Bajo Cauca and have played a role in the conflict in the area, mainly to control the coca economy and gold mining. The conflict in Bajo Cauca intensified during the 1990s, especially with the emergence of the United Self-Defense Forces of Colombia (AUC) in Córdoba and Urabá, and later the Mineros Bloc and the Central Bolívar Bloc of the AUC.⁹
- 1.7 **Changes in the area's situation of violence.** Reports from various international organizations indicate that, during the five years between the receipt of the Request, there has been a change in the number and size of the different armed groups operating in and around Ituango. These reports further note that the Project area is close to a key territorial line separating the FARC (and associated groups) from some paramilitary groups. This dividing line was relatively well-established, and the area had seen a decrease in violent

⁵ Departmental National Accounts. Departmental gross domestic product (GDP), 2022.

⁶ Medellín Chamber of Commerce for Antioquia, [Socioeconomic Profiles of the Subregions of Antioquia](#), March 2019.

⁷ DANE, [Unmet Basic Needs Index](#), June 2022.

⁸ Gold panning, or *barequeo*, is the manual washing of sand without any machinery or mechanical aids, in order to separate out and collect precious metals that may have been mixed in. Precious and semiprecious stones may also be collected through similar means (Law 685 of 2001, Article 155). [Open Data Portal](#). Colombian Digital Government. The link cited herein was current as of the date of issue of the eligibility memorandum in this case in September 2019, from which the link was obtained.

⁹ OHCHR, [Violencia Territorial en Colombia: Recomendaciones para el Nuevo Gobierno](#) [Territorial Violence in Colombia: Recommendations for the New Government], 2022; ICRC, [Humanitarian Challenges 2019, Colombia Annual Report](#); OHCHR, [Situation of human rights in Colombia - Report of the United Nations High Commissioner for Human Rights](#), 2020; Inter-American Commission on Human Rights (IACHR), [Report on the Situation of Human Rights Defenders and Social Leaders in Colombia](#), 2019; Office of the Ombudsperson, [Early Warning No. 026-18](#), February 28, 2018, p. 36. Fundación Ideas para la Paz, [Dinámicas del conflicto en el Bajo Cauca Antioqueño y su impacto humanitario](#) [Conflict dynamics in Bajo Cauca of Antioquia and its humanitarian impact], February 3, 2014.

incidents following the 2016 Final Agreement between the Government of Colombia and the FARC. The reports also reveal that flooding caused by the contingency of 2018 (details of which are explained in paragraph 1.16) and the threat of increased physical danger resulting from the discovery of a sinkhole below the dam prompted mass evacuations from Ituango and surrounding areas. These floods also damaged the Simón Bolívar Bridge, which had served as a key territorial boundary between the two groups. Lastly, the reports conclude that the sudden decline in the civilian population after the floods not only undermined the revenue streams of the armed groups that had been profiting from extortions, but also emboldened radical elements of these groups to attempt to occupy nearly abandoned towns and villages.¹⁰

- 1.8 **Lack of public security in the area.** Local media reports indicate that the group mainly blamed for the violence in the area are FARC dissidents, in particular the “Caparros,” a group comprising dissident members who, in their desire to control coca production in the region, have stepped up the intensity of the armed conflict in the area.¹¹ A report by the Organization for Economic Cooperation and Development (OECD) specifies that organized criminal activities related to mining operations in Antioquia have also led to the lack of public security in the area. Since at least 2010, illegal armed groups that receive payments or benefit financially from gold mining operations in this department have perpetrated acts of violence, including targeted assassinations of community leaders, candidates for public office, and landowners who refuse to pay extortion fees or so-called “vacunas” [“vaccinations”].¹²
- 1.9 **Violence against community leaders and human rights defenders.** There are reports of threats and extortion by illegal armed groups against local social leaders, including the *Movimiento Ríos Vivos* [Living Rivers Movement] (MRV).¹³ The MRV has reported the murder of four of its members and repeated threats of death or serious injury against at least 17 others.¹⁴ In 2020 alone, in the department of Antioquia, targeted assassinations of community leaders have increased, with 19 killed, including one in the municipality of

¹⁰ OHCHR, [Violencia Territorial en Colombia: Recomendaciones para el Nuevo Gobierno](#) [Territorial Violence in Colombia: Recommendations for the New Government], 2022; ICRC, [Humanitarian Challenges 2019, Colombia Annual Report](#); Instituto de Estudios para el Desarrollo y la Paz (INDEPAZ), [5 años del Acuerdo de Paz - Balance en cifras de la violencia en los territorios](#) [Five years after the Peace Agreement – Taking stock of violence in the territories], 24 November 2021; OHCHR, [Violencia Territorial en Colombia: Recomendaciones para el Nuevo Gobierno](#) [Territorial Violence in Colombia: Recommendations for the New Government], 2022.

¹¹ Report by local groups (see [Los Caparrapos, la banda criminal que se impone en Colombia en alianza con el ELN y las disidencias de las FARC](#) [Los Caparrapos, the criminal gang gaining ground in Colombia in league with ELN and FARC dissidents]), (see [¿Quiénes son Los Caparros?](#) [Who are Los Caparros?]; and [En el fortín de Los Caparros](#) [In the fortress of Los Caparros]).

¹² Organization for Economic Co-operation and Development (OCDE), [Due Diligence in Colombia's Gold Supply Chain: Gold Mining in Antioquia', Responsible Business Conduct series](#), p. 12, 2016.

¹³ Office of the Ombudsperson, Delegate for Civilian Risk Assessment, Early Warning N 004-2020, January 24, 2020; Office of the Ombudsperson of Colombia, Early Warning No. 002-19, January 04, 2019 (concerning Municipality of Valdivia), p. 14.

¹⁴ Center for International Environmental Law, [Campaign Update - Ituango Hydroelectric Project: Drowning Transitional Justice in Colombia](#), June 2018.

Ituango.¹⁵ Antioquia continues to be one of the most violent departments in Colombia.¹⁶ In 2022, the Office of the United Nations High Commissioner for Human Rights in Colombia reported that, during 2021, it received 202 reports of murders of human rights defenders. The Office verified that in 100 of these cases there was a link between that person's death and his or her work, and in 102 cases the information was inconclusive. The main perpetrators of these violent acts are members of non-state armed groups and criminal organizations.¹⁷

- 1.10 **Physical displacement in the region.** Colombia's internal armed conflict caused violence in the municipality of Ituango and the department of Antioquia, which often involved widespread forced displacement.¹⁸ Specifically, according to the MRV, as of 2020, several such displacement incidents have been perpetrated by illegal armed groups, affecting at least 700 households.¹⁹ In addition, mass evacuations²⁰ ordered by State authorities because of "red alerts" for flooding as a result of the 2018 contingency have resulted in the de facto permanent relocation of hundreds of households.²¹

B. The Project

- 1.11 **Characteristics.** The Ituango Hydroelectric Project is a hydropower plant with an installed capacity of 2,400 MW, eight generation units, and an estimated initial investment of US\$5.508 billion. Construction began in March 2011 and was planned in two phases. The first phase comprises four generation units, which were expected to start commercial operation in 2019. The second phase includes the remaining four generation units, which were scheduled to enter into commercial operation in 2022. Once completed, the Project would account for 17% of the country's installed capacity.²²
- 1.12 **Operation figures and investors.** The operation consisted of an A loan for US\$400 million from the IDB Group and US\$50 million from the co-financing fund of the Government of China, administered by IDB Invest. It also includes a B loan for US\$650 million from international commercial banks and institutional investors from North America,

¹⁵ Instituto de Estudios para el Desarrollo y la Paz (INDEPAZ), [5 años del Acuerdo de Paz - Balance en cifras de la violencia en los territorios](#) [Five years after the Peace Agreement – Taking stock of violence in the territories], 24 November 2021.

¹⁶ INDEPAZ, [Líderes sociales y defensores de derechos humanos asesinados en Colombia durante 2019](#) [Social leaders and human rights defenders killed in Colombia in 2019], January 2019.

¹⁷ OHCHR, [Violencia Territorial en Colombia: Recomendaciones para el Nuevo Gobierno](#) [Territorial Violence in Colombia: Recommendations for the New Government], 2022.

¹⁸ Human Rights Watch, [Colombia, Events of 2018](#), 2019.

¹⁹ Center for International Environmental Law, Campaign Update - Ituango Hydroelectric Project: Drowning Transitional Justice in Colombia, June 2018.

²⁰ As of 18 May 2018, about 6,000 people were reportedly evacuated from vulnerable areas in the municipalities of Valdivia, Tarazá, Cáceres, Cauca, and Nechí in Antioquia, and municipalities downstream of the Cauca River in the departments of Córdoba, Sucre, and Bolívar are in a state of readiness according to OCHA, Reliefweb, [UNGRD: Comunicado de Prensa 7 - Evacuación en Zona del Proyecto Hidroituango](#) [UNGRD: Press Release 7 - Evacuation in Hidroituango Project Area]. 18 May 2018.

²¹ Colombia Reports, [After the flood: How the Hidroituango crisis changed armed group dynamics in northern Colombia](#), 12 April 2019.

²² Information derived from project documents.

Europe, and Asia (CDPQ, KfW IPEX, BNP Paribas, ICBC, Sumitomo Mitsui, BBVA, and Banco Santander).²³ IDB Invest classified the project as a category “A” operation, in accordance with the Relevant Operational Policies (ROP),²⁴ and entered the project in November 2016, after approval by the Board of Executive Directors (hereinafter “the Board”). The client is Empresas Públicas de Medellín (EPM).

- 1.13 **Construction.** The Project includes the construction of a 225-meter-high dam on the Cauca River, located just upstream from the mouth of the Ituango River into the Cauca River, and an underground power station with an installed capacity of 2,400 MW and an average annual energy output of 17,460 GWh. The Project also includes works for the temporary rerouting of the Cauca River on the right and left banks (diversion tunnels), as well as associated works that include the powerhouse access tunnel, the ventilation tunnel and emergency exit, the surge tank ventilation and exhaust shafts, and various infrastructure works (camps, transmission line, and construction substation and access routes, in particular the road from Puerto Valdivia to the dam site).²⁵ It also included an auxiliary diversion tunnel or gallery. A collapse in this tunnel reportedly triggered the 2018 contingency, which is described below.²⁶
- 1.14 **The Project’s environmental license.** The environmental license²⁷ in force in 2016, when IDB Invest began its involvement in the project, was the license granted by the National Environmental Licensing Authority (ANLA) in 2009.²⁸ By that year, eleven amendments to this environmental license had been processed and approved. After 2016, amendments to the license continued to be processed.²⁹
- 1.15 **Environmental and social impacts and risks identified by IDB Invest prior to its involvement.** IDB Invest gave the Project a Category A environmental classification, basing its decision on the identification of highly significant environmental and social impacts and risks, such as (i) irreversible loss of vegetative cover (approximately 3,800 hectares), (ii) increased risk of spills and soil contamination during construction, (iii) changes in air quality due to emissions caused by equipment and machinery operation,

²³ Caisse de dépôt et placement du Québec (CDQP), Kreditanstalt für Wiederaufbau IPEX-Bank (KfW IPEX), Banque Nationale de Paris (BNP Paribas), Industrial and Commercial Bank of China (ICBC), Banco Bilbao Vizcaya Argentaria (BBVA).

²⁴ Information derived from project documents.

²⁵ Information derived from project documents.

²⁶ Pöyry. Final Report C.H. Ituango, December 29, 2021. The Definition of emergency areas and disaster risk management chapter of this report explains the involvement of the consulting firm Pöyry as an independent expert requested by ANLA to assess the stability of the project in relation to the so-called 2018 contingency, which is explained in paragraph 1.16 below.

²⁷ Obtaining the environmental license required an environmental assessment process that resulted in an Environmental Impact Assessment (hereinafter “EIA”), which was updated in 2011. Both the Environmental Management Plan (hereinafter “EMP”) and the Social Management Plan (hereinafter “SMP”) are part of the EIA.

²⁸ ANLA, Resolution 155 of January 30, 2009.

²⁹ For example, an amendment was approved in relation to activities to ensure the restoration of connectivity in La Angelina, consisting of the construction of a bridge over the Cauca River measuring 180.36 m long and 4.5 m wide, and a tertiary paved road 3.03 km long (including a 12 m long bridge) and 3.50 m wide, of which 1.34 km will be on the right bank and 1.69 km on the left bank of the Cauca River; additionally, the adaptation of two areas for the deposit of materials left over from the excavation and an area for support facilities were also approved. The total area of intervention with these works is 7.32 ha. (ANLA, Resolution 0430 of March 26, 2018).

(iv) increased noise levels, (v) impacts on land use and exploitation of natural resources by neighboring communities (artisanal or informal fishing), (vi) increased health and safety risks for neighboring communities, (vii) direct impacts on 474 families, of which 262 would be physically displaced and 212 would be displaced for economic reasons (basically, miners coming to the river from the highlands), (viii) potential lifestyle changes for the local population, and (ix) increased social or employment expectations. The Project is also situated in an area with medium seismic activity and high rainfall, and, due to its intrinsic characteristics, it is a factor that exacerbates existing threats in the region.³⁰

- 1.16 **The 2018 contingency.** In April 2018, at a time when the Project was expected to enter into commercial operation in June 2018, a blockage in the auxiliary diversion tunnel or gallery built as part of the Project, caused an emergency that resulted in a sudden increase in the river's flow. This flooded the areas near the dam, ultimately resulting in the evacuation of approximately 17,000 people from the most at-risk communities, among other impacts.³¹ There is ample published information on the emergency's impacts on the populations within and outside the Project's area of influence. A report by the Colombian Ombudsperson's Office notes that the economic vulnerability of the rural population of the municipality of Valdivia was compounded by the effects of the Cauca River overflowing its banks following the emergency.³²
- 1.17 **Declaration of public disaster (*calamidad pública*).** During the 2018 emergency, local, departmental, and national authorities issued a public disaster declaration in the project's area of influence. Unified command posts (hereinafter "PMUs"), with the participation of authorities, relief agencies, and Client representatives, were set up and adopted the necessary measures for managing the contingency.³³
- 1.18 **IDB Invest Exit in 2021.** Upon the Client's early repayment of the corporate loan to IDB Invest, the latter exited the Project in December 2021.
- 1.19 **The Project started operating with two of its generation units.** At the close of this report, the Project had started operation with two of its energy generation units.³⁴
- 1.20 The timeline of the Project is as follows:

Date	Milestone
1969	Initial Project concept

³⁰ ESRS, p. 2.

³¹ MICI, Recommendation for a Compliance Review and Terms of Reference (Revised Version) in Case MICI-CII-CO-2018-0133, Executive Summary, 2019, based on UNGRD News Bulletin No. 183.

³² Office of the Ombudsperson of Colombia, Early Warning No. 002-19, January 4, 2019 (concerning Municipality of Valdivia), p. 20.

³³ Government of Antioquia, Decree 2018070003494. Extension of Public Disaster, 2018; Government of Antioquia, Decree 2019070002605 Lifting of Public Disaster, 2019; [National Disaster Risk Management Unit \(UNGRD\)](#), Press Release, May 5 2018.

³⁴ EPM, [Institutional information about the project](#).

1979-1983	First feasibility studies for the Project
1998	Creation of Sociedad Promotora de la Hidroeléctrica Pescadero S.A.
2001-2007	First EIA
2009	Environmental License for the Project issued
	Start of associated Project works
2011	Start of Project works
	EIA updated
2012	IDB-financed technical cooperation operation CO-T1250 approved
July - October 2016	Environmental and social due diligence by IDB Invest
October 2016	Project's Loan proposal
November 2016	Operation CO-11794-04 approved for financing of the Ituango Hydropower Project by the Boards of Executive Directors of the IIC (IDB Invest) and the IDB
February 2017	IDB-financed technical cooperation operation CO-T1250 completed
December 2017	Loan contract for Project financing signed
December 2018	First IDB Invest disbursement
December 2021	EPM pays the corporate loan and terminates the contractual relationship between IDB Invest and EPM

Source: Prepared by MICI based on project documents.

C. The MICI process

- 1.21 **Request receipt and declaration of eligibility.** On June 5, 2018 MICI received a Request filed by the MRV³⁵ and signed by 472 individuals. On June 11, it was [registered](#) and on July 11, [Management's Response](#) was received.

³⁵ On its website (<https://riosvivoscolombia.org/quienes-somos/movimiento-rios-vivos/>), Movimiento Ríos Vivos defines itself as a movement composed of grassroots social organizations, formed by fishing families, gold panners [*barequeros*], muleteers, farmers, cooks, homemakers, merchants, and people engaged in other rural activities in the Norte, Occidente, and Bajo Cauca subregions of Antioquia, who identify themselves as being affected by the Hidroituango megaproject and other hydroelectric macroprojects. According to them, their main objectives are for each community to remain in their territories with dignity and access to rights; the defense of the territory as a vital space and one in which civil, political, and economic, social, cultural, and environmental human rights are guaranteed; and the transformation of Colombia's mining and energy policy. Report No. 12 of the Series: Reports on the origin and actions of paramilitary groups in the regions, called "The Mineros Bloc of the AUC," by the National Center for Historical

- 1.22 **The Request.** In the Request, the MRV claims that the communities of the Antioquian municipalities of Briceño, Ituango, Toledo, San Andrés de Cuerquia, Valdivia, Sabanalarga, Peque, and Caucasia were harmed by the Project, which was partially financed by IDB Invest and implemented by Empresas Públicas de Medellín (EPM). In particular, they allege breaches associated with IDB Invest's investment in the project.³⁶
- 1.23 **The Request: Relevant Operational Policies and Performance Standards.** The Requesters claim that the investment in the project failed to comply with the following ROP: the Environment and Safeguards Compliance Policy (OP-703), the Operational Policy on Involuntary Resettlement (OP-710), the Access to Information Policy (OP-102), and the Operational Policy on Gender Equality in Development (OP-761), as well as the Environmental and Social Sustainability Policy of the IIC and the Information Disclosure Policy of the IIC. They further allege noncompliance with the following Performance Standards (PS) of the International Finance Corporation (IFC): PS1 (Assessment and Management of Environmental and Social Risks and Impacts), PS2 (Labor and Working Conditions), PS3 (Resource Efficiency and Pollution Prevention), PS4 (Community Health, Safety, and Security), and PS5 (Land Acquisition and Involuntary Resettlement).³⁷
- 1.24 **The Request: alleged noncompliance.** The Requesters allege, among others, the following instances of noncompliance:³⁸ (1) no adequate and complete environmental impact assessment was carried out, nor was there a cumulative impact assessment; (2) no adequate analysis was carried out regarding the risk of a possible emergency; (3) no adequate social impact assessment was carried out to identify all affected people and properly characterize the affected population; (4) no effective procedures for citizen participation and access to information have been implemented to include all affected populations; (5) alleged criminalization, death threats and murders of communities and social leaders opposed to the project; (6) forced evictions have been documented with a disproportionate use of force; (7) no adequate compensation has been provided for the evictions; (8) no involuntary resettlement plan was in place prior to the start of construction of the Project; (9) the Project's investment approval process did not include a gender perspective; and (10) access to information about the Project and its imminent risks has been difficult and at times nonexistent.³⁹
- 1.25 **Eligibility determination and exclusions.** As part of the Eligibility Determination process, a team from MICI conducted a mission to Colombia from July 30 to August 3, 2018. The mission included visits to the cities of Medellín and Bogotá, as well as to the

Memory, published in 2022, states that the MRV was created in a period marked by the reconfiguration of the armed conflict in the region, due to the demobilization of paramilitary organizations between 2003 and 2006, and their almost immediate recycling and rearmament in what is now known as the GAPD (Post-Demobilization Armed Groups). It also says that the members of MRV had already witnessed and experienced the effects of violence in previous years, and that many of its members were victims of massacres, bombings, disappearances, and forced displacements (p. 304).

³⁶ Request in case MICI-CII-CO-2018-0133, p. 2.

³⁷ Ibid., p. 4.

³⁸ Ibid., pp. 4-5.

³⁹ Request in case MICI-CII-CO-2018-0133.

project site in the Cauca canyon, allowing the team to collect firsthand information. During this period, MICI held telephone and face-to-face meetings with IDB Invest Management (hereinafter “Management”), the Requesters and their representatives, civil society organizations, and officials from international organizations. The Request was declared eligible by MICI’s director on September 26, 2018. In this determination, two specific topics were excluded from the MICI process: first, the recovery of bodies thrown into the Cauca River during the armed conflict, since this issue could not be linked to an IDB Invest act or omission with respect to its environmental and social regulations; and second, the project’s potential noncompliance with national environmental regulations is also excluded, as this issue is the subject of a pending legal proceeding.

- 1.26 **Request in the consultation phase.** Considering that the Requesters asked MICI to process their complaint in both of its phases (the Consultation Phase or CP and the Compliance Review Phase or CRP), the Request was first processed in the CP. During this stage, it was concluded that, based on the analysis of the issues that gave rise to the request, the parties’ perspectives, and the risks and opportunities of a potential Conflict Resolution Process, conditions were not favorable for a potential dialogue process in the Consultation Phase. Accordingly, on December 7, 2018, the request was transferred to the CRP.
- 1.27 **Recommendation and terms of reference.** On March 14, 2019, MICI distributed to the Requesters and Management the draft [Recommendation for a Compliance Review and Terms of Reference](#) (“the Recommendation”) for comments. The final version was submitted to the Board, which approved it on October 29, 2019. Accordingly, the investigation focuses on determining compliance with the Environmental and Social Sustainability Policy of the IIC, OP-703, OP-710, OP-704, OP-761, and PS 1, 3, 4, 5, 6, and 8.
- 1.28 **Scope of Compliance Review.** The topics considered for investigation were as follows: (1) the assessment and identification of the area of influence and affected population; (2) the public hearings and other forms of participation for affected communities, and gender-differentiated impacts; (3) the identification and assessment of disaster risks and the approval and supervision of the disaster risk management plan, including the availability, accessibility, and management of information on such risks; (4) social impacts, including the scope, design, and supervision of the implementation of resettlement or compensation plans for the physical and economic displacement caused by the project’s construction and the alleged increase in conflict and insecurity in the project area; and (5) environmental impacts, including those related to biodiversity, natural habitats, ecosystem services, river flow, and cumulative impacts. Issues related to possible compensation for damages, including nonpecuniary damages, which were also part of local judicial proceedings, and the analysis of the possible causes or technical or natural reasons for the 2018 contingency, were excluded from the investigation.

- 1.29 **Topics outside the scope of the Compliance Review:** The investigation excluded matters relating to possible compensation for alleged damages, including nonpecuniary damages arising from the suffering, anguish, and anxiety caused by the risk of a dam collapse (which were also the subject of domestic legal proceedings), and the analysis of the possible causes or technical or natural reasons behind the 2018 contingency. In their comments to the Draft Report, the Requesters allege various impacts arising from the contingency. However, MICI recalls that the scope of the investigation does not include harm caused by the contingency. MICI's investigation of this issue focuses on reviewing how IDB Invest conducted its due diligence before approving the operation in terms of identifying and assessing disaster risks and whether IDB Invest ensured that the Contingency Plan complied with the requirements of the ROP and included relevant mechanisms for the Client to provide adequate emergency management information.
- 1.30 **Compliance Review Panel.** The Compliance Review Panel comprised the CRP coordinator, as chair, and the independent experts for the social and environmental components. Experts were brought in as panel advisors to develop the security and violence, gender, and risk and disaster components, respectively. All this was done with the assistance of MICI's CRP team. The investigation was carried out from February 2020 to March 2023.⁴⁰ The fact-finding mission to the project site was carried out in June 2022.
- 1.31 **Draft Report and comments.** On March 21, 2023, a draft of this document was sent to Management and the Requesters. MICI received their verbal comments on July 10, 2023, and their written comments on July 31, 2023,⁴¹ which were carefully analyzed. This report includes some of the observations that MICI considered pertinent.
- 1.32 **Confidential Annex.** In its comments to the Draft Report, MRV expresses concern about the existence of a confidential annex whose information is unknown to them. In this section, MICI clarifies the reasons for the existence of this annex. MICI has not arbitrarily excluded MRV from access to this annex, but has done so for the reasons described below. In the past, investigation reports included redacted (blacked out) text relating to confidential information. MICI has modified this practice to facilitate the reading and understanding of the public report, especially for the communities, so that the information is not interrupted by these redacted texts. Text that in the past was redacted (blacked out) is now included in a confidential annex that only includes confidential information from Management that reinforces the findings of noncompliance established in MICI's investigation. The information is classified as confidential by IDB Invest under the application of IDB Invest's Access to Information Policy.
- 1.33 Concerning the practice of redacting information, the Access to Information Policy refers in paragraph 65 to the "principle of divisibility" of information identified as confidential and

⁴⁰ The investigation process required an extension of the deadline established in the MICI Policy. In particular, the circumstances created by the COVID-19 pandemic declared in 2020 required extending the deadline for the release of the draft compliance review report until the conditions needed to complete the process were reestablished.

⁴¹ The written comments sent by the parties and the minutes of the meeting with MRV where MICI gathered their verbal comments are available in the *Annexes* section.

allows for the creation of public versions of documents in which such information is “redacted.”

- 1.34 For the sake of transparency, MICI states for the record the existence of this confidential annex, which is shared only with IDB Invest and the Executive Board of Directors of that institution.
- 1.35 This investigation report, both in its draft version shared with the parties, and its final version, is complete. Confidential information not shared with the public does not modify, condition, restrict, or misrepresent the content of the report in its findings, compliance determinations, conclusions, and recommendations.

D. Alleged reprisals during case management

- 1.36 **Requesters’ allegations.** The Requesters have reported being the victims of various types of reprisals against the MRV and its members. In particular, MICI was informed of (1) three murders,⁴² (2) 55 threats (both individual and collective), (3) an attempted kidnapping, (4) torture by law enforcement officers, and (5) ongoing stigmatization of MRV members by the Client, the Project’s investors, and the media.⁴³
- 1.37 **No confidentiality.** Despite the alleged risk of reprisals, the Requesters did not request that the names of the individuals signing the claim be kept confidential when they filed the Request with MICI. They maintained that making their names public would be a preventive measure against potential reprisals.⁴⁴
- 1.38 **Development of the Joint Plan to Reduce Risk of Reprisals (JPRR).** Based on the information submitted by the Requesters regarding the level of risk feared or experienced, and in line with the [Guidelines for Addressing Risk of Reprisals in Complaint Management](#), the preparation of the JPRR was undertaken with the Requesters. This Plan and its respective updates are prepared using the requesters’ views, preferences, and contextual knowledge as the main inputs, taking into account their opinions, fears, and priorities at all times. The JPRR includes several prevention or mitigation measures and has been updated periodically as case management progressed.
- 1.39 **Regular communication with the Requesters.** During the Compliance Review, the Requesters have stated that they continue to fear reprisals. Although it is impossible to determine the origin or the cause of the reported allegations, stalking, and intimidation,

⁴² The requesters reported that on May 2, 2018, Hugo Albeiro George Perez, a member of Movimiento Rios Vivos, and his nephew, Domar Egidio Zapata George were murdered. These murders occurred in the context of regional community mobilizations against the social and environmental risks of the damming of the Cauca River. They state that the murder victims were “people affected by the Project” even though “the company had not recognized them as such.” Original Request and Annex K.

⁴³ Annex H of the request, Infographic on Security Incidents involving Movimiento Ríos Vivos, 2009-2017, and Infographic on Security Incidents involving Movimiento Ríos Vivos, 2018.

⁴⁴ Request MICI-CII-CO-2018-0133.

MICI remains in constant communication with the Requesters in order to be aware of their needs and evaluate the actions that the mechanism can take to reduce the risk of reprisals against them by updating the JPRR.

E. Compliance Review methodology

- 1.40 **Applicable policies and regulatory framework.** The Compliance Review process is governed by paragraphs 36 to 49 of the MICI Policy (CII/MI-1-4). In this case, it covers the period of IDB Invest's involvement in the project, from November 2016 to its exit in December 2021.
- 1.41 **Document review.** The investigation included a detailed study of all Project documentation, including IDB Invest documents related to the Project and other relevant documentation provided by the parties and other significant stakeholders. It also included documents generated by the independent experts who supported the investigation.⁴⁵ Relevant information was requested from IDB Invest at different points in the investigation process, before the mission and after the mission, when IDB Invest was no longer financing the operation. We are grateful to IDB Invest for responding to our requests for specific information, through its direct contact with the Client, even after it had already exited the Project. We must therefore clarify that MICI only asked IDB Invest for information relevant to its investigation; it did not ask for all the information generated by the Project, as stated by IDB Invest in its comments to the Draft Report, nor did it only ask for it, when there was no longer a contractual relationship with the Client. Therefore, when this report states that for certain findings and instances of noncompliance there is no information that proves otherwise, it is because although MICI requested the specific information, Management—while it complied with MICI's request for documents—did so incompletely, by failing to provide all the information requested or unsatisfactorily. MICI stresses that under paragraph 58 of the MICI-IIC Policy, MICI is to have access to all relevant information for the proper performance of its work and that IIC staff should cooperate extensively with MICI's Office to ensure such access.
- 1.42 **Constant work and virtual fact-finding due to COVID-19.** During 2020 and 2021, when MICI's ability to carry out missions was limited, the information needed for the investigation was gathered virtually, through interviews, meetings, and testimonies, using Zoom or Microsoft Teams. In this manner, the investigative work moved forward in the interest of continuity and expediency, while awaiting improved conditions to carry out the field mission. The field mission was ultimately carried out in June 2022.
- 1.43 **Compliance Review mission.** In June 2022, the investigation team carried out a mission to Colombia, where it participated in two assemblies with the Requesters in the municipalities of Toledo and Cauca. Over 100 people participated in these meetings,

⁴⁵ The complete list of consulted documents, which includes or itemizes over 600 documents, is presented in the *Links* section of this document.

mostly leaders, whose testimonies and opinions were heard by MICI. A focus group with women from the group of Requesters was also organized. The team also interviewed and held meetings with over 30 people, including Requesters, communities, IDB Invest staff, environmental and social specialists involved in the project, the Client, national and local authorities, international organizations, and individuals and civil society organizations directly or indirectly related to the Project.⁴⁶ The Client facilitated the investigation team's travel and stays in the areas surrounding the project.

- 1.44 **Nature and scope of the CRP process.** MICI's mandate is limited to the review of IDB Invest's performance in relation to a specific operation within the framework of the implementation of the ROPs. Therefore, the standard of proof to determine its occurrence differs from that used in judicial or adversarial proceedings. MICI's determination is based on the analysis of facts and arguments drawn mainly from (1) Requesters' testimony, (2) the documents and evidence they provide, (3) the Project documents and other documentation provided by the Client to IDB Invest, and (4) the findings of the Compliance Review mission. Determining a finding of harm under the MICI Policy requires establishing whether the identified instances of noncompliance have contributed or may have contributed to the occurrence of harm. However, it is of the utmost important to recognize that given the non-judicial nature of the Compliance Review process, MICI may not order the payment of restitution, compensation for damages, or any other similar measures. In its comments to the Draft Report, MRV has requested that MICI describe in detail the nature of the harm caused by each instance of noncompliance found. However, MICI reiterates that, given its nature, composition, and mandate as an independent, non-judicial environmental and social accountability mechanism, it is not designed to establish guilt or innocence or to attribute fault or responsibility to Management (paragraph 37 of the Policy).

II. THEMATIC ANALYSIS

A. General framework of reference

- 2.1 **Due diligence prior to involvement in an operation.** The Environmental and Social Sustainability Policy of the IIC, which was in effect for the Project under investigation, states that "Through its environmental and social appraisal and supervision procedures, the IIC is responsible for implementing this policy and assuring that all investments financed by the IIC are in compliance with it."⁴⁷ Under Directive B.1 of OP-703 and the Environmental and Social Sustainability Policy of the IIC, IDB Invest would only finance operations and activities that followed the guidelines of this policy and were consistent

⁴⁶ A detailed list of the meetings held during the compliance review, both virtually and during the mission, is available in the *Links* section of this document.

⁴⁷ Environmental and Social Sustainability Policy of the IIC, p. 4. This policy was in effect until December 14, 2020 for IDB Invest. As of December 15, 2020, the Environmental and Social Sustainability Policy of IDB Invest came into effect.

with the relevant provisions of other policies of the institution. These included IDB sector guidelines, the IFC Performance Standards and the EHS guidelines of the World Bank Group. According to the Environmental and Social Sustainability Policy of the IIC, the IIC was committed to international best practices regarding all environmental and social aspects of every financed project, including human rights. Under OP-703, IDB Invest was required to review the quality of the documents related to the environmental assessment process as part of its environmental and social due diligence (ESDD). This was especially important in economic sectors or geographic areas that may be environmentally or socially sensitive. The ESDD should be proportionate to the level of risk and environmental and social impact of each project. In keeping with PS1, paragraph 7, IDB Invest must verify that the Client established and followed a process for identifying the environmental and social risks and impacts of the project and for ensuring that the type, scale, and location of the project guide the scope and level of effort devoted to the risks and impacts identification process; and that this process must be consistent with good international industry practice. MICI confirmed that IDB Invest's ESDD for the Project was prepared over the course of four months, between July and October 2016.⁴⁸ This ESDD contains, among others, the analysis of environmental and social risks and impacts, compliance, and compliance gaps with IDB Invest policies applicable to the Project. This analysis is used to prepare the ESRS, as described below.

- 2.2 **Supervision of compliance during project implementation.** In addition to requiring a review at the initial stages of a project, the Environmental and Social Sustainability Policy of the IIC also requires that the environmental and social performance of its investments be monitored during project implementation as an integral part of its portfolio management program. It also establishes IDB Invest's responsibility to ensure, through its environmental and social assessment and supervision procedures, that all operations it finances comply with this policy. The frequency of the supervision is arranged with the Client. For direct investments, IDB Invest will review the annual environmental and social monitoring reports prepared by the Client and will supervise compliance with the environmental and social commitments established in the legal agreement, as well as progress on implementation of the Environmental and Social Action Plan (ESAP). This obligation is also covered by Directive B.7 of OP-703, which states that the Bank will supervise the executing agency/sponsor's compliance with all safeguard requirements included in the loan agreement and in the project's operating or credit regulations. The relevant safeguard indicators should be clearly defined in the logical/results framework,

⁴⁸ IDB Invest notes in its comments to the Draft Report that it conducted multiple field visits, two of which occurred from July 25 to 29, 2016, and October 4 to 6, 2016, to carry out the Project's ESDD. Paragraph 2.10 of this report summarizes the ESDD process that IDB Invest Management undertook, as described in its response to the Request. However, the ESRS published on the Project's website mentions only two visits. Page 1 states: "As part of the process of evaluating a possible non-sovereign-guaranteed corporate loan to EPM of US\$550 million to partially finance the development, construction, operation and maintenance of Ituango, the Inter-American Investment Corporation (IIC), member of the IBDG, carried out an Environmental and Social Due Diligence (ESDD) which included two site visits (July and October 2016)..." footnote 2 reads as follows: "**The first visit was carried out from July 25 - 29, 2016. The second visit was carried out from October 4 - 6, 2016.** Both visits included surveys of the general area of the Project." (text is not bold in the original version).

monitored through supervision reports, and reviewed in the project's status reports and completion reports.

- 2.3 **Due diligence instruments: ESRS and ESAP.** The instruments available to the public after the ESDD process are: (a) the Environmental and Social Review Summary (ESRS), an analysis of environmental and social risks and impacts resulting from IDB Invest's ESDD, which contains the assessment of compliance with IDB Invest policies, Colombian law, and the Environmental and Social Action Plan (ESAP); and, therefore, (b) the ESAP, which is included in the ESRS and contains provisions to close any gaps between what has been verified and what is required by IDB Invest policies. According to the ESRS, before financial closure of the credit operation, a monitoring and supervision ESAP should have been agreed upon with the Client. The ESAP should have contained more details about the regular monitoring to meet the objectives of the proposed environmental and social management plans. Once agreed upon, the ESAP is an integral part of the contract signed by the Client.
- 2.4 **Supervision instruments of IDB Invest: IESC and environmental and social supervision.** IDB Invest's involvement in the operation entails having two supervision instruments in place: (a) An Independent Environmental and Social Consultant (IESC) tracks and monitors the Project to determine its compliance with environmental, social, and occupational health standards, applying the environmental and social policies governing IDB Invest. This includes reviewing environmental and social compliance reports prepared by the Client and verifying environmental and social management plans and ESAPs. This supervision activity was initially carried out on a quarterly basis, but later became semiannual; and (b) Environmental and social supervision carried out on a quarterly basis by the Project team. MICI understands that supervision efforts were limited during the pandemic due to the inability to travel to the Project site. It also understands from IDB Invest's comments to the Draft Report that the team carried out 35 supervision missions while the loan contract was in force.
- 2.5 **IDB comment.** IDB Invest also stated that the following overlapping supervision levels and systems were in place in the Project: (i) the Client's Environmental and Social Management System (ESMS), composed of more than 300 people, including in-house and outsourced personnel; (ii) project supervision (*interventoría*), which verifies the implementation and monitoring of the environmental and social management programs of the Client and of the Project's contractors; (iii) the Independent Environmental and Social Consultant (IESC), who conducted routine monitoring of the Project; (iv) a Panel of Experts from EPM, consisting of 15 world-renowned experts to address environmental and social, geotechnical, hydraulic works, and electromechanical equipment issues; (v) ANLA; (vi) an Independent Advisory Panel (IAP), formed by IDB Invest after the contingency; (vii) the IDB Invest team; and (viii) on several occasions, a team from the IDB.

2.6 **How the investigation analysis is structured.** The allegations investigated have been grouped into two thematic axes. In turn, each thematic axis has been broken down into sub-themes, using the following structure: (1) the Requesters' allegations in the original Request⁴⁹ and Management's response to the Request⁵⁰ during the eligibility determination stage—although some paragraphs include statements from both the Requesters and Management that come from the recommendation stage of the investigation—or from the investigation stage, which includes the mission to the Project site; (2) ROPs identified as applicable to each theme; (3) findings of the investigation; and (4) MICI's views on the determination of compliance with the ROPs and on whether any noncompliance has caused or contributed to harm. A conclusions and recommendations chapter is included at the end of this document.

2.7 **The two thematic axes of this analysis are:**

Thematic axis 1. Identification of the affected and potentially affected population

- Definition of the area of influence
- Definition of emergency areas and disaster risk management
- Public consultation processes and forms of participation
- Gender-differentiated impacts

Thematic axis 2. Assessment of social and environmental impacts and their management measures.

- Social impacts and management measures:
 - Cultural and archaeological heritage
 - Social impact and migratory pressure
 - Involuntary resettlement process
 - Conflict, security, and violence
- Environmental impacts and management measures:
 - Biodiversity, natural habitats, ecosystem services, and water flows
 - Cumulative impacts

B. Thematic axis 1: Identification of the affected or potentially affected population

1. Definition of the area of influence

2.8 The objective of this section is to determine whether IDB Invest, during its ESDD, properly evaluated the identification of the area of influence and the affected population within that area.

Requesters' allegations

⁴⁹ Dated June 5, 2018.

⁵⁰ Dated June 11, 2018.

- 2.9 **Inadequate identification of the area of influence and the affected population.** In general terms, the Requesters allege the inadequate identification of the project's area of influence and of the affected population and the cumulative impacts on that population,⁵¹ asserting that the Project's area of influence is "outdated" and that it failed to identify all of the people affected by the Project.

Management's response to the request

- 2.10 **Management stated it had complied with the Sustainability Policy.** It states that it undertook a rigorous ESDD process, between July and October 2016, for which it (1) reviewed the project's environmental, social, cultural, occupational health, and safety information, including numerous technical studies, some of which were prepared as part of the TC with the Bank; (2) conducted interviews and technical work meetings with the Client and other relevant stakeholders; (3) evaluated the Project's compliance with the Sustainability Policy, and (4) prepared an ESAP to close compliance gaps.
- 2.11 **Collection of socioeconomic data on affected persons and identification of vulnerable families.** Management also states that during the ESDD process it made sure that socioeconomic information was collected from the affected families to identify the most vulnerable in order to offer them certain guarantees, such as priority in the selection of land or houses, among others.
- 2.12 **Distinction between area of influence and emergency area.** Management also explains that the area of influence is determined through an iterative process, under the assumption that *"both the construction and operation phases of the project will take place under normal performance conditions for the environment."* Management thus considers it necessary to differentiate between "area of influence" and "emergency area," which are "areas affected by emergency situations, which should not be confused with the areas of influence of a project under normal conditions." It also points out that the project's "area of direct influence" includes only the areas adjacent to those affected by planned activities, which are located in the surroundings of the reservoir and the dam. Therefore, it extends only to the municipalities of Buriticá, Ituango, Liborina, Olaya, Peque, Sabanalarga, San Andrés de Cuerquia, Santa Fe de Antioquia, and Toledo (all upstream of the dam) and Valdivia, Yarumal, and Briceño (downstream of the project). Based on technical criteria, it was assumed that in these areas, some secondary effects originating from the Project's direct impacts could be verified in these regions.⁵² Accordingly, Management asserts that the area of influence considered in the EIA *"do[es] not include some of the municipalities that were affected by the emergency."*

Relevant Operational Policies (ROP)

⁵¹ This argument is discussed in depth in the section on the identification and assessment of cumulative impacts (p. 94).

⁵² Recommendation for a Compliance Review and Terms of Reference. Ituango Hydroelectric Project. MICI-CII-CO-2018-0133.

- 2.13 **Defining the area of influence and the affected population is a crosscutting exercise.** The definition of a project's area of influence, and of the affected population within that area, is a crosscutting exercise in determining the applicable provisions of the ROPs and the obligations with which IDB Invest must comply. Thus, different provisions regulating the consideration of project-affected populations or communities should be applied.
- 2.14 **PS1, paragraph 8, establishes very general guidelines on the area of influence of a project.** It states that, where the project involves specifically identified physical elements, aspects, and facilities that are likely to generate impacts, the environmental and social risks and impacts will be analyzed in the context of the project's "area of influence."⁵³
- 2.15 **PS1, paragraph 12, requires borrowers to identify vulnerable individuals and groups.** These individuals and groups could be directly and differentially or disproportionately affected by a project because of their disadvantaged or vulnerable status. In such cases, the borrower should propose and implement differentiated measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing development benefits and opportunities.
- 2.16 **IDB Invest's supervision obligation.** As stated in the General framework of reference section (paragraph 2.2 of this report), the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 establish IDB Invest's supervision obligations in relation to safeguards compliance.

Findings of the investigation

- 2.17 **The EIA and areas of direct and indirect influence.** The EIA, in its original and amended versions, refers to the Project's area of influence (in general) and to its areas of direct and indirect influence. Specifically, Chapter 3 of the EIA⁵⁴ defines the area of influence for physical, biotic, and social environments. In each of these environments, the area of influence is divided into (1) area of indirect influence, and (2) area of direct influence. In the social environment, the area of direct influence is further divided into local and specific. It is important to note that the EIA considered the potential influence of the Project as far as 65 km downstream of the Project.

⁵³ The standard provides, in pertinent part: "The area likely to be affected by: (i) the project and the client's activities and facilities that are directly owned, operated or managed (including by contractors) and that are a component of the project; (ii) impacts from unplanned but predictable developments caused by the project that may occur later or at a different location; or (iii) indirect project impacts on biodiversity or on ecosystem services upon which Affected Communities' livelihoods are dependent. Associated facilities, which are facilities that are not funded as part of the project and that would not have been constructed or expanded if the project did not exist and without which the project would not be viable. Cumulative impacts that result from the incremental impact, on areas or resources used or directly impacted by the project, from other existing, planned or reasonably defined developments at the time the risks and impacts identification process is conducted."

⁵⁴ Chapter 3 of the EIA, published on the IDB Invest website, titled Characterization of Areas of Influence.

- 2.18 **Area of influence in the Social Management Plan (SMP).** The SMP refers to the area of influence and mentions that the characterization of the social environment in the project study area included identifying the population (structure and composition), its dynamics, and quality of life. It also included an assessment of the coverage and quality of public and social services offered; forms of social and political organization; implementation of public policies; land information, use, and exploitation; social and cultural practices that give meaning to the connection between inhabitants and the geographic space; considerations that reflect territorial conditions in terms of the pressure the inhabitants exert on resources, their level of development, and the comparative and competitive advantages of the territory.⁵⁵ The municipalities are the same ones as those identified for the physical and biotic environments.
- 2.19 **The area of influence, the affected population, and the ESRS.** The ESRS considered the area of influence with respect to a number of situations, such as (1) population centers within the area of influence, (2) the preparation and updating of a stakeholder map “to reflect the social dynamics of the Project,”⁵⁶ (3) the possibility of encountering Indigenous peoples in the Project area,⁵⁷ and (4) the need for the Red Cross to provide emergency prevention and response services in all the municipalities in the area of direct influence, under a contract signed with the Red Cross.⁵⁸
- 2.20 **The ESAP and the definition of the area of influence.** IDB Invest included considerations in the ESAP regarding the area of influence in relation to the cumulative impact assessment study,⁵⁹ identification of the Indigenous population,⁶⁰ and the analysis of potentially protected areas.⁶¹ MICI understands that, for IDB Invest, the area of influence was defined in accordance with the regulatory provisions and standards in force at that time (2007 and 2011, respectively). However, given that IDB Invest had not been part of the financing before 2016 and that five years had elapsed since the last modification to the EIA, it should have requested an assessment of the definition of the area of influence to ensure that it was compliant with any changes in local laws, the environmental and social policies, and international environmental impact assessment best practices then in place for its operations. This specific action is not reflected in the ESAP.
- 2.21 **The downstream communities affected by the 2018 contingency were not part of the area of influence.** MICI had already confirmed in its Recommendation to investigate that the EIA did not include the municipalities of Valdivia, Cáceres, Tarazá, Caucaasia, and Nechí in the area of influence. In responding to the Request during the eligibility stage of

⁵⁵ SMP, para. 8.1.

⁵⁶ Idem, p. 9.

⁵⁷ Idem, p. 10.

⁵⁸ Idem, p. 18.

⁵⁹ ESAP, No. 1.16: consider “a list of all significant projects that will be developed in Ituango’s area of influence.”

⁶⁰ Idem, No. 7.1: “Details of the project’s location in relation to recognized Indigenous peoples in the area of influence.”

⁶¹ Idem, No. 6.1: “Provide confirmation of the presence or absence of regionally or nationally protected areas in the Project’s area of influence.”

this case, IDB Invest noted that those communities are part of the “2018 contingency-affected area/zone” but not the area of influence.⁶²

- 2.22 **Example of international good practice: robust assessment, both upstream and downstream.**⁶³ Finally, MICI notes with regard to international best practices that, in 2019, the European Investment Bank published the *Environmental, Climate and Social Guidelines on Hydropower Development*,⁶⁴ which requires developers to demonstrate that robust identification and assessment have been carried out, both upstream and downstream, to delineate the geographic area where impacts relating to cultural heritage could occur⁶⁵ or where ecosystem services could be affected.⁶⁶ This identification should take place through censuses and consultation with communities or any other group that may depend on priority ecosystem services. This trend in international practice reflects the need to expand the areas of influence of projects such as Hidroituango.

MICI's criteria for determining compliance with the ROPs and findings of harm

- 2.23 **IDB Invest failed to comply with paragraphs 8 and 12 of PS1 by not assessing the adequacy of the identification of the area of influence in the EIA.** MICI concludes that although IDB Invest examined the area of influence during the ESDD process in relation to some specific issues and requested confirmation as to whether there were protected areas and Indigenous peoples in that area of influence, and confirmed the existence of additional studies on other issues as part of the ESAP up to more than 100 kilometers downstream of the boundary of the area of influence considered in the EIA; still, IDB Invest failed to comply with paragraphs 8 and 12 of PS1 by not assessing whether in 2016 the identification of the area of influence at that time was in compliance with the ROPs, local laws, and international best practices.
- 2.24 **IDB Invest did not verify the identification of affected populations and vulnerable populations within them, as required by paragraph 12 of PS1.** By not ensuring that the area of influence was correctly identified, IDB Invest also failed to verify the identification of affected populations and the absence of vulnerable groups or individuals within them, such as those who were victims of the violence generated by the armed conflict. Consequently, there were no differentiated measures in place for them later.

⁶² In its comments to the Draft Report, IDB Invest states that, from a technical point of view, a project's area of influence (which is related to the impacts it is capable of generating) is not necessarily consistent with the areas of impact generated by different risk scenarios. MICI agrees with this assessment; however, it is also true that international best practice, as discussed in paragraph 2.22 of this report, indicate that project developers are required to demonstrate that a robust identification and assessment has been carried out, both upstream and downstream, to delineate the geographic area where impacts related to cultural heritage and ecosystem services may occur, as part of the trend in international practice that reflects the need to expand projects' areas of influence.

⁶³ The Environmental and Social Sustainability Policy, in paragraph 7 on IDB Invest's commitments, states that IDB Invest is committed to promoting good international practice in the context of all social aspects of the projects it finances, including human rights.

⁶⁴ European Investment Bank. (2019). *Environmental, Climate and Social Guidelines on Hydropower Development*.

⁶⁵ *Idem*, p. 16.

⁶⁶ *Idem*, p. 17.

- 2.25 **Unfulfilled supervision obligation.** Based on the above, IDB Invest failed to comply with paragraphs III.1, III.20, and III.21 of the Environmental and Social Sustainability Policy of the IIC, as well as Directive B.7 of OP-703, which require IDB Invest to supervise compliance with all the requirements of the ROPs.
- 2.26 **Harm.** When IDB Invest began financing, there was no current assessment of the area of influence and the populations included therein. This could have resulted in potential harm to the Requesters in relation to potential Project-related impacts including those affecting their safety⁶⁷ and livelihoods.⁶⁸

2. Definition of emergency areas⁶⁹ and disaster risk management⁷⁰

- 2.27 This section will examine whether IDB Invest required and supervised that: (1) the emergency areas and potentially affected populations, especially those most vulnerable due to the violence generated by the armed conflict, had been adequately defined; (2) disaster risks were assessed; (3) appropriate management measures were incorporated and, (4) the Contingency Plan met the requirements set forth in the ROPs.
- 2.28 **The 2018 emergency and the terms of reference for this investigation.**⁷¹ As mentioned in paragraph 1.29 of this report, the technical or natural reasons that caused the emergency are not part of the terms of reference approved by the Board of Executive Directors for this Compliance Review. MICI is responsible for investigating: (i) whether the Bank required the Client to assess the natural hazards risks to the Project; (ii) the actions taken by IDB Invest during the due diligence period to ensure adequate identification of disaster risks, as established in the Disaster Risk Management Policy (OP-704),⁷² and consequent response planning through a management plan or Contingency Plan suitable for emergency situations;⁷³ (iii) whether IDB Invest ensured that the Contingency Plan

⁶⁷ In the following chapter of this report, MICI analyzes IDB Invest's failures in this area with respect to the disaster risk-related impacts on people's safety.

⁶⁸ In this report, MICI analyzes IDB Invest's noncompliance in relation to impacts on people's livelihoods in the Ecosystem services section of the Biodiversity, natural habitats, ecosystem services, and water flows chapter and in the Cumulative impacts chapter.

⁶⁹ In its comments to the Draft Report, IDB Invest uses the term "risk area."

⁷⁰ In its comments to the Draft Report, MRV suggests that MICI should list the potential harms identified, using inputs such as the complaint, the testimonies of affected persons (dozens of which were obtained both during the field visit and virtually), the information gathered during the process, and any other source that would more clearly illustrate the nature of these harms. In its comments, the MRV also describes all the impacts and harms they allege the populations within and outside the area of influence have faced since the Project's inception, starting in 2010 and after the 2018 emergency. It is important to recall that it is not within the scope of MICI's investigation to investigate the Project's implementing agent, nor the impacts described by MRV in connection with the 2018 emergency.

⁷¹ In its comments to the Draft Report, the MRV describes the institutional management and the measures that were implemented during the emergency period of 2018 in view of the population's evacuation from its territory and the impacts that were generated from that management, such as the loss of tools, tents, and gold collected; unforeseen additional expenses for rent, food, medicines, clothing, and toiletries; and, in general, the abandonment of their life plans and the impact on their livelihoods. MICI deeply regrets the impacts and damages described in the MRV comments document, and reiterates that it has no jurisdiction to investigate Colombian institutions in their handling of the emergency.

⁷² MICI, Recommendation for a Compliance Review and Terms of Reference. Revised version. Ituango Hydroelectric Project. MICI-CII-CO-2018-0133, p. 4.

⁷³ Idem, p. 4.

complied with ROP requirements and included relevant mechanisms for the Client to provide adequate emergency management information to affected communities in compliance with OP-704, paragraph 20 of PS1, and paragraph 11 of PS4;⁷⁴ (iv) whether it required the inclusion of prevention and mitigation measures in the Project's design and implementation to reduce vulnerability and protect human health and economic assets;⁷⁵ and (v) whether it ensured that the Client had adequate contingency or response plans in place for emergency situations.

Requesters' allegations

- 2.29 **The risk of a potential emergency was not adequately assessed.** The Requesters allege that the risk of a potential emergency was not adequately analyzed during the environmental impact assessment of the Project.⁷⁶

Management's response to the Request

- 2.30 **IDB Invest stated that it has complied with the Environmental and Social Sustainability Policy of the IIC.** It indicated that the ESDD process, which was rigorously conducted with the support of two independent consultants, (1) reviewed the project's environmental, social, cultural, occupational health, and safety information; (2) made it possible to hold interviews and technical work meetings with the Client and multiple stakeholders; (3) evaluated the project's compliance with the ROPs; and (4) prepared an ESAP to close the gaps found between what has been verified and what is required by applicable environmental and social requirements.⁷⁷ With respect to the emergency, IDB Invest stated that, from the perspective of compliance with the Sustainability Policy, the project implemented the measures contained in the contingency plans agreed upon with IDB Invest during the ESDD process.

Relevant Operational Policies (ROP)

- 2.31 **The Environmental and Social Sustainability Policy of the IIC** states that IDB Invest strives to ensure, through its environmental and social appraisal and supervision process, that clients implement and comply with this policy. It also states that, if a project is not in full compliance at the time of signing the legal agreement with IDB Invest, the approval of financing will be linked with the contractual obligation of achieving compliance within a designated timeframe.
- 2.32 **Paragraph 12 of PS1 requires borrowers to identify vulnerable individuals and groups.** These individuals or groups could be directly and differentially or disproportionately affected by a project because of their disadvantaged or vulnerable

⁷⁴ Idem p. 49.

⁷⁵ Idem, pp. 48-49

⁷⁶ Request in case MICI-CII-CO-2018-0133.

⁷⁷ Response of IDB Invest Management to the Recommendation in case MICI-CII-CO-2018-0133.

status. In such cases, the borrower should propose and implement differentiated measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing development benefits and opportunities.

- 2.33 **Paragraph 20 of PS1 refers to the identification of potential emergency-affected areas and the communities in those areas.** It calls for emergency response preparedness to include the identification of areas where accidents and emergencies may occur, and the communities and individuals who may be affected.⁷⁸
- 2.34 **PS4 and high-risk locations.** Paragraph 6 of PS4 cautions about hazards that could be generated by structures such as dams in high-risk locations and, although it does not mention the area of influence, it considers the adverse impacts on the health and safety of affected communities in relation to these structures.
- 2.35 **Adoption of measures to prevent serious risks due to natural hazards.** Along the same lines, OP-704 establishes that, should serious risks from natural hazards be encountered during project preparation, appropriate disaster risk reduction measures should be taken based on generally accepted standards and practices. This includes incorporating alternative prevention measures into the project's design and implementation to reduce vulnerability and protect human health. OP-704 also provides that disaster risk should include risk analysis to identify the magnitude of its potential effects.⁷⁹ The purpose of this policy is to ensure that adequate risk assessments of potential disasters are carried out and to ensure that measures are designed and implemented to reduce and manage those risks.
- 2.36 **Emergency preparedness and response requirements.** Both PS1 and the EHS Guidelines set out several requirements for emergency preparedness and response.⁸⁰ Under these provisions, as part of its environmental and social risk assessment and management, IDB Invest must verify that the project is prepared to respond adequately to accidents and emergencies. This is to prevent and mitigate any harm to people and the environment, as established in OP-703 (Directives B.4 and B.5). PS1 also specifically calls for emergency response preparedness to include the identification of areas where accidents and emergencies may occur, and the communities and people who may be affected (as discussed in paragraph 2.33 above).

⁷⁸ GN82 contains a benchmark criterion that states that having effective emergency preparedness and response plans in place helps clients prepare for the best outcomes, **assuming worst-case scenarios**. The PSs are explained by Guidance Notes (GN) that offer direction on the requirements covered by the PS and on good sustainability practices to improve project performance. These GN are not intended to establish policy, but to explain the requirements of the Performance Standards.

⁷⁹ The magnitude parameter refers to the estimated severity of impacts related to the threat. [Disaster Risk Management Policy Guidelines](#), p.10.

⁸⁰ PS1, para. 20, p.7; EHS Guidelines, pp.101-104. (1) Risk scenarios; (2) stakeholders likely to be affected by an emergency situation; (3) response procedures; (4) resource availability; (5) provision of equipment; (6) assignment of roles and responsibilities; (7) communication systems; (8) regular training; (9) organization of emergency areas; (10) development and upgrading of emergency response systems; (11) communicating protection options; and (12) providing advice on the selection of the most suitable protection option.

- 2.37 **Provision of information to communities regarding emergency preparedness and response activities.** Paragraph 11 of PS4, as it pertains to this chapter, states that the Client will document its emergency preparedness and response activities, resources, and responsibilities, and will disclose appropriate information to Affected Communities, relevant government agencies, or other relevant parties.
- 2.38 **IDB Invest is responsible for ensuring that safeguards are met.** OP-703 and the Environmental and Social Sustainability Policy of the IIC state that IDB Invest is responsible for ensuring that safeguards are met. The Policy also establishes that the environmental and social assessment should include environmental and social risks, considering the Client's capacity and commitment to meet the requirements of the ROPs and the host country's regulatory and institutional framework.
- 2.39 **Supervision.** As noted in the General framework of reference section (paragraph 2.2 of this report), the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 establish IDB Invest's supervision obligations in relation to safeguards compliance.

Findings of the investigation

Identification of emergency areas and potentially affected populations

- 2.40 **Population identification: recommendation for a detailed census in the Contingency Plan included in the 2011 EIA.** The Contingency Plan provides, as one of the basic recommendations for preventing and mitigating the effects of an emergency on the population, that "[t]his Contingency Plan should be shared with the municipalities involved, to ensure that the recommended preventive measures are taken with them and that restrictions for the construction of infrastructure works in the potentially affected area are implemented. It is recommended that each municipality carries out a detailed population and housing census in the communities that could be affected by a flood in case of dam failure, and update the data periodically (at least every six months) to have real information on each population at all times."⁸¹
- 2.41 **Comment from IDB Invest.** In its comments to the Draft Report, IDB Invest states that this recommendation was addressed to the municipalities in the Project's area of influence, over which the Project does not have and did not have any influence, since they are autonomous organizations. It further states that the recommendation has no connection to IDB Invest's requirements, and therefore the Client could not be required to comply with it.
- 2.42 MICI clarifies that the populations to be surveyed under this recommendation were not only those in the area of influence, but all those at risk in the event of a dam failure. The

⁸¹ EIA, chapter 9, p. 9.49. The chapter on Definition of emergency areas and disaster risk management of the report approaches in detail the elements of the cited plan.

Contingency Plan states: “The area sensitive to the wave that would trigger a dam failure would extend from the confluence of the Ituango River and the Cauca River (dam site) to downstream of the seat of the municipality of Caucasia. The areas that would be seriously affected are the main road from the village of Puerto Valdivia (where the canyon opens) and the settlements on the banks of the Cauca River, up to around the hamlet of Margento (rural district of the municipality of Caucasia).”⁸² MICI reminds IDB Invest that paragraph 11 of PS 4 stipulates that, in addition to the emergency preparedness and response requirements described in PS 1, the Client will also assist and collaborate with local government agencies—which in this case are the municipalities—in preparing to respond effectively to emergency situations, **especially when their participation and collaboration is necessary to respond to such emergency situations.** If local government agencies have little or no capacity to respond effectively to the needs of the local population, **the Client will play an active role in preparing for and responding to project-related emergencies.**

- 2.43 **Identification of the potentially affected population.** The hazard and risk assessment included possible scenarios in which the aforementioned hazards could occur and the elements that could be affected in those scenarios. Specifically, with respect to disaster risks, the following were identified as potentially affected stakeholders: (1) the Project’s employees; and (2) the communities in the area of influence and those downstream of the dam (without specifically identifying these communities or differentiated groups that are vulnerable or more likely to be affected by an emergency).
- 2.44 **Inadequate identification of emergency areas and lack of a dam failure information program for downstream communities.** As described before, the Contingency Plan states that, for the specific case of dam failure,⁸³ the information program was to target communities included in the area of influence and others that were not included, and it specifically mentions the rural subdivisions and municipalities located on the banks of the Cauca River, downstream of the dam site, up to the town of Margento (municipality of Caucasia). The institutions, communities, and social and community organizations of these places are also included.⁸⁴ Mentioning the downstream rural subdivisions and municipalities is not enough to identify the potential emergency area in case of a dam failure. MICI found no evidence that IDB Invest had verified the proper identification of the communities and their locations as part of one or more defined emergency areas, nor the existence of an information program for those communities.

⁸² EIA, chap. 9, p. 9.13. The Contingency Plan also clarifies, on page 9.35, that: For the specific case of dam failure, this program (implementation of an information system) will target the following communities: rural subdivisions of Chirí and Orejón (municipality of Briceño), the village of El Valle in the municipality of Toledo, and in the rural subdivisions and municipalities located on the banks of the Cauca River, downstream of the dam site, up to the town of Margento (municipality of Caucasia).

⁸³ The Contingency Plan also states that a breach of the dam with a full reservoir would flood the Cauca River and wipe out the concentrated and scattered populations along its downstream course (para. 9.65).

⁸⁴ EIA, chap. 9, para. 9.35.

- 2.45 **Lack of participation mechanisms for downstream communities outside the area of influence.** MICI highlights that, absent the characterization of downstream communities outside the area of influence as communities potentially affected by some emergency situations, IDB Invest was also unable to verify the existence of a possible participation mechanism for these communities in relation to prevention and response measures and differentiated measures for the vulnerable population or for the disclosure of the Contingency Plan to these communities.
- 2.46 **The Contingency Plan acknowledges catastrophic dam failure.** MICI determined that the Contingency Plan considered the scenario of a possible dam failure.
- 2.47 **Comment from IDB Invest.** In its comments to the Draft Report, IDB Invest explains that, since the worst-case scenario was assigned a low probability of occurrence, the Plan did not include response activities that actively involved the population. It also adds that it asked the Client to prepare a response plan.
- 2.48 Indeed, MICI determined that the ESAP included actions focused on: (1) developing a response plan for a potential dam breach; and (2) emergency response actions involving the community (most of which would be implemented only upon completion of construction and in the operation phase, and therefore IDB Invest did not have the opportunity to verify why these actions were not completed during the IDB Invest financing period).⁸⁵ However, IDB Invest did not verify the identification of potential environmental, economic, and social impacts of a possible catastrophic failure in order to specifically determine the emergency area and the populations located therein—particularly vulnerable populations such as those who have been victims of violence due to the armed conflict—to carry out the necessary planning and, in the future, implement the related interventions, as appropriate.

The Project's disaster risk management instruments.

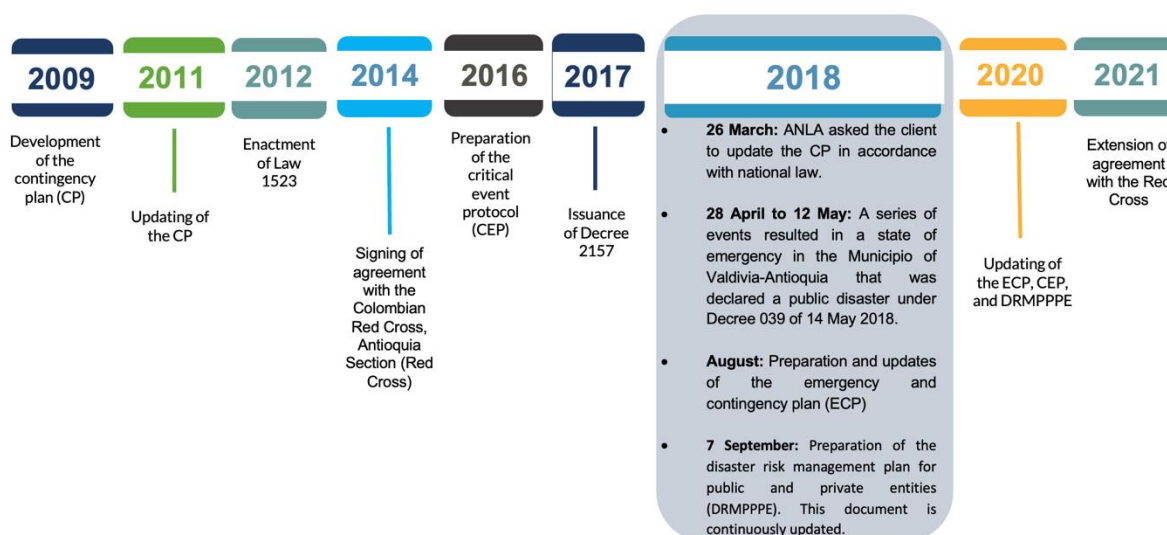
- 2.49 This section will be developed by identifying the elements contained in the instruments used in the project's disaster risk management process. For this purpose, this section is divided into two parts. The first (a) is related to the identification and assessment of risks associated with disasters; and the second (b) with the elements included in and omitted from the project's Contingency Plan (before and after the 2018 emergency).
- 2.50 **Instruments developed before the contingency.** Before the contingency occurred, the following had been developed: (1) the Contingency Plan included in the EIA, (2) an agreement signed between the Client and the Red Cross, which contained the preparedness and response procedures for the communities in the area of influence (it did not include other communities, such as those located downstream),⁸⁶ and (3) the Critical Events Protocol (CEP).

⁸⁵ ESAP, actions 3.8 – 4.6.

⁸⁶ ESRS, p. 18.

- 2.51 **Instruments developed after the contingency.** After the contingency, the following were developed: (1) the Emergency and Contingency Plan (ECP); (2) the Disaster Risk Management Plan for Public and Private Entities (DRMPPE), formulated upon the entry into force of Law 1523 in 2012 and Decree 2157, providing the regulations thereto, in 2017; and (3) extension of the agreement with the Red Cross in 2020, which included downstream communities.
- 2.52 **Timeline of disaster risk management instruments before and after the 2018 contingency.** A timeline describing the process for the adoption of these instruments is shown in Figure 2 below.

Figure 2.
Disaster risk management instruments before and after the 2018 contingency



Source: Prepared by MICI based on project documents.

a. Disaster risk identification and assessment

- 2.53 **The disaster risk analysis of the Project** was conducted prior to IDB Invest financing, as part of the Contingency Plan included in the 2011 EIA update. To carry out this disaster risk assessment, the risks identified were analyzed semi-quantitatively, taking into consideration the duration of a potential impact, the probability of its occurrence, and its intensity. The risk level was rated accordingly. However, MICI found that this disaster risk assessment did not include the parameter of “magnitude of potential impacts,”⁸⁷ as established in the ROPs. This affects the consideration and selection of the type of management measures for each risk analyzed. In other words, there is a possibility that the management measures designed and implemented for the identified risks may not be adequate. MICI also notes that climatological data were not considered as one of the

⁸⁷ The magnitude parameter refers to the estimated severity of the impacts related to the threat. [Disaster Risk Management Policy Guidelines](#), p.14.

factors in conducting the disaster risk assessment and including measures to reduce disaster risk based on generally accepted practices.

- 2.54 **EIA: “acceptable” levels of disaster risk.** The EIA identified more than 24 risks and hazards related to different topics, including financial, health, disaster, and safety issues (these risks were not differentiated or categorized).⁸⁸ With respect to hazards and their contribution to disaster risk, the EIA analyzed seismic movements, floods, block slides, landslides, cave-ins, subsidence, dam failure,⁸⁹ and reservoir failure.⁹⁰ The disaster risk assessment concluded that hazards were not considered likely at significant levels and, consequently, the final disaster risk levels in most cases were rated “acceptable.”⁹¹ MICI requested the explicit methodology used to rate them as such. However, IDB Invest responded that there was no document per se that could be provided to MICI as the methodology had been explained by the Client during the ESDD process.
- 2.55 **The ESDD included the obligation to continuously update the environmental and social risk matrix.** As explained in the General framework of reference section of this report, in September 2016 and before its involvement with the project, IDB Invest conducted an ESDD with a focus on compliance with its ROPs⁹². As a result of the ESDD process, IDB Invest included the obligation to continuously update the environmental and social risk matrix.⁹³ Based on the analysis conducted during its investigation, MICI found no evidence that IDB Invest had evaluated this obligation in terms of hazards and all disaster risks.⁹⁴
- 2.56 **Consulting firm report.** An independent consulting firm⁹⁵ hired by the Client at the request of ANLA to analyze the Project’s stability and provide scientific information on the risk conditions that may result in environmental impacts, determined that not all events associated with a potential dam failure were considered, for example, an earthquake, and

⁸⁸ EIA, chap. 9.

⁸⁹ For both dam and reservoir failure, possible scenarios were considered where the cause was disaster-related rather than human-related.

⁹⁰ EIA, chap. 9, para.9.7.

⁹¹ EIA, chap. 9.

⁹² IDB Invest joined the Project in November 2016, at which time construction of the dam was already 40% complete. Joining a project at an advanced stage of construction may have affected IDB Invest’s ability to act, which may have been more limited than if it had been involved in the project from its inception. The construction of the project was delayed due, in part, to challenges caused by continuous design changes, changes due to shortcomings in the original design, geological problems encountered at the beginning of work on the entrance portal, and geotechnical problems, such as instability of the left bank around the intakes (fractured geology). Report to the Honorable Departmental Assembly, 2018, p.10

⁹³ ESAP, action 1.2.1.

⁹⁴ MICI notes in particular what the World Commission on Dams has said in this regard: “Dealing with risks cannot be reduced to consulting actuarial tables or applying a mathematical formula. In the end, as in the case of rights and entitlements, they must be identified, articulated and addressed explicitly. This will require the acknowledgement of risk to be extended to a wider group than governments or developers in order to include both those affected by a project and the environment as a public good.” *Dams and Development, a new framework for decision making*. Report of the World Commission on Dams, November 2000, p. 208.

⁹⁵ The independent consulting company POYRY was hired to meet the requirement imposed by ANLA in order to lift the measure adopted in Resolution 820, which in June 2018 suspended the regular activities for the construction, filling, and operation of the Project’s reservoir. ANLA Resolution 820 of 2018.

indicated that the seismic risk considered for the project might be underestimated when considering the safety of the dam).⁹⁶

- 2.57 **Disaster risk assessment update in the DRMPPE.** MICI found that the 2020 version of the DRMPPE includes an updated disaster risk assessment. The DRMPPE also considers the parameter of magnitude in the risk analysis and assessment, as established in the ROPs (a parameter that, as mentioned earlier, was not considered in the risk assessment contained in the Contingency Plan updated in 2011).⁹⁷

b. Elements of the Contingency Plan

- 2.58 The elements of the Contingency Plan and the management measures established to prevent, respond to, and mitigate the disaster risks identified are included below. This analysis is divided into events that occurred before and after the 2018 emergency.

Contingency Plan before the emergency

- 2.59 **The Contingency Plan** was included in the 2011 EIA update. It was developed to identify risk factors and scenarios and to respond to contingencies arising from the construction and operation of the Project. This document is divided into three parts: (1) strategic plan (preventive level), (2) operational plan (management measures corresponding to the level of assistance and recovery), and (3) information disclosure plan (spanning the different stages and developed to ensure knowledge management of workers, communities, and external support entities).⁹⁸
- 2.60 **Incomplete Contingency Plan.** As for compliance with minimum ROPs requirements, which should be included in a project to respond to a potential emergency, MICI found that the Contingency Plan developed for this project in 2011 included requirements on disaster risk scenarios (in general terms), response procedures (basic), availability of resources, provision of equipment, and anticipated the updating of the Plan (without specifying a timeframe for such updating or the conditions under which it should be carried out). However, the revised Contingency Plan did not include: (1) the identification of differentiated, vulnerable groups or those most likely to be affected by an emergency in the communities;⁹⁹ (2) the specific detail of the assignment of roles and responsibilities of all entities involved in the organizational structure (organization needed to provide timely emergency response); (3) the location of the command points within the organization of the emergency areas; and (4) communicating to communities about options for their protection, such as evacuation.

⁹⁶ POYRY Final Report, 2021, pp.16, 22.

⁹⁷ DRMPPE, November 2020.

⁹⁸ EIA, chap. 9.

⁹⁹ MICI found that the terminology used throughout the 2011 Contingency Plan referred variously to the communities potentially affected in an emergency situation in the following four ways: (1) communities in the area of influence; (2) communities downstream of the dam; (3) communities in the area of influence and downstream of the dam; and (4) the specific description of affected communities. EIA, chap. 9

2.61 **“Preparedness and response” and “mitigation” measures.** Identified disaster risk management measures included preparedness and response measures, as well as training for workers and the community on how to proceed during¹⁰⁰ and after¹⁰¹ an emergency (such as a seismic event, block slides, landslides, cave-ins, and slope destabilization and subsidence).¹⁰² As detailed in paragraph 2.19 of the chapter entitled Definition of the area of influence, the Client signed an agreement with the Red Cross in 2014 as part of its preparedness and response measures for the communities in the area of influence. However, the ESRS notes that this agreement covered only the communities in the area of influence. This agreement and the preparedness and response processes were not designed or implemented for the downstream communities outside the area of influence, particularly those vulnerable populations that have been victims of armed conflict violence, located in a potential emergency area.

Updated Contingency Plan after the emergency

2.62 **Post emergency contingency plan.** As part of this investigation, MICI reviewed whether, after the 2018 emergency, IDB Invest required any adjustments to the Project’s Contingency Plan to include the minimum elements called for in the ROPs. We will discuss this in the paragraphs below.

2.63 **Key and useful instruments for disaster risk management.** As noted at the beginning of this chapter, some key and useful instruments for disaster risk management were developed during the implementation of the project. MICI found in its review that, with respect to the requirements established in the ROPs, both the DRMPPE (2020 version) and the ECP (2019 version) comply with all but two requirements. MICI found that the DRMPPE did not have a communication system that was developed with all the affected communities; nor did it offer protection options for the community¹⁰³ such as evacuation, one of the core elements established by the EHS Guidelines for developing an emergency response plan.¹⁰⁴ Regarding management measures, MICI found that this version of the DRMPPE included the magnitude parameter for updating the risk assessment, but did not update the disaster risk management measures. In relation to the ECP, MICI did not

¹⁰⁰ Examples of actions to be taken during an emergency: (1) activate the alarm system within the project so that all persons proceed to the designated meeting points; (2) take roll call to check that all personnel are there; if not, search and rescue activities should be initiated and, in case of injuries, to transport them to medical centers; (3) notify outside entities, if applicable, to request support; (4) evacuation of communities in the area of influence of the landslide; and (5) coordinating the transfer of the injured, based on types of injuries, to the nearest medical centers. EIA chapter 9.

¹⁰¹ Examples of actions to be taken after an emergency: (1) review and assess the project’s structures; (2) announce, through the emergency plan coordinator, when activities can resume; (3) if the auxiliary diversion system (ADS) is damaged or clogged, the alarm system should be activated for the evacuation of the population upstream of the ADS, and the measures for high waters and floods upstream of the ADS should be applied; (4) suspending power, water, gas, or fuel services in the affected areas; (5) recover and rebuild the infrastructure and affected areas of the project and the community; and (6) an event report must be presented.

¹⁰² DRMPPE, 2018, IHP, paras. 9.34, 67, 9.47, 9.48, 10.

¹⁰³ Although a telecommunications network was established with Valdivia, Tarazá, and Caucasia, no additional details are provided regarding the stated existence of a communications plan with stakeholders. It was also established that a communication strategy for the disaster risk management plan will be formulated and implemented.

¹⁰⁴ Environment, Health and Safety (EHS) Guidelines, World Bank Group, pp. 101-102.

find that all the stakeholders who could potentially be affected by an emergency situation were adequately identified, especially vulnerable groups such as those who are victims of violence due to the armed conflict;¹⁰⁵ nor did it find that options were communicated to the community for their protection, such as evacuation (one of the core elements established by the EHS Guidelines for developing an emergency response plan).¹⁰⁶

- 2.64 **Disclosure of emergency plans.** The Project's ECP, proposes four workshops on family and community emergency and first aid plans.¹⁰⁷ The DRMPPPE also calls for participation in community and municipal authorities' workshops.¹⁰⁸ While these activities are described in the aforementioned plans, MICI requested evidence to corroborate whether IDB Invest had verified the information provided to the communities to ensure that these measures complied with paragraph 11 of PS4 on how communities should respond to potential emergencies. However, MICI did not receive this information from IDB Invest.

MICI's criteria for determining compliance with the ROPs and findings of harm

- 2.65 **IDB Invest failed to assess the adequacy of the identification of emergency areas and affected or potentially affected populations during the ESDD, thus failing to comply with the Environmental and Social Sustainability Policy of the IIC, Directive B.7 of OP-703, PS1, and PS4.** MICI considers that IDB Invest failed to comply with paragraphs 8, 12, and 20 of PS1, paragraphs 5, 6, and 11 of PS4, and the EHS Guidelines (pages 101-104), by overlooking the fact that the Contingency Plan had not specifically identified the areas in which emergency situations could occur outside the area of influence, but especially downstream. Nor did it detect that the Project had failed to identify, characterize, and conduct a census of the populations likely to be affected by emergency situations, as required by the Contingency Plan, especially the most vulnerable populations, such as those who have been victims of violence as a result of the armed conflict.
- 2.66 **Failure to consider the parameter of magnitude in the disaster risk assessment and climatological data.** MICI did not find that, as part of the 2011 disaster risk assessment, the "magnitude of potential effects" parameter was considered in determining the level of disaster risks and developing appropriate management measures.¹⁰⁹ MICI highlights that this parameter was included in the 2020 version of the DRMPPPE, but the disaster risk management measures were not updated. Nor were climatological data considered in the disaster risk assessment in keeping with generally accepted practices. MICI did not find that IDB Invest detected these instances of noncompliance or followed up on them during

¹⁰⁵ Although there is much more specific detail about the communities and their inhabitants, it does not identify communities that are more vulnerable than others.

¹⁰⁶ Environment, Health and Safety Guidelines (EHS Guidelines), World Bank Group, pp. 101-102.

¹⁰⁷ Emergency and Contingency Plan (ECP) for dam failure and flash floods downstream of the IHP in construction and filling phases - Version 2, 13 February 2019.

¹⁰⁸ Disaster risk management plan, 2020.

¹⁰⁹ OP-704, p. 5; OP-704 guidelines, pp.12-13.

supervision to make sure they were corrected. This has resulted in noncompliance with the Environmental and Social Sustainability Policy of the IIC; OP-704; Directives B.4, B.5, and B.7 of OP-703; and PS1, paragraph 7.

- 2.67 **IDB Invest did not verify that, in the event of a catastrophic failure scenario, contemplated in the Contingency Plan, potential environmental, economic, and social impacts were identified, thus failing to comply with OP-703 and paragraph 7 of PS1.** MICI considers that, as part of its duty of care under OP-703 and paragraph 7 of PS1, IDB Invest should have verified the identification of the potential environmental, economic, and social impacts in the aforementioned scenario in order to specifically determine the emergency area and the populations located therein—particularly vulnerable populations such as those who have been victims of violence due to the armed conflict—to carry out the necessary planning and, in the future, implement the related interventions, as appropriate. Under OP-703, IDB Invest should conduct its ESDD according to the level of risk and environmental and social impact of each project.
- 2.68 **Preparedness and response measures in the area of influence, but not for the potentially affected or most vulnerable population.** Under the ROPs, IDB Invest was to verify that the Project was ready to respond adequately to accidents and emergencies in order to prevent and mitigate any harm to people and the environment. According to MICI's analysis, IDB Invest failed to detect that the management measures included preparedness and response measures only for the population within the area of influence, rather than for the entire potentially affected population in an area where an emergency could occur, and in particular, vulnerable populations such as victims of violence resulting from the armed conflict. With this, IDB Invest failed to comply with the Environmental and Social Sustainability Policy of the IIC, OP-704; Directives B.4, B.5, and B.7 of OP-703; paragraphs 12 and 20 of PS1; and Paragraph 5 of PS4. This also meant that no differentiated management measures were designed for vulnerable populations.
- 2.69 **Post-contingency management measures.** Regarding management measures, MICI found that the DRMPPE included the magnitude parameter for updating the risk assessment, but did not update the disaster risk management measures. The MICI did not find that a communication system with all the affected communities had been developed or that options for the protection of the community in breach of those established by the EHS were presented. In relation to the ECP, MICI did not find that all the stakeholders who could potentially be affected by an emergency situation were adequately identified, especially vulnerable groups such as those who are victims of violence due to the armed conflict, as required under paragraph 12 of PS1.
- 2.70 **Disclosure of emergency plans.** Although both the ECP and the DRMPPE propose workshops for the communities, MICI did not receive the evidence requested from IDB Invest regarding such workshops and the type of information provided to the communities to ensure that these measures complied with paragraph 11 of PS4 on how communities should respond to potential emergencies.

- 2.71 **Supervision was deficient in the risk management aspects previously assessed, commensurate with the scale and nature of the Project.** In relation to the issues discussed in this chapter, MICI found no evidence that IDB Invest ensured, within its supervisory role, that the Contingency Plan included all the elements set forth in the operating policies, failing to comply paragraphs III.1, III.20 and III.21 of the Environmental and Social Sustainability Policy of the IIC; OP-704; Directive B.7 of OP-703; and PS1”.
- 2.72 **Harm.** MICI concludes that, because the Contingency Plan fails to meet all safeguards requirements intended to protect human health and the environment, this created the possibility that in the event of an emergency, the Project would not be ready to respond adequately to protect the lives of potentially affected communities, especially the most vulnerable communities that are victims of the violence generated by the armed conflict.

3. Consultation processes and forms of participation

- 2.73 This section analyzes whether IDB Invest ensured that the Project included adequate and timely information, consultation, and participation processes for all the affected population, taking into account their particular characteristics and circumstances.

Requesters’ allegations

- 2.74 **Difficult or nonexistent access to information.** With respect to consultation processes and forms of community participation, the Requesters allege that access to Project information and its risks has been inconsistent, complicated, and sometimes nonexistent. They note that the EIA has not been available to the public in its entirety and that updates on the emergency situation have not been timely or accurate. They add that the ability of communities to access public information is limited due to cost, geographic location, limited internet access, and inadequate availability, noting that much of the area’s population is unable to read and write or has difficulty doing so.
- 2.75 **Inadequate participation process.** The Requesters also allege that there has not been an adequate participation process, either before the start of the project in 2009 or during its execution. They consider that most affected people were not involved because (i) the project’s outreach strategies failed to consider the political and social context of the area affected by the armed conflict and lack of security;¹¹⁰ (ii) many of the people affected were not counted in the census because they had been displaced by the violence in the area; and (iii) the censuses were conducted on the basis of participatory processes carried out in 2006, which were not updated in 2009.

¹¹⁰ They note that the census takers did not reach all the places where the affected people live, as it was deemed too dangerous given the situation of armed conflict. They further note that, because of this conflict situation, the communities in the area have had difficulty in organizing themselves and attending all the informational meetings on the project.

Management's response to the Request

- 2.76 **Hundreds of workshops, talks, and meetings with thousands of people.** Management indicated that the public consultation process began in 2006 and included the communities in the Project's direct and indirect area of influence. According to Management, hundreds of workshops, talks, and meetings were held involving several thousand people. At these events, the Project and the works, their likely impacts, the planned measures to eliminate, mitigate, or compensate for possible negative impacts, or stimulate possible positive effects, were described to the communities in simple language; the events also addressed the SMP (an involuntary resettlement plan), the grievance mechanism, and the employment prospects that the Project could generate. Management states that these information mechanisms served as opportunities to receive feedback from the community regarding their concerns.
- 2.77 **Various information and participation mechanisms and programs.** Management also highlighted that the project has, among other programs, (i) a Communication and Participation Program, (ii) specific communication mechanisms for individuals who may be physically or economically displaced, and (iii) an Employment Oversight Committee to provide information on employment opportunities with the Project.

Relevant Operational Policies

- 2.78 **Consultations on category A projects (OP-703, Directive B.6).** This directive establishes that operations classified as category A will require consultation with affected parties and consideration of their views. For these operations, consultations should be carried out at least twice during project preparation, during the scoping phase of the environmental assessment or due diligence processes, and during the review of the assessment reports. It also establishes that, to carry out the consultation, information should be provided in the locations, languages, and formats that allow the affected parties to form an opinion and comment on the proposed course of action. Affected parties should also be kept informed about the project's impacts and the mitigation measures that will be put in place.
- 2.79 **Community opinions must be considered and addressed.** Paragraph 30 of PS1 defines effective consultation as a two-way process that should be documented. Paragraph 31 of PS1 establishes that the consultation process should provide affected communities with opportunities to express their views on the risks, impacts, and mitigation measures of the project, and should consider and respond to those views. Additionally, consultation should be a two-way process that begins early in the risk and impact identification phase; it should be based on the prior disclosure of relevant and meaningful information in a culturally appropriate format, and it should be documented. The scope and degree of participation required for the consultation process should be proportionate to the risks and adverse impacts of the project. Similarly, paragraph 36 of PS1 requires

the Client to provide periodic reports to the affected communities on the status of the project and on issues addressed during the consultation process.

- 2.80 **Informed consultation and participation process.** Paragraph 31 of PS1 additionally states that where projects have significant adverse impacts, an informed consultation and participation process must be implemented, which involves a more in-depth exchange and iterative consultation in which the Client incorporates into their decision-making process the views of communities on matters that directly affect them, as well as on mitigation measures and the development of benefits. This process should seek the opinions of men and women separately when necessary. It should also be noted that the standard requires the Client to document the process, especially the actions taken, and to inform those affected about how their concerns have been considered. In addition, Guidance Note (GN) 1¹¹¹ stresses that the Client should document the specific measures and examples of decision-making that have resulted from the inputs received in the consultation exercises.
- 2.81 **Stakeholder engagement plan.** Paragraph 27 of PS1 calls for the Client to develop and implement a stakeholder engagement plan scaled to the project risks and impacts and development stage, and tailored to the characteristics and interests of the affected communities. Where applicable, the stakeholders engagement plan will include differentiated measures to allow the effective participation of those identified as disadvantaged or vulnerable.
- 2.82 **Effective consultation and participation process for women and men.** OP-761 provides that the Bank will seek the equitable participation of women and men, as well as the participation of civil society organizations, in its public consultation processes.¹¹² In project-specific consultations, the Bank will seek the inclusion of affected women and men in a gender-sensitive and social and culturally appropriate manner, in line with paragraph 31 of PS1.
- 2.83 **Supervision.** As stated in the General framework of reference section, (paragraph 2.2 of this report), the Environmental and Social Sustainability Policy of the IIC, and Directive B.7 of OP-703 establish IDB Invest's supervision obligations in relation to safeguards compliance.

Findings of the investigation

- 2.84 **Unidentified population in area of influence outside consultation and participation processes.** Based on the finding in the chapter of this report that analyzes the lack of an assessment for identifying the area of influence and the affected population therein, the

¹¹¹ The PS are explained by GN that provide guidance on the requirements covered by the PS and on good sustainability practices to improve project performance. These GN are not intended to establish policy, but to explain the requirements of the Performance Standards.

¹¹² OP-761, para. 4.16.

consultation and participation process may have excluded communities from consultation and participation in relation to Project development.

- 2.85 **No evidence of stakeholder mapping or the extent of public consultations.** During the ESDD, IDB Invest confirmed that stakeholder mapping had been carried out in the Project's area of influence; that public consultations had been held with the communities in the area of influence since 2006; and that the Project, its likely impacts, management measures, SMP, and grievance mechanism had been described to the communities.¹¹³ However, MICI found no evidence that IDB Invest had verified how the stakeholder mapping had been carried out, whether there had been effective consultations during the identification process, and how often the mapping was updated. Nor did MICI find evidence that IDB Invest had verified that these exercises complied with Directive B6 of OP-703 or with PS1 in terms of informed consultation and participation; MICI even requested Management to provide this specific information because although there is a record of the sessions held during the environmental licensing process, there is no record of how in-depth the sessions were, or any indication that the participants had been told how their concerns were considered, even though paragraph 31 of PS1 stipulates that the process must be documented.¹¹⁴ IDB Invest considered that its involvement with the Project began when construction was about 40% complete and when most of the community outreach process for the Project had already been completed; therefore, it did not request this information at the time of the ESDD. It added that it could not confirm the existence of such information since, in its opinion, generating and keeping records is a "desirable but not required practice."
- 2.86 **Environmental license requires participatory processes.** Following a public hearing in the municipality of Liborina, the environmental license issued by ANLA in 2009 established, in line with PS1 (paragraph 36), the need to implement communication channels and information outreach processes that would make it possible to exchange information on environmental management and reach agreements to minimize negative impacts.¹¹⁵
- 2.87 **The Communication and Participation Program.** MICI found that IDB Invest ensured that the Project had a Communication and Participation Program. The objective of this program was to manage community expectations related to the Project and to cooperate with the authorities of the 12 municipalities in the area of influence. IDB Invest also verified that committees, groups, and oversight bodies were created under the program to optimize the relationship with the communities.

¹¹³ ESRS, p. 9.

¹¹⁴ Although Management states in its comments to the Draft Report that it was possible during the ESDD to verify that the Client described the impacts identified and detailed the management measures to be implemented, during the investigation MICI requested documents that proved this situation, but such documents were not presented. In any case, the documents described in IDB Invest's comments to the Draft Report do not show that there has been a two-way dialogue resulting in specific actions that have taken the participants' opinions into account, as identified in the findings of this section.

¹¹⁵ ANLA, Resolution No. 155, January 30, 2009, p. 22.

- 2.88 **Engagement framework or meaningful participation?** Documentation from the ESDD process also highlights the strengths of the Client's Communication and Corporate Affairs Department, which is in charge of this program.¹¹⁶ However, IDB Invest failed to detect during the ESDD process and during supervision that, in practice, this Program served as an engagement framework rather than a plan for meaningful stakeholder participation that reflects, for example, the approach to be taken in relation to the Project-affected communities, in particular vulnerable populations.
- 2.89 **Verification of the commitments made in participation processes.** MICI found no evidence that IDB Invest had verified the commitments made during the participation processes or how the opinions gathered from the communities influenced the Project's planning and execution. This shortcoming can be observed since the preparation stage of the Project, since the annexes to Chapter 3 of the EIA—which are related to the characterization of the social environment, and which document the calls for proposals, outreach activities, attendance records, and audiovisual materials used—contain no information on the implementation of a two-way dialogue that has resulted in concrete actions that consider the participants' opinions.
- 2.90 **Stigmatization of opponents and their participation.** During MICI's mission in June 2022, reports were obtained from affected members of MRV who alleged that their stigmatization as a group that opposed the Project caused them to be excluded from being invited to meetings, workshops, and any other activities for participating and receiving information concerning the Project.
- 2.91 **Dialogue table.** A dialogue table between the Movement and the Client was also mentioned. MICI verified the existence of this dialogue table, which comprises several stakeholders, including the Client and the MRV. Efforts in this space began in 2021, and three dialogue sessions were held to optimize solutions for improving the quality of life of the communities surrounding the Project, seek solutions and agreements, and foster political and institutional will in the construction of peace and nonviolence.¹¹⁷
- 2.92 **Lack of meaningful consultation with gender perspective.** IDB Invest failed to ensure that consultations or participatory processes considering gender differences were carried

¹¹⁶ Idem.

¹¹⁷ Statement by Movimiento Ríos Vivos, [La Alcaldía de Medellín y EPM instalaron Mesa de Diálogo con el Movimiento Ríos Vivos, en torno al Proyecto Hidroeléctrico Ituango](#) [Medellín mayor's office and EPM set up dialogue table with the Ríos Vivos Movement regarding the Ituango Hydroelectric Project], May 13, 2021; Colombia más positiva, [Alcalde de Medellín y EPM instalaron Mesa de Diálogo con el Movimiento Ríos Vivos](#) [Medellín mayor's office and EPM set up dialogue table with the Ríos Vivos Movement], May 14, 2021; *Diario ADN*, [Avanza la mesa de Diálogo entre Alcaldía de Medellín, EPM y Ríos Vivos](#) [Dialogue table between the Mayor's Office of Medellín, EPM, and Ríos Vivos is moving forward], May 21, 2021; EPM, [Avanza el diálogo entre la Alcaldía de Medellín, el Movimiento Ríos Vivos y EPM](#) [Dialogue between the Mayor's Office of Medellín, Movimiento Ríos Vivos, and EPM is moving forward], August 13, 2021; Ríos Vivos, [Avanza la mesa conformada por al Alcaldía de Medellín, el movimiento Ríos Vivos y EPM](#) [Dialogue table formed by the Mayor's Office of Medellín, Movimiento Ríos Vivos, and EPM is moving forward], August 13, 2021.

out. Nor did it require an assessment that could have concluded that it was unnecessary to carry out consultation or participation processes with such an approach.

- 2.93 **Progress in communication and participation processes following the 2018 contingency.** After the 2018 contingency, progress in the communication and participation processes has been reported, even in communities downstream of the Project. A bulletin published by EPM in 2020 states that it was after this contingency that “the project’s risk management plan and its Contingency Plan” were shared with the local and departmental authorities of the communities of the departments of Córdoba, Sucre, and Bolívar, which are part of the region of La Mojana and San Jorge.¹¹⁸ MICI found other improvements such as the implementation of the Community Spokespersons Program, which includes over 100 leaders who convey community concerns and complaints, and the implementation of the Grievance Mechanism, both in the downstream area.¹¹⁹
- 2.94 **Dam safety concerns.** In the mission carried out in June 2022 to the Project site and surrounding areas, MICI gathered the requesters’ concerns regarding their safety, given the 2018 contingency. They stated that they were unaware of any independent technical report that could attest to the safety of the dam and the absence of risk to the affected communities.

MICI’s criteria for determining compliance with the ROPs and findings of harm

- 2.95 **Meaningful processes: noncompliance with Directive B.6 of OP-703.** Although documentation about stakeholder mapping and the operation of an engagement framework was provided, IDB Invest did not verify that these processes were meaningful and were of sufficient depth and quality to ensure adequate participation of affected communities.
- 2.96 **Non-existing stakeholder engagement plan:** MICI determined that the Client’s Communication and Participation Program did not comply with paragraph 27 of PS1 because it did not constitute a plan scaled to the Project risks and impacts and development stage, and tailored to the characteristics and interests of the affected communities, and also failed to include differentiated measures to allow the effective participation of those groups and individuals identified as disadvantaged or vulnerable.
- 2.97 **Consultations documented and taken into account: noncompliance with PS1, paragraphs 30 and 36.** Similarly, the requirements of PS1 have not been met insofar as it establishes that consultation is a two-way process that should be documented. Here, there is no evidence that IDB Invest has confirmed that (i) the process was documented, especially the discussions on issues and questions raised by the communities and how, when, and in what format these issues were addressed; and (ii) the communities were then informed of the manner in which their concerns had been considered. Therefore, IDB

¹¹⁸ EPM, News Bulletin, Medellín, July 17, 2020.

¹¹⁹ Interviews conducted during MICI’s mission in June 2022.

Invest failed to comply with its obligation to require that the Client maintain a uniform and standardized procedure for documenting the process and generate information on how input from the consultations had been considered during Project implementation.

- 2.98 **Informed participation: noncompliance with PS1, paragraph 31.** As there is no evidence regarding the type of information disseminated prior to the consultations and whether this information has served the affected communities to form an informed opinion and participate in an in-depth and iterative exchange with the Client, it is concluded that IDB Invest failed to verify that there was an informed consultation and participation process that would have satisfied the requirements of PS1.
- 2.99 **Gender perspective: noncompliance with paragraph 35 of PS1 and OP-761.** IDB Invest did not ensure that a consultation process had been carried out with equal participation of women and men, nor did it ensure that the views of men and women had been sought out separately, or understand why this was not done.
- 2.100 **Noncompliance with supervision obligation.** In view of the above, IDB Invest failed to comply with paragraphs III.1, III.20, and III.21 of the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 insofar as they require IDB Invest to supervise compliance with all the requirements of the ROPs.
- 2.101 **Harm.** MICI finds that the noncompliance described above could result in the following potential harm to the communities: (i) the inability to express their views on the potential impacts of the Project; and (ii) a lack of knowledge about the impacts and risks of the Project and their management measures. In turn, the lack of participation and consultation could have been exacerbated in relation to the Requesters who allege that they have been stigmatized for their opposition to the Project. All of this creates the potential for the occurrence of risks that the obligations contained in Directive B.6 of OP-703 and PS1 are intended to prevent.

4. Gender-differentiated impacts

- 2.102 This section analyzes whether IDB Invest ensured that the operation was developed in a manner that identified and addressed adverse impacts and the risk of gender-based exclusion, as mandated by the ROPs.

Requesters' allegations

- 2.103 **The design and execution of the project failed to include a gender perspective.** The Requesters stated that the Project approval process did not consider the differentiated needs of women and did not include mitigation measures for potential adverse gender impacts. Specifically, they cited (1) the impact on property rights and on the economic activities performed by women in the Project's area of influence (gold panning, fishing, and agriculture) that have been carried out for generations for their subsistence and that

of their families; and (2) the increase in gender-based violence as a result of the Project's implementation.¹²⁰

Management's response to the Request

- 2.104 **Management referred to the social management plan.** IDB Invest explained in its response that socioeconomic information on the affected families was considered during the ESDD process, as part of the SMP. The Plan identified families with (1) single mothers or fathers, (2) women heads of household, (3) more than four children, (4) older adults or infants, and (5) people with disabilities, among the most salient criteria. The way in which these groups were served in a differentiated manner included the following criteria: (1) priority in the selection of properties or houses offered, (2) issuance of title deeds in women's names, (3) priority in the selection of properties closer to schools or health centers, and (4) removal of architectural barriers in new dwellings to facilitate the mobility of people with disabilities.¹²¹

Relevant Operational Policies

- 2.105 **Effective participation of women and men in consultation processes (OP-761 and paragraph 31 of PS1).** OP-761 establishes that public consultation processes associated with projects should seek the equitable participation of women and men. IDB Invest also has an obligation to promote the inclusion of the affected persons, both women and men, in accordance with sociocultural norms.¹²² Similarly, and as mentioned in the previous section on consultation and participation, paragraph 31 of PS1 provides that the consultation process should seek the views of men and women separately when necessary.
- 2.106 **Designing operations to address adverse impacts and risks of gender-based exclusion (OP-761 and paragraph 12 of PS1).** OP-761 establishes that, in designing its operations, IDB Invest must identify and address the adverse impacts and risks of gender-based exclusion identified in the risk analysis. Both this policy and PS1 require that (1) IDB Invest evaluate operations according to their potential adverse impacts on women in order to integrate a gender analysis into a project's social risk and impact assessment if these impacts are identified as likely to occur; (2) appropriate measures are taken to prevent, avoid, or mitigate these impacts, and (3) measures are taken to ensure equitable sharing of Project benefits between men and women, and to promote gender equality and women's empowerment through the Project.¹²³ The potential risks mentioned in OP-761 that may be associated with the Project include (1) unequal access to economic opportunities and project benefits; (2) lack of recognition of women's rights to land ownership, housing, property, or natural resources; (3) increased risk of gender-based

¹²⁰ Request in case MICI-CII-CO-2018-0133.

¹²¹ Response of IDB Invest to request MICI-CII-CO-2018-0133, p. 4.

¹²² Operational Policy on Gender Equality in Development (OP-761)

¹²³ Operational Policy on Gender Equality in Development (OP-761); IFC Performance Standard 1.

violence; and (4) the possibility of other risks, such as the Project's impact on women's economic activities.

- 2.107 **Systematic application of gender equality mainstreaming in IDB Invest interventions.** OP-761 states that IDB Invest will require an analysis of the relevance of gender issues during preparation of its operations. If the analysis deems it relevant, gender-specific actions will be incorporated.
- 2.108 **OP-761 aims to promote gender equality and women's empowerment.** The policy recognizes that inequality disproportionately affects women and that gender interacts with other social factors, such as ethnicity, race, and sexual orientation, exacerbating barriers and vulnerabilities for some groups of women. The policy establishes that gender-specific actions should focus on closing gender gaps. To this end, the provision and distribution of benefits and resources must be oriented toward equity. The Bank will also promote actions focused on (1) addressing the specific needs of women and men in the context of interventions, recognizing that, because of gender differences, women and men enjoy different advantages and face different barriers to participating in and benefiting from development; and (2) women's empowerment as a tool to accelerate gender equality.
- 2.109 **Supervision.** As stated in the General framework of reference section, (paragraph 2.2 of this report), the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 establish IDB Invest's supervision obligations in relation to safeguards compliance.

Findings of the investigation

- 2.110 The section on findings related to gender-differentiated impacts will be structured as follows: (1) disaggregated information; (2) impact assessment; and (3) risks and management measures.

Disaggregated information

- 2.111 **Limited sex-disaggregated data.** The 2011 update of the EIA, regarding the social environment, presents information disaggregated by sex and age only in terms of family composition, population structure in the Project's area of influence, labor market, and occupation.¹²⁴ However, MICI found no evidence that IDB Invest had required sex-disaggregated information to develop a baseline on the situation of women in the context of the Project.
- 2.112 **Incomplete data on participation in economic activities.** The only sex-disaggregated information available in the EIA mentions that, in the Project's area of influence, women represent about 27% of the people engaged in artisanal mining and 24% of those in small-

¹²⁴ EIA. chap. 3 – Social Environment.

scale mechanized mining.¹²⁵ Average participation varies in the different municipalities, with women's participation being higher in those where more people are engaged in these activities (for example, in Buriticá, women represent 37% of the people engaged in artisanal mining). However, IDB Invest did not assess the need to require sex-disaggregated information on women's participation in agriculture and fishing, which were two important economic activities for women in the area.

Risk and impact assessment

- 2.113 **The consultation process did not consider a gender perspective.** According to MICI's analysis in the previous section of this report, IDB Invest did not corroborate that a consultation process that allowed for affected communities to effectively participate in the project had taken place. The same is true for the need to include a gender perspective in this process, given that MICI also found no evidence that IDB Invest had confirmed the identification of gender-based risks, differentiated impacts, or their management measures, based on the effective participation of women in the consultation process.
- 2.114 **No identification of adverse gender-related impacts or risks.** The chapter of the EIA¹²⁶ dedicated to risks makes no reference to potential adverse gender-related impacts. MICI found no evidence of a specific assessment of adverse Project impacts on women and girls prior to IDB Invest's involvement; nor did it find evidence that IDB Invest requested such an assessment during the design of the operation.
- 2.115 **Potential negative impact on women's economic activities.** As mentioned above, MICI found no sex-disaggregated information or evidence that IDB Invest had requested it. MICI emphasizes that in artisanal mining (*barequeo*), women are workers, whereas in small-scale mechanized mining their role is generally to provide logistics and support for the men's activities. Given that men's participation is higher in mining—a male-dominated sector—IDB Invest should have verified whether the economic displacement of *barequeros* by the Project would disproportionately affect women.
- 2.116 **Comment from the MRV:** In its comments to the Draft Report, the MRV said that *barequeo* in the Cauca River supported gender equity, noting that: "...It contributed to the transformation of gender roles and legitimately altered the life aspirations of the region's women, whose goals are now linked to independence, freedom from violence, political training as social leaders, and access to goods and services denied to them and their children due to poverty and traditional gender stereotypes. In fact, according to our traditions, women are responsible for teaching and passing on the occupation of *barequeo* within families".

¹²⁵ Idem. p. 102.

¹²⁶ EIA. chap. 9 – Contingency Plan.

- 2.117 **Potential increase in gender-based violence.** During the field mission carried out in June 2022, MICI received information on cases of gender-based violence, including sexual harassment. It was reported that women were afraid to go to work at the river because of the risk of gender-based violence associated with the Project's development. It was also mentioned that prostitution, especially prostitution of girls, had increased in the Project's area of influence. MICI found no evidence that IDB Invest had requested information on whether the Project mapped risks of this nature Project or an assessment of this risk during the Project's development and financing.

Management measures

- 2.118 **Lack of adequate management measures.** MICI found no information in the Project documents to confirm that IDB Invest ensured that the EIA included a crosscutting gender analysis. The lack of an adequate assessment of gender risks and impacts would have also affected the development of management measures to prevent or mitigate such risks and impacts. IDB Invest thus failed to verify the development of management measures that would have encouraged the closing of gender gaps, the inclusion of differentiated actions to support men and women, and/or the empowerment of women, as required by OP-761.
- 2.119 **Inclusion of a gender perspective in the Project design without prior analysis.** The Social Management Plan, part of the EIA, describes the Regional Development Bridging Project, which includes, among others, a component on Development with a Gender Perspective. The objective of this component is to support the development of strategic interests outlined in the political agenda of women's groups and leaders representing social organizations in the area of influence. To develop this objective, actions should be carried out to (1) prevent "gender-based violence"; (2) create productive activities and employment opportunities for women (as part of the project's construction); (3) provide education on sexual and reproductive health rights; (4) mitigate the impacts of project-caused migratory pressure, and (5) support the emergence and strengthening of social organizations.¹²⁷ MICI found no evidence that IDB Invest had confirmed that this component responded to a local context analysis of the gender gaps that could be exacerbated as a result of the Project.
- 2.120 **Closing gaps in the ESAP.** Despite the implementation of the above measures, at the beginning of its involvement in the Project, IDB Invest determined that the Client did not have a gender policy at the corporate level or at the Project level. As a result of this finding, IDB Invest included a specific action in the ESAP to address potential gender gaps. This action consisted of "(...) developing and implementing a gender equity policy, including indicators to measure its results, to ensure that the Project does not discriminate against

¹²⁷ EIA, Social Environment Management Programs and Projects, 2011, paras. 7.276, 7.337-7.349, 8.68-8.77.

workers on the basis of gender and that both men and women are benefiting from the Project's positive impacts.”¹²⁸

- 2.121 **Comprehensive Gender Equity Policy or Nondiscriminatory Human Resources Policy.** As part of its investigation, MICI reviewed several Project documents on programs and activities carried out with a gender perspective. Most of the documents reviewed present the results of independent gender actions implemented in different municipalities as part of the Development with a Gender Perspective component of the SMP, but there is no evidence that these actions are based on a gender analysis. It is important to highlight that a Gender Policy is a document that presents principles, objectives, and guidelines, as well as their implementation and achievement. The language in all documents associated with the Project uses the concept of “the Client’s Gender Policy,” as if it existed. However, MICI found no evidence of its existence or that IDB Invest had verified it. MICI understands that IDB Invest confirmed that the Client had a nondiscriminatory Human Resources Policy and a Human Rights Policy, but neither document is a substitute for a corporate gender equality policy and MICI found no action by IDB Invest to call attention to this fact.
- 2.122 **Activities and workshops on gender, but no verification that they constitute management measures.** MICI recognizes that IDB Invest valued and supervised the development of several activities on gender issues. However, it found no evidence that IDB Invest had confirmed that these were management measures related to previously identified or assessed risks or adverse impacts and as part of a concrete plan with an appropriate methodology.
- 2.123 **No Gender Equity Policy.** MICI underscores that, at the time of IDB Invest’s exit from the Project, there was no gender equity policy in place, as required by the ESAP.
- 2.124 **No evidence of gender mainstreaming.** MICI found no evidence that IDB Invest had systematically promoted gender mainstreaming while participating in the Project’s financing. Gender mainstreaming requires an analysis of gender gaps, the development of actions to close such gaps, and the inclusion of indicators in the Project’s results matrix to measure progress. No evidence was found that IDB Invest promoted gender equality through (1) incorporating actions focused on addressing the specific needs of women and men in the context of interventions, recognizing that, because of gender differences, women and men enjoy different advantages and face different barriers to participating in and benefiting from projects; and (2) women’s empowerment.

MICI’s criteria for determining compliance with the ROPs and findings of harm

- 2.125 **IDB Invest failed to comply with OP-761 and paragraph 31 of PS1 with respect to the incorporation of a gender perspective in the consultation processes.** IDB Invest

¹²⁸ ESAP, action 1.17.2.

failed to comply with OP-761 in that the public consultation processes did not ensure the effective participation of women; this was also concluded in the chapter on consultation processes and forms of participation.

- 2.126 **IDB Invest failed to comply with OP-761 and paragraph 12 of PS1 by failing to identify potential Project risks and adverse impacts related to gender and management measures to address such risks and impacts.** MICI found no evidence that IDB Invest conducted a comprehensive and differentiated analysis during the Project's preparation phase to identify and address the adverse impacts and risks that the Project could create for women in the area of influence. Based on its analysis, MICI concludes that there are two relevant potential risks that should have been considered in the ESDD and in the ESAP: (1) the differentiated impact on women and men in the area of influence in terms of the development of their economic activities, specifically the negative impact on women's economic activities; and (2) the increase in gender-based violence. Due to this omission, no measures were included in the design of the operations to prevent, avoid, or mitigate potential adverse impacts and risks of gender-based exclusion.
- 2.127 **IDB Invest failed to comply with OP-761 regarding gender mainstreaming and with Directive B.7 of OP-703 because the Gender Policy provided for in the ESAP was not developed.** The gender mainstreaming process, as established in OP-761, results from an analysis of the relevance of gender issues during preparation of the Bank's operations. If this analysis so indicates, IDB Invest will ensure that concrete actions to address priority issues and measures to facilitate their implementation are incorporated. MICI found no evidence that IDB Invest had actively identified opportunities for the mainstreaming of a gender perspective in this operation, or that it had included actions to address this issue, beyond a gender-equitable labor hiring policy. MICI further concluded that the documents it reviewed that bore some gender focus relation did not constitute a Gender Policy as envisaged in the ESAP. Therefore, IDB Invest failed to comply with its obligation to supervise compliance with this action.
- 2.128 **Noncompliance with supervision obligation.** In addition to the above, paragraphs III.1, III.20, and III.21 of the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 were not observed insofar as they require IDB Invest to supervise compliance with all the requirements of the ROPs.
- 2.129 **Harm.** Since the potential adverse gender-related impacts have not been identified in the Project, it was impossible to (1) conduct a gender analysis and obtain a baseline on the situation of women in the area of influence; (2) determine the differentiated Project implementation impact on women's economic activities, especially *barequeo*; and (3) assess the Project impact on gender-based violence in the area of influence. The lack of an initial gender analysis also affected the design of measures to mitigate these risks and the implementation of measures that, besides reducing the risk, could have closed the identified gender gaps. Due to the lack of adequate analysis, the main information

available to MICI on these adverse impacts are the testimonies of women collected during the June 2022 mission. In these testimonies, women mentioned the loss of income and economic autonomy, as well as the increase in gender-based violence as a consequence of the Project. Therefore, the absence of a gender-differentiated impact assessment and the consequent failure to design and implement prevention or mitigation measures in consultation with women could result in the occurrence of the alleged harm.

C. Thematic axis 2. Assessment of social and environmental impacts and their management measures.

Social impacts and management measures

1. Cultural and archaeological heritage

- 2.130 This section examines whether IDB Invest complied with the ROPs related to cultural and archaeological heritage, which aim to identify risks to its protection and establish the respective management measures.
- 2.131 **Comment from the MRV.** As noted above, in its comments to the Draft Report, the MRV drew MICI's attention to the significance of *barequeo* for the population of the Cauca River as a means of livelihood, especially for women. It is important to recall that *barequeo* was considered an ecosystem service in the Project and, consequently, the harm alleged by the MRV to this means of livelihood has already been analyzed in this report in the section on Ecosystem services.

Requesters' allegations

- 2.132 **Lack of access, identification, and archaeological plan.** The Requesters report that they cannot access ancestral roads they once frequented. They also describe the impacts of the Project's construction activities and operations on cultural heritage, specifically on 55 sites along the Cauca canyon that are of great social and cultural importance given the close relationship between the communities and the area's natural resources. The Requesters also contend that there is no plan to effectively protect these sites, and they allege impacts on intangible cultural heritage, including the traditional cultural practice of gold panning (*barequeo*).¹²⁹

Management's response to the Request

- 2.133 **Archaeological Management Plan.** Regarding the management of archaeological heritage, IDB Invest recognizes that the Project area contained 24 probable sites located

¹²⁹ The activity is defined in footnote 7 in the opening chapter of this report. In their comments to the Draft Report, the Requesters included allegations regarding the consideration of the Cauca River as cultural heritage under the definition provided in PS8. These allegations were not included in the Request for the case, nor are they part of the allegations described in the Recommendation to investigate, so they are beyond the scope of this investigation.

specifically in the reservoir flood zone. Of these 24, only 13 have undergone some type of intervention within the framework of the Archaeological Management Plan approved by the Colombian Institute of Anthropology and History of the Ministry of Culture. This was basically because survey activities at the other 11 sites indicated a very low probability of finding any significant remains. Management notes that the environmental license issued for the Project¹³⁰ requires, prior to any activity involving earthworks, that a duly accredited archaeologist “release” that area before moving forward.

- 2.134 **Relocation of cemeteries.** Management also reported that the creation of the reservoir required the relocation of two cemeteries in Orobajo and Barbacoas, and also of other places that either provided a community service or were considered to have intangible value for these communities. These places are the school, the communal hall, the cemetery, a sports venue, and the monument to the Virgin of Mercy in Orobajo; and a water fountain, children’s playground, and a mango tree (used as a meeting place for residents to play dominoes in the afternoons), in Barbacoas. For the cemeteries in both towns, in coordination with the Fiscalía (Attorney General’s Office) and the Procuraduría (Office of the Inspector General of Colombia), there was a process to exhume the bodies and identify them before moving them to locations agreed upon with the population. The other structures were relocated and replaced with new facilities. Symbolic structures (monuments to the Virgin, the water fountain, and the children’s playground) were relocated to sites previously agreed upon with the community.

Relevant Operational Policies

- 2.135 **Preventing harm to cultural heritage.** PS8 and Directive B.6 of OP-703 call for projects to be sited and designed to avoid significant harm to cultural heritage, and if the project generates impacts, it establishes several requirements, such as consulting with affected communities and enabling access to previously accessible cultural heritage sites. For the purposes of PS8, the term *intangible cultural heritage* refers to certain intangible forms of culture that are proposed to be used for commercial purposes, such as cultural knowledge, innovations, and practices of communities embodying traditional lifestyles. The directive goes on to state that impacts on sites of critical cultural importance will be identified and assessed through the EA process. It further provides that for those operations where archaeological or historical finds may occur during the construction or operation of facilities, the borrower shall prepare and implement chance find procedures based on international good practices.
- 2.136 **Supervision.** As indicated in the General framework of reference section (paragraph 2.2 of this report), the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 establish IDB Invest’s supervision obligations in relation to safeguards compliance.

¹³⁰ See Resolution 0155 of 30 January 2009 of the Ministry of Environment, Housing, and Territorial Development.

Findings of the investigation

- 2.137 **Identification of archaeological sites.** In relation to cultural heritage, IDB Invest verified that 54 archaeological sites were identified in the Project's area of influence in 2006, of which 24 were in the reservoir area or works area. Archaeological interventions were proposed for 13 of these sites through an Archaeological Management Plan.¹³¹ According to the ESRS, the Project conducts ongoing archaeological monitoring in intervened areas.¹³² The ESAP also states that there were plans for the relocation of two cemeteries that would be flooded by the reservoir,¹³³ an issue that was reviewed during the ESDD process. MICI found that IDB Invest verified that the Project had identified potentially affected cultural heritage sites and had a management plan in place to address the risks to these sites.
- 2.138 **Archaeological management measures.** MICI also found that, during the environmental and social impact assessment process, IDB Invest conducted a review to ensure that the Project's Archaeological Management Plan was aligned with the requirements of PS8.¹³⁴ Between 2009 and 2011, the Project—with the authorization of ICAHN and the Ministry of Culture—carried out archaeological rescue work, removing at-risk artefacts and transferring them to the museum at the University of Antioquia.¹³⁵ In addition, the Project (1) has a chance find procedure; (2) performs continuous archaeological monitoring in the Project-affected areas during construction;¹³⁶ (3) carries out educational and training activities for staff and contractors on the identification and protection of cultural heritage; (4) hired an archaeologist to supervise any earthmoving activities; and (5) has disseminated the findings of the archaeological research through publications, seminars, and a traveling exhibition in the area of influence and at the Client's headquarters in Medellín.¹³⁷ The Project documents also show that, during supervision, management measures to protect cultural heritage were considered adequate and this issue was not highlighted as a problem.
- 2.139 **Community participation.** In relation to community participation, MICI found documents on participation related to the Project's impact on cultural heritage. For example, the communities and the competent authorities have been involved in the matter of the Pescadero Bridge. MICI found evidence of these stakeholders' participation in the preservation of cultural heritage and their monitoring during the supervision process.

¹³¹ EIA, Annex 3.4.K, Archaeological recovery and monitoring report, para. 1.5.

¹³² ESRS, pp. 27-28.

¹³³ ESAP, action 7.1.

¹³⁴ Section 7 "Archaeological heritage management," EIA, Annex 3-4K, Archaeological recovery and monitoring report, para. 7.1-7.3.

¹³⁵ ESRS Section 4.8(a)(iii). The identified cultural heritage sites are listed in Table 3.4.6.13. It is also noted that, in relation to the Pescadero Bridge, which will disappear once the reservoir is created and the bridge is flooded, the municipalities of Toledo and Ituango will remain connected through a road approximately 560 meters long along the crest of the Ituango dam.

¹³⁶ It also notes that three other sites of "low" archaeological potential were identified along the road from Puerto Valdivia to the Project site, and that these sites were being monitored to prevent impacts.

¹³⁷ ESRS, pp. 27-28.

- 2.140 **Comment from MRV.** In their comments to the Draft Report, the Requesters stated that IDB Invest should have used local people's knowledge to identify cultural heritage that may be linked to the natural environment and not obvious to outsiders. However, as explained in this paragraph, MICI found evidence of the participation of local communities in the protection of cultural heritage.
- 2.141 **Intangible cultural heritage.** Regarding intangible cultural heritage, the Project documents only refer briefly to artisanal mining or *barequeo*; it is also recognized that the Project commissioned ethnographic studies of the area. There is also evidence that the impacts of the Project on artisanal miners have been addressed. However, as described above, the definition of "intangible cultural heritage" in PS8, and therefore the definition to be relied upon for MICI's compliance analysis, is a definition restricted only to cultural heritage that has been used for commercial purposes.¹³⁸ Hence, *barequeo* is not considered intangible heritage in the terms described by PS8 (paragraph 2.132), as it lacks the commercial purpose required by PS8;¹³⁹ nor was it considered intangible cultural heritage at the national level. Nevertheless, *barequeo* was recognized as a Project-affected ecosystem service, as discussed later in this report in the chapter on Ecosystem services.
- 2.142 **Access to ancestral roads.** Regarding impacts on community members affected by the Project's implementation, particularly with regard to the use of ancestral roads, it is important to mention that visual and documentary inspections were performed and community members were interviewed during the CRP's mission to the Project site. It was evidenced that (1) the Client owns the land on which the road between the Project and Valdivia is being built and adapted; (2) access is restricted for both Project personnel and private individuals during certain time slots, due to the instability of the road, until the work is completed and its stability can be ensured; (3) access to the land around the Project is allowed, but no human settlements are permitted; and (4) the Project has provided (local) forest rangers, who are responsible for patrolling the area to prevent the establishment of irregular settlements.

MICI's criteria for determining compliance with the ROPs and findings of harm

- 2.143 **Compliance.** IDB Invest complied with Directive B.9 of OP-703 and with PS8 by ensuring that the Project had properly identified cultural and archaeological heritage, the community had participated on this process, and by supervising the measures designed to mitigate these impacts. IDB Invest complied with paragraphs III.1, III.20, and III.21 of the Environmental and Social Sustainability Policy of the IIC and with Directive B.7 of OP-703

¹³⁸ PS8 (para. 16) provides examples of when a project intends to use cultural heritage for commercial purposes, such as the commercialization of traditional medicinal knowledge or other sacred or traditional techniques for processing plants, fibers, or metals.

¹³⁹ This does not mean that *barequeo* cannot be considered "intangible cultural heritage" based on other concepts or under other regulatory frameworks than the one reviewed by MICI.

by adequately supervising compliance with the aforementioned policies. The Project also has a chance find procedure. Although the Requesters identified *barequeo* as part of their intangible cultural heritage, this practice is not considered as such under PS8 because the Project has no commercial interest in the activity. However, the allegations made by the Requesters in the Request and in their comments to the Draft Report regarding impacts on *barequeo* are analyzed by MICI below in the section on Ecosystem services.

- 2.144 **Harm.** MICI has the mandate to determine the harm associated with any noncompliance with the ROPs. Since no noncompliance has been found with respect to this issue, MICI is not required to assess harm.

2. Social impact and migratory pressure

- 2.145 This section will analyze whether IDB Invest ensured that the potential social impacts of migratory pressure were assessed and characterized, and that management and mitigation plans for these impacts were developed, as well as measures to adequately monitor their implementation.

Requesters' allegations

- 2.146 **Socioeconomic impacts of migratory pressure.** The Requesters allege impacts on the social fabric of their communities due to the migratory flows caused by the Project, including the arrival of workers in the area. They maintain that this has disrupted the socioeconomic and cultural environment, giving rise to social conflicts in an area historically marked by violence and armed conflict, resulting in severe material, social, and cultural alienation. They also allege that the impact of the workers' influence has created a strong sense of uprootedness.

Management's response to the request

- 2.147 **Low impact due to mitigation measures.** Regarding the effects of migratory pressure, Management reported that the ESDD assessed the impact of the influx of some 8,000 workers into the region during the peak season. However, these impacts were considered low, since all workers would be housed in camps and would leave the Project area during their time off, limiting interaction with the community.

Relevant Operational Policies

- 2.148 **Sustainability Policy.** Regarding social impacts, the Environmental and Social Sustainability Policy of the IIC states that the institution is committed to promoting good international practice in the context of all social aspects of the projects it finances, including human rights. It also determines that the IIC's environmental and social assessment includes evaluating the Project's environmental and social management plans, identifying gaps in compliance with applicable environmental and social requirements, and developing an ESAP to close identified gaps, as appropriate.

- 2.149 **Identification of vulnerable groups (PS1, paragraphs 12).** As mentioned earlier in this report, PS1 requires borrowers to identify individuals and groups that may be directly and differentially or disproportionately affected by a project because of their disadvantaged or vulnerable status. In such cases, the borrower should propose and implement differentiated measures so that adverse impacts do not fall disproportionately on them, and they are not disadvantaged in sharing development benefits and opportunities.
- 2.150 **Health and safety (paragraph 5 of PS4).** PS4 states that the client will assess the risks and impacts to the health and safety of affected communities during the project life-cycle and will establish preventive and control measures consistent with international good practices. It also provides that the client will avoid or minimize transmission of communicable diseases that may be associated with the influx of temporary or permanent project labor.
- 2.151 **Supervision.** As stated in the General framework of reference section (paragraph 2.2 of this report), the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 establish IDB Invest's supervision obligations in relation to safeguards compliance.

Findings of the investigation

- 2.152 **Identification of impacts in the EIA.** MICI found that project-induced migration is identified as an impact in the EIA. The EIA also notes, in general terms, the recent migration dynamics in the region, including the possibility that people displaced by the conflict may return to the area or that people may come seeking to capitalize on opportunities related to the Project. The EIA also highlights several issues related to the risk of social conflict, inflation, crime, public health, and increased use of public services, among others, that could affect social cohesion, especially in the municipalities closest to the construction site, such as Toledo and El Valle.¹⁴⁰ During the 2016 ESDD process, IDB Invest acknowledged the above risks and considered the risk mitigation measures set out in the SMP to be adequate.¹⁴¹
- 2.153 **Mitigation measures.** IDB Invest complied in reviewing that the Project-Region Integration Program included in the SMP aims, among other objectives, to prevent and mitigate Project impacts on the socioeconomic life and cultural patterns of the communities near the construction sites resulting from the population increase (hiring of labor and floating population) and the other effects of the migratory pressure exerted on the area. It also verified that this program includes the "Migratory Pressure Management and Monitoring Program" (hereinafter "Migratory Pressure Monitoring").¹⁴²

¹⁴⁰ SMP, para. 8.63.

¹⁴¹ EIA, Section 3, pp. 503-566.

¹⁴² ESRS, p.17; SMP, para. 7.1.4; Migratory Pressure Methodology.

- 2.154 **Migratory Pressure Monitoring.** MICI found that IDB Invest also corroborated that the Migratory Pressure Monitoring includes a methodology to monitor and evaluate Project-induced migration for some of the communities in the area of influence. This involves monitoring key parameters related to population variations, migratory flows, events linked to insecurity, public health, pressure on public services, real estate supply and demand, consumer price inflation, the establishment of new businesses, and the demand for social services. MICI found that this monitoring includes measures such as (i) building the camps with the necessary logistics to reduce (or eliminate) contact between workers and the surrounding communities and, consequently, minimize the impacts that the presence of Project workers may have on the health, safety, and services of neighboring communities, and vice-versa; (ii) implementing a code of conduct to prevent friction between workers; and (iii) building recreational areas for workers so they can let off steam through sports. It also provides for constant communication and the disclosure of information to the affected communities.¹⁴³
- 2.155 **Public health.** MICI found that IDB Invest also verified the existence of a mitigation measure for impacts on people's health and safety: the Epidemiological Surveillance Program, which aims to monitor public health in the municipalities of the Project's area of influence.¹⁴⁴ This program carries out, among others, the following activities: (i) advisory visits and technical assistance in epidemiologic surveillance; (ii) outreach to promote public health events of interest; (iii) monitoring of diseases and infections, with emphasis on HIV and other sexually transmitted diseases; (iv) strengthening of municipal and institutional epidemiological surveillance committees; (v) training on topics of interest in public health; and (vi) additional training, according to the needs identified in each municipality or rural subdivision. This program provides for half-yearly monitoring during the construction phase.
- 2.156 **Action provided for in the Environmental and Social Action Plan to close PS4 gaps.** IDB Invest also provided an action in the ESAP to close community health and safety gaps in line with PS4¹⁴⁵ (action 4.6) which consisted of providing (i) the results of the migratory pressure monitoring; and (ii) details of how the migratory pressure impact management plan is being implemented, as a condition for the first disbursement. This action was considered to have been completed in a timely manner. However, MICI found no evidence that an updated evaluation of the results of the migratory pressure monitoring was carried out prior to IDB Invest's exit from the Project.

MICI's criteria for determining compliance with the ROPs and findings of harm

- 2.157 **Compliance by verifying the identification of impacts and determination of mitigation measures in line with paragraph 5 PS4 and paragraphs III.2 and III.4 of**

¹⁴³ ESRS, p.17; SMP, para. 7.1.4; Migratory Pressure Methodology.

¹⁴⁴ The municipalities are Valdivia, Briceño, Ituango, Peque, Sabanalarga, Buriticá, Toledo, and San Andrés de Cuerquia.

¹⁴⁵ ESRS, p. 17. SMP, para. 7.1.4.

the Environmental and Social Sustainability Policy of the IIC. MICI found that IDB Invest properly verified that the social risks associated with migratory pressure had been identified, including potential impacts on social cohesion, and that relevant mitigation measures had been put in place.

2.158 **Noncompliance in the monitoring of the behavior of migratory pressure impacts and mitigation measures. Directive B.7 of OP-703.** While information on the results of the Migratory Pressure Monitoring is available, MICI found no analysis of this information. Notwithstanding mitigation measures are presented as adequate to address the risks, MICI found no evaluation of their effectiveness or an assessment of the criteria to be considered when designing actions based on the results of the monitoring processes for each indicator. Therefore, IDB Invest failed to comply with its duty of supervision in relation to the behavior of the identified impacts of migratory flow and the measures to manage these impacts under PS4, Directive B.7 of OP-703, and paragraphs III.1 and III.21 of the Environmental and Social Sustainability Policy of the IIC.

2.159 **Harm.** The situations described by the Requesters with respect to social conflicts and material, social, and cultural alienation could be consistent with the potential occurrence of risks that the obligations of OP-703 and PS1 are intended to prevent. Therefore, the inadequate supervision of the impacts and of the effectiveness of implementing risk prevention or mitigation measures related to migratory pressures could lead to the potential occurrence of such harm.

3. Involuntary resettlement process

2.160 This section analyzes whether IDB Invest ensured that the Client followed the procedures set forth in the ROPs on land acquisition and involuntary resettlement and whether it required a study of alternatives and a census to collect appropriate baseline socioeconomic data to properly identify the people to be physically and economically displaced by the Project.

Requesters' allegations

2.161 **Inadequate design, implementation, and supervision of resettlement and compensation plans for physical and economic displacement.** The Requesters allege that the resettlement process was inadequate, as there was no study of alternatives to minimize the need for resettlement; nor was an involuntary resettlement plan developed with the relevant analyses before the start of construction. The Requesters cite (1) deficiencies in identifying the number of affected individuals; (2) the failure to include economically displaced people in the census, which resulted in having no study carried out on the impact of the Project on economic activities such as artisanal mining, agriculture, and fishing, among others; (3) compensation and rehabilitation have been inadequate and communities have been resettled to places where their living conditions

are inferior to those they enjoyed before resettlement (e.g., poor access to land and natural resources); and (4) evictions in which communities were evacuated without prior notice, consultation, or explanation.

Management's response to the request

- 2.162 **The project has an SMP that constitutes the Involuntary Resettlement Plan.** Management noted that this Project has an SMP that constitutes the Involuntary Resettlement Plan, which is made up of five components: (1) the Communication and Participation Program; (2) the Program for Comprehensive Restoration of Living Conditions; (3) the Project-Region Integration Program; (4) the Monitoring and Reading the Surroundings Program; and (5) the Environmental Education Program. According to Management, the plan aims to compensate families that are physically and economically displaced, ensure that their economic conditions are at least equal to what they had before they were displaced, and assist displaced people in reconstituting their social networks.
- 2.163 **The final list of displaced persons allowed for adjustments to be made for nearly a year after the census.** Management indicated that one of its components, the Program for Comprehensive Restoration of Living Conditions, was structured based on a census of families, which identified those who would be physically and economically displaced. It also stated that the process of drawing up the final list of displaced persons took almost a year after the census cut-off date to allow for adjustments, and that under Colombian law, this final list may still include families or individuals who, having been displaced by the armed conflict in Colombia or for other reasons, were not accounted for in the census.
- 2.164 **A consultation process was carried out to support the resettlement process.** Management also reported that the resettlement process was supported by a consultation process that included visits to the families, workshops, and gatherings between the families of Ituango and Porce to share experiences, as well as public outreach initiatives about the compensation alternatives offered by EPM, which included the comprehensive restoration of living conditions and the direct purchase of land.

Relevant Operational Policies

- 2.165 **Study of alternatives (OP-710 and PS5).** Involuntary resettlement covers both physical and economic displacement that occurs as a consequence of land acquisition or limitations on land use due to a project. In addition, the first principle of OP-710 and paragraph 8 of PS5 provide that the need for involuntary resettlement should be avoided or minimized by considering alternative designs. OP-710 states that IDB Invest must conduct a comprehensive analysis of the project alternatives to identify technically and financially viable options to eliminate or reduce the need for involuntary resettlement. This analysis should pay special attention to sociocultural considerations and the vulnerability of the affected population.

- 2.166 **Planning and design of resettlement and livelihood restoration.** Paragraph 12 of PS5 establishes that, if involuntary resettlement cannot be avoided, a census must be conducted to identify the people who will be displaced by the project. The census will collect socioeconomic baseline data to identify those eligible for compensation and assistance.
- 2.167 **Development of resettlement plans when displacement is unavoidable.** OP-710 establishes that when displacement is unavoidable, a resettlement plan must be prepared to ensure that affected individuals are adequately and fairly compensated and rehabilitated. Compensation meets these characteristics when, in the shortest possible period, it ensures that the resettled and host populations (1) enjoy minimum standards of living and access to land, natural resources, and services; (2) are able to recover losses resulting from transitional difficulties; (3) experience minimal dismantling of social networks, work, or productive opportunities, and of access to natural resources and public services; and (4) have opportunities for economic and social development. OP-710 also requires a preliminary resettlement plan that, among other requirements, must undergo a process of meaningful consultation with the affected population and be part of the EIA prior to the analysis mission. In addition, it sets forth that a final resettlement plan should be presented before distribution of the operation documents for consideration by the Board of Executive Directors.
- 2.168 **Resettlement plan design and evaluation criteria.** OP-710 states that the complete resettlement plan must include the following criteria: (1) baseline information, including data on the number of people to be resettled, socioeconomic and cultural information, disaggregated by sex; (2) community participation and records reflecting the outcomes of the consultation processes carried out with the displaced and host communities; (3) compensation and rehabilitation options and measures to restore income, livelihood, and social networks of affected individuals; (4) legal and institutional framework, defining the rights of resettled persons and the applicable regulatory framework for determining their benefits; (5) environment; (6) timeline, and (7) monitoring and evaluation.
- 2.169 **Implementation and completion of resettlement action plans.** Paragraph 14 of PS5 states that procedures should be established to monitor and evaluate progress in the implementation of the resettlement or livelihood action plan. Based on these evaluations, the plans may take relevant corrective measures, and monitoring activities should be aligned with the projects' risks and impacts. Finally, the implementation of the resettlement action plan will be deemed completed when implemented activities address the negative impacts of resettlement.
- 2.170 **Compensation and rehabilitation of affected persons.** OP-710 states that people who need to be resettled must receive compensation and rehabilitation options that provide a fair replacement value for assets lost, and the necessary means to restore subsistence and income, and intangible assets (e.g., social networks and community assistance). The Policy also establishes that both resettled and host populations must achieve a standard

of living at least equivalent to pre-resettlement levels (Principle 2). PS5 sets out the requirements to be met in the event of physical¹⁴⁶ and economic displacement.¹⁴⁷

- 2.171 **Supervision.** As stated in the General framework of reference section, paragraph 2.2 of this report, the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 establish IDB Invest's supervision obligations in relation to safeguards compliance.

Findings of the investigation

- 2.172 **Were resettlement and economic displacement necessary for the Project?** Given the Project's conceptual design, MICI verified the need to acquire land for various purposes: land to site the project's infrastructure and facilities; land that would be part of the Land Habitat Compensation Plan and the Fish Compensation Plan;¹⁴⁸ and land that would be submerged by the reservoir. This led to the physical and economic displacement of mining and farmer populations for whom the Cauca River was not only an integral part of their lives but also the most important source of basic resources and their economic livelihood.¹⁴⁹
- 2.173 **Study of alternatives.** MICI notes that by 2016, when IDB Invest became involved in the Project, all existing studies of alternatives had been completed. IDB Invest's Project website compiles several documents studying the alternatives for the Project's development. These are scanned photocopies of documents from 1974, 1982, and 1999. However, the documents refer to the alternatives from an exclusively technical/engineering point of view rather than from the perspective of what PS5 seeks, which is to reduce involuntary resettlement as much as possible. Still, the 1999 feasibility analysis,¹⁵⁰ while predominantly technical and economic, considers the correlation between the height of the dam and the population to be relocated as part of the

¹⁴⁶ Paragraphs 19 to 24 of PS5 establish the guidelines for physical resettlement and the development of the resettlement action plan. According to these articles: (1) The resettlement plan should include compensation at full replacement cost for land and other lost assets, mitigate the negative impacts; identify development opportunities; develop a budget and timeline; and establish the entitlements of all categories of affected persons; (2) offer resettlement options and relocation assistance to affected persons; (3) offer to affected individuals the choice of replacement property of equal or higher value, with security of tenure; (4) affected persons will receive compensation for the loss of housing and assets other than land.

¹⁴⁷ Paragraphs 25 to 29 of PS5 establish the guidelines for economic resettlement and the livelihood restoration plan. According to these articles: (1) The plan to address economic displacement will establish the entitlements of affected individuals and will ensure that these are provided in a transparent, consistent, and equitable manner; (2) business owners will be compensated for the cost of reestablishing commercial activities elsewhere and for net income lost during the transition in case of land acquisition or restrictions on land use; (3) if property replacement is necessary, property of equal or greater value will be granted or cash compensation will be provided to persons with legal rights to the land; (4) persons who are without legally recognizable claims to land should also be compensated for lost assets and replacement costs; (5) economically displaced persons whose livelihoods are adversely affected will also be provided with opportunities to improve or restore their income-earning capacity and standard of living, and (6) transitional support should be provided to displaced persons.

¹⁴⁸ The chapter on environmental impacts and their management measures provides further details on these compensation plans.

¹⁴⁹ SMP, paras. 8.16-8.17.

¹⁵⁰ [Análisis de Alternativas de Proyecto](#) [Analysis of Project Alternatives].

environmental criteria, concluding that dams of lower height have less of an environmental impact and minimize the population to be relocated.¹⁵¹ In June 2001, through Order 432, the Ministry of the Environment determined that it was not necessary to carry out an environmental assessment of alternatives.¹⁵²

2.174 Status of the displacement process when IDB Invest became involved in the Project.

According to data obtained from Project documents for the land acquisition and the identification of the individuals or families that would be affected by resettlement or economic displacement, census data were collected at three points in time: 2006, 2009-2010, and 2013-2014. However, MICI was informed that people who believe they should be included in the census can still submit and provide the necessary support for their request. In 2010, the Colombian Ministry of Mines and Energy adopted the Ituango Hydroelectric Project's Unit Values Manual and an amendment that incorporated the component of payments for economic and productive activities, establishing the compensation criteria for affected families.¹⁵³ The ESRS recognizes that the Project is implementing the SMP to serve families that would be physically or economically displaced by the execution of the planned works and establishes that the SMP is itself the Involuntary Resettlement Plan.¹⁵⁴ When the ESRS was prepared in October 2016, the Project had focused on the 262 families to be resettled¹⁵⁵ (as their physical relocation was to be completed before beginning to fill the reservoir, which was planned for June 2018) and had made arrangements with many of them for their resettlement options. Additionally, the engagement process with the 212 mining families¹⁵⁶ who would be economically displaced by the Project, had also started and agreements had been reached with several of them.¹⁵⁷ In short, MICI found that when IDB Invest became involved in the Project, the physical displacement process was nearing completion and the economic displacement process had already begun.

2.175 The Social Management Plan and the Program for Restoring Living Conditions as Involuntary Resettlement Plan. Although IDB Invest maintains that the SMP is the Project's Involuntary Resettlement Plan,¹⁵⁸ the SMP is much broader than just an involuntary resettlement plan. MICI understands that, when IDB Invest became involved in the Project, processes such as resettlement were already regulated by previously

¹⁵¹ MICI found that this analysis considered the correlation between the height of the dam and the number of people to be relocated. It should be noted that in the evaluation of the criteria, the economic criterion was weighted at between 60% and 90% in the different analyses, while the environmental criterion was weighted at between 20% and 5%. Therefore, the analysis focused on the project's economic efficiency.

¹⁵² Ministry of the Environment, [Order 432, June 6, 2001](#).

¹⁵³ Resolution 180577 of April 9, 2010 and Resolution 182114 of November 5, 2010 adopting the manual and its amendment, respectively.

¹⁵⁴ ESRS, p. 18.

¹⁵⁵ The families identified as of 2016 that would be physically displaced were located in Orobajo (32 families), Barbacoas (36 families), San Andrés de Cuerquia (61 families), Puerto Valdivia (96 families), and other hamlets (37 families). ESRS, p. 19.

¹⁵⁶ The mining families identified as of 2016 that would be economically displaced were located in the Project's northern area (58 families) and in the western area (154 families - 60 families from Angelina, Mogotes, and Carauquia; 10 families from the rural subdivisions of Buriticá and 84 families in the rest of the Project area). ESRS, p. 19.

¹⁵⁷ ESRS, p. 20.

¹⁵⁸ ESRS, p. 18.

established instruments, and IDB Invest sought a practical approach that would allow it to combine the requirements of OP-710 with already existing instruments. Nevertheless, this practical approach did not fully address the gaps as needed to comply with OP-710; in fact, as discussed below, there were gaps between the SMP and OP-710 that IDB Invest addressed by including them in the ESAP.

2.176 Gaps between the SMP and OP-710. The SMP includes a component called the “Program for Restoring Living Conditions,” which provides measures for the resettlement of physically and economically displaced persons, including the construction of housing and community infrastructure and services, support to maintain their social and cultural networks, and compensation for the loss of economic activities. However, this program does not meet all of the criteria that OP-710 requires for a Resettlement Plan. MICI observed that this program is a conceptual version of the programs that should be implemented to restore the living conditions of affected people, but it lacks the methodological and practical aspects of implementation required by OP-710. The program’s shortcomings include (1) the lack of a detailed baseline on the beneficiaries, including socio-economic and cultural characteristics and disaggregation by sex; (2) the compensation process for all affected individuals, because although it describes the process to compensate persons engaged in mining whose land rights were not affected, it does not consider other economic activities impacted by the Project;¹⁵⁹ (3) the timeline does not include information on the activities to be implemented and when they will be implemented; it only mentions the years during which the program will be active; (4) lack of dispute resolution mechanisms; and (5) inadequate monitoring and evaluation requirements to measure the progress of activities. MICI’s review also found that, for the most part, the SMP indicators are inadequate to evaluate the progress of the plan’s implementation, as they are subjective, not measurable, and not time-bound. Thus, for example, the following indicators of the SMP’s Program for Restoring Living Conditions are not sufficiently specific or measurable: (1) communities inhabiting an environment in which they have started to consolidate new adaptive strategies; (2) communities with a restored and sustainable economic livelihood base; (3) families with a restored and sustainable economic livelihood base; (4) strengthened communities with restored social fabrics; and (5) restitution and compensation of economic activities.¹⁶⁰ Because these indicators are not clearly defined, they could create inconsistencies in their monitoring. For example, in the case of the indicator “communities living in an environment in which they have begun to consolidate new adaptive strategies,” it is not clear which communities are being referred to, what it means to consolidate new adaptive strategies, or how long it will take for the communities to consolidate these strategies.

2.177 Closing gaps in the ESAP. MICI found IDB Invest included eight actions in the ESAP to close the gaps related to OP-710 and PS5. They are: (1) provide a copy of the Socioeconomic Compensation Plan implemented during the construction phase; (2)

¹⁵⁹ Information on other economic activities that will be affected by the project can be found in the Unit Values Manual for the Payment of Compensation for Economic and Productive Activities.

¹⁶⁰ SMP, paras. 8.33, 8.36, 8.41, 8.43.

provide a summary of the main social risks and impacts of the associated with the Project's physical and economic resettlement; (3) provide the Unit Values Manual used by EPM; (4) develop a resettlement timeline (or matrix) that includes (a) details of all families to be resettled; (b) the type of compensation (e.g. direct purchase, resettlement); and (c) their current status, including details about the land titling process for resettled individuals; (5) finalize the relocation of all families and inhabitants within the reservoir flood zone; (6) provide details of the monitoring procedure; (7) assess the implementation of the Socioeconomic Compensation Plan; and (8) perform a final evaluation of the Socioeconomic Compensation Plan.¹⁶¹ MICI found no evidence that IDB Invest had requested compliance with action 4 or action 6, which consisted, respectively, of developing a resettlement matrix that was critical to understanding the initial baseline of people identified for resettlement and providing the details of the resettlement monitoring procedure.

2.178 **Land acquisition, compensation, and eviction procedures.** IDB Invest ensured that the acquisition, compensation, and rehabilitation procedures, including those related to land, buildings, crops, forests, and timberland, were carried out properly. The Unit Values Manual,¹⁶² which MICI analyzed, presents a detailed methodology for calculating land values and classifies the compensation to be received by affected individuals based on quantitative indicators. The Manual establishes assessment and classification standards for land, crops, buildings, forests, and timber, as well as appraisal and inventory reports. Physically displaced families were given two compensation options: (1) the comprehensive restoration of living conditions, where families had to choose between nucleated resettlement (land acquired by EPM where housing was built for the families) and suggested lands (the family suggests the place where they want to be resettled), and (2) direct land purchase. MICI found no evidence of forced eviction of resettled persons.

2.179 **Compensation for economic displacement.** IDB Invest also verified that the economic displacement compensation provided for in the Unit Values Manual for Compensation Payments for Economic and Productive Activities was aligned with the ROPs in terms of providing detailed information on the methodology for identifying affected persons, as well as the consultation and information process to be carried out. The Unit Values Manual for Compensation Payments for Economic and Productive Activities analyzes the Project's impact on economic activities in the area of influence, including how the activities of different localities that depend on agricultural and extractive activities (fishing and mining) will be affected. Based on the analysis, the Manual presents a methodology for the compensation of the population affected by the loss of economic activity, establishing the guidelines for such compensation.

MICI's criteria for determining compliance with the ROPs and findings of harm

¹⁶¹ ESAP, 5.1.

¹⁶² The Unit Values Manual was developed in accordance with Law 56 of 1881, Regulatory Decree 2024 of 1982.

- 2.180 **Studies of alternatives could not be updated due to the advanced status of the project.** MICI determined that IDB Invest complied with the first principle of OP-710 and with paragraph 8 of PS5.¹⁶³ Considering the Project's progress, which was already 40% complete, at the time of IDB Invest's involvement, updating the alternatives studies was not feasible because the location was irreversible.
- 2.181 **Census information.** MICI found that IDB Invest failed to verify the existence of an initial census or baseline, as required by paragraph 12 of PS5 and paragraph III.4 of the Environmental and Social Sustainability Policy of the IIC, and to ensure that the census was updated at the time of its involvement in the Project, because although Project documents indicate that 10 years had passed since the information was collected and the physical resettlement process was about to be completed, the economic displacement process was still underway.
- 2.182 **Inadequate monitoring and evaluation of two ESAP actions.** MICI concludes that IDB Invest failed to comply with paragraph 14 of PS5, OP-710, Directive B.7 of OP-703, and paragraphs III.1 and III.21 of the Environmental and Social Sustainability Policy of the IIC regarding the monitoring of actions 4 and 6 of the ESAP, in relation to the development of a matrix on the status of the resettlement process that could assist in understanding the initial baseline, and in relation to the monitoring and evaluation of resettlement actions, including any corrective actions related to the indicators provided for in the SMP.
- 2.183 **IDB Invest verified the implementation of compensation.** IDB Invest complied with PS5 in relation to verifying the implementation of the process for compensating persons affected by physical and economic displacement. Therefore, it also complied with Directive B.7 of OP-703 and paragraphs III.1, III.20, and III.21 of the Environmental and Social Sustainability Policy of the IIC by ensuring compliance with these provisions.
- 2.184 **Noncompliance with supervision obligation.** In view of the above, IDB Invest complied with paragraphs III.1, III.2, and III.21 of the Environmental and Social Sustainability Policy of the IIC and OP-703 Directive B.7 by supervising the implementation of the compensation process. On the other hand, IDB Invest failed to comply with paragraphs III.1 and III.21 of the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703, insofar as they require IDB Invest to supervise compliance with all the requirements of the ROPs.
- 2.185 **Harm.** The failure to develop a resettlement plan consistent with the essential requirements of OP-710, in particular the establishment of a complete social baseline and the requirements for monitoring and evaluating the plan's implementation, may have resulted in some people being left out of the baseline and in, even today, being excluded from it. IDB Invest's failure to meet the requirements for the effective monitoring and

¹⁶³ The first principle of OP-710 and paragraph 8 of PS5 state that, where involuntary resettlement is unavoidable, thorough analyses should be carried out to minimize the need for it.

evaluation of the situation of the displaced persons could have resulted in the failure to restore their living conditions to those they enjoyed before, as alleged by the Requesters.

4. Conflict, security, and violence

- 2.186 This section analyzes whether IDB Invest ensured that the Client (i) assessed the security risks to the Project-affected communities and established prevention and control measures; (ii) evaluated whether the security services retained by the Project meet the requirements set forth in the ROPs; and (iii) established management and mitigation plans for potential impacts, as well as measures for the adequate monitoring of their implementation.

Requesters' allegations

- 2.187 **Worsened lack of public security.** The Requesters allege that their communities are experiencing a lack of public security that has been worsened by the Project because of (1) criminalization of and death threats against leaders who have opposed the Project; (2) the intensified presence of armed actors in the Project area; (3) the various forms of violence that the Requesters claim to have faced (e.g., they claim to have been victims of reprisals)¹⁶⁴ since organizing themselves into Movimiento Ríos Vivos. Specifically, they have informed MICI of (1) three murders, two of which occurred in the region of Ituango and Toledo;¹⁶⁵ (2) 55 threats (both individual and collective); (3) 14 persons for whom the National Protection Unit has issued protective measures; (4) an attempted kidnapping for which the main suspect is the private security force working for the Client; (5) reports of torture perpetrated by security forces; and (6) permanent stigmatization by the Client and Project's investors, as well as by the mass media.¹⁶⁶
- 2.188 **2018 Incidents.** The Requesters also reported that in 2018 they experienced the highest number of reprisals against Project opponents who were members of the MRV. Among other acts of violence, they mentioned (1) 27 threats; (2) two murders of members of MRV and six murders of members' relatives; (3) four cases of harassment by Antioquia State authorities; (4) 20 cases of surveillance and vigilance; (5) 10 instances of discrimination for belonging to MRV, and (6) one case of unlawful detention by the Client.
- 2.189 **Forced evictions.** Finally, they allege the disproportionate use of force and violence in the forced evictions that have occurred during the years in which the Project has been implemented.

Management's response to the Request

¹⁶⁴ A reference to this issue is made at the beginning of this report in the section on reprisals.

¹⁶⁵ The Requesters reported that on 2 May 2018, Hugo Albeiro George Pérez, a member of Movimiento Río Vivos, and his nephew, Domar Egidio Zapata George, were killed during a public demonstration against the environmental and social risks of damming the Cauca River. They reported that those killed "were people affected by the Project," even though "the company had not recognized them as such." Original Request and Annex K.

¹⁶⁶ Annex H. Infographic on Security Incidents for Movimiento Ríos Vivos, 2009-2017, and Infographic on Security Incidents for Movimiento Ríos Vivos, 2018.

- 2.190 **The Project is located in a violent area.** IDB Invest indicated that the escalation of violence in the region has not discriminated between interest groups and that its victims include Project opponents as well as other stakeholders. Management regretted the murders of the persons referred to in the request and, in this regard, noted that the Client had requested an immediate investigation by the Attorney General's Office. It stressed that the Project's area of influence is a hotspot for violence where there are illicit crops and illegal armed groups.

Relevant Operational Policies

- 2.191 **Obligation to consider "other risk factors" associated with social concerns (OP-703).** Directive B.4 of OP-703 states that, in addition to risks posed by environmental impacts, the Bank will identify and manage other risk factors that may affect the environmental sustainability of its operations. The risk factors include elements such as risks associated with highly sensitive social and environmental concerns. Depending on the nature and severity of the risks, the Bank will engage with the executing agency/sponsor or third parties to develop appropriate measures to manage such risks.
- 2.192 **The preexistence of conflicts increases risk (PS4).** The introduction to PS4 explains that the preexistence of conflicts entails a higher level of risks and impacts, as the Project may exacerbate an already sensitive local situation and put a strain on scarce local resources, which in turn may lead to new conflicts. A footnote cites a Guidance Note (GN)¹⁶⁷ providing an explanation, for reference, on the understanding of this PS.¹⁶⁸
- 2.193 **Need for security risks and impacts assessment/identification and management measures (PS4, paragraph 5).** Paragraph 5 of PS4 establishes that, during the full project life-cycle, assessment of risks and identification of prevention, control, and mitigation measures must be carried out, favoring prevention over minimization, consistent with international good practices.¹⁶⁹
- 2.194 **Risks assessment of private security arrangements (PS4, paragraph 12).** Paragraph 12 of PS4 states that, when the client directly contracts workers or contractors to provide security to safeguard its personnel and property, it will assess risks posed by its security arrangements to those within and outside the project site. In making such arrangements, the client will be guided by the principles of proportionality and recommended international

¹⁶⁷ The PS are explained by Guidance Notes (GN) that offer direction on the requirements covered by the PS and on good sustainability practices to improve project performance. These GN are not intended to establish policy, but to explain the requirements of the Performance Standards.

¹⁶⁸ GN25 of GN4 provides that "...For larger operations or those in unstable environments, the review will be a more complex and thorough risks and impacts identification process that may need to consider political, economic, legal, military, and social developments, any patterns and causes of violence and potential for future conflicts. It may be necessary for clients to also assess the record and capacity of law enforcement and judicial authorities to respond appropriately and lawfully to violent situations. If there is social unrest or conflict in the project's area of influence, the client should understand not only the risks posed to its operations and personnel but also whether its operations could create or exacerbate conflict."

¹⁶⁹ International good practices established in the EHS Guidelines.

practice in relation to hiring, rules of conduct, training, equipping, and monitoring of such workers, and by applicable law. It also stipulates that the client will not approve any use of force except when used for preventive and defensive purposes in proportion to the nature and extent of the threat. The client will provide a grievance mechanism for affected communities¹⁷⁰ to express concerns about the security arrangements and acts of security personnel. The client will carry out reasonable investigations to ensure that those providing security are not implicated in past abuses; will train them adequately in the use of force (and where applicable, firearms), and appropriate conduct toward workers and affected communities,¹⁷¹ and will require them to act within the applicable law.

- 2.195 **Assessment and documentation of risks arising from the employment of government personnel (PS4, paragraph 13).** The same performance standard provides, in paragraph 13, that the client will assess and document risks arising from the project's use of government security personnel deployed to provide security services to the project. The client will seek to ensure that security personnel will act in a manner consistent with paragraph 12, and encourage the relevant public authorities to disclose the security arrangements for the client's facilities to the public, as long as general security is not compromised.¹⁷²
- 2.196 **Duty to investigate all allegations of illegal acts (PS4, paragraph 14).** Finally, paragraph 14 of this standard indicates that the client will consider and, where appropriate, investigate all allegations of unlawful or abusive acts of security personnel,¹⁷³ take action¹⁷⁴ (or urge appropriate parties to take action) to prevent recurrence, and report unlawful and abusive acts to public authorities.

¹⁷⁰ GN26 of GN4 establishes that "Community engagement is a central aspect of an appropriate security strategy, as good relations with workers and communities can be the most important guarantee of security. Clients should communicate their security arrangements to workers and Affected Communities, subject to overriding safety and security needs, and involve them in discussions about the security arrangements through the community engagement process described in Performance Standard 1."

¹⁷¹ GN 27 of GN4 states that: "Men and women usually have different security needs and experiences. Thus, in order to increase the chances of operational success, security personnel may need to consider the impact of their activities on local women, men, boys, and girls. Awareness of culturally-specific gender issues will help security staff to adjust to the Affected Community and to be more responsive to the cultural milieu in which they work, which can enhance local acceptance of the presence of private security staff. Clients may consider the inclusion of female security staff who not only can conduct searches on women, but who may also be able to take a different approach in identifying and handling security risks."

¹⁷² GN 33 of GN4 provides that: "Governments have the primary responsibility for maintaining law and order and the decision-making authority with respect to deployments. Nonetheless, clients whose assets are being protected by public security forces have an interest in encouraging those forces to behave consistently with the requirements and principles set out above for private security personnel in order to promote and maintain good relations with the community, bearing in mind that public security forces may be unwilling to accept restrictions on their ability to use offensive force where they consider necessary. Clients are expected to communicate their principles of conduct to public security forces, and express their desire that security be provided in a manner consistent with those standards by personnel with adequate and effective training."

¹⁷³ GN 32 of GN4 states that: "The client should record and investigate security incidents to identify any necessary corrective or preventive actions for continuing security operations. To promote accountability, the client (or other appropriate party such as the security contractor or appropriate public or military authority) should take corrective and/or disciplinary action to prevent or avoid a repetition if the incident was not handled according to instructions."

¹⁷⁴ The same guidance note instructs clients to follow up on reported unlawful acts by actively monitoring the status of investigations and pressing for their proper resolution.

- 2.197 **Supervision.** As stated in the General framework of reference section (paragraph 2.2 of this report), the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 establish IDB Invest's supervision obligations in relation to safeguards compliance.

Findings of the investigation

- 2.198 With regard to the findings of the investigation, this section will be divided into (1) context and management of Project security; (2) risk assessment; (3) management measures (prevention, control, and mitigation), and (4) incidents.

Context and management of Project security

- 2.199 **Context of heightened lack of public security, violence, and conflict.** The Project is being implemented in a context marked by high levels of violence and conflict, which have affected the communities in the area for decades. Although peace agreements have been signed, lack of public security in the Project area is considerably high and both the Army and the National Police continue to conduct security operations in the area.¹⁷⁵
- 2.200 **No specific analysis of the risk of exacerbating the conflict was required.** The ESRS refers to social investments targeting groups vulnerable to conflict and violence and raising awareness of human rights.¹⁷⁶ Similarly, the project's ESAP¹⁷⁷ includes references to a set of socioeconomic measures aimed at reducing different types of risks, which are generally related to the management of conflict and violence. However, MICI found no evidence that IDB Invest required the Client to provide a specific analysis of the risk that the Project could exacerbate an already sensitive local situation, such as the armed conflict in the area, which could lead to new conflicts.
- 2.201 **Notion of security in the ESAP and in the supervision framework.** MICI found that the reference to compliance with PS4 requirements focuses on the occupational safety of the project's workers, the Road Safety Plan, and the security required to respond to emergency events, but no mention is made of the safety of surrounding communities in terms of the risk that could be generated by the Project's development. As of 2020, the supervision process also reflects the management of the COVID-19 pandemic health emergency as part of its analysis of compliance with PS4.
- 2.202 **Private security at the Project site, according to the ESRS.** IDB Invest indicated in its ESRS that the Project hired private security services provided through a company and that it had no plans to use security forces provided by the government. According to this document, security personnel were unarmed, followed strict protocols, and were primarily responsible for protecting the project's facilities and personnel.¹⁷⁸

¹⁷⁵ See the "Geographic and social context section" at the beginning of this report.

¹⁷⁶ ESRS, p. 11.

¹⁷⁷ Ibidem.

¹⁷⁸ ESRS, p. 18.

- 2.203 **Precautions adopted by IDB Invest in the ESAP.** IDB Invest complied by requiring in the ESAP¹⁷⁹ that the Client provide a copy of the contract between EPM and the security company (or companies) to verify, among other things, that provisions are included enabling EPM (i) to conduct reasonable investigations to ensure that those in charge of security do not have police records and have not been involved in past situations of abuse; (ii) to detail the required training related to the use of force; and (iii) to place restrictions on the use of firearms.
- 2.204 **Security provided by public law enforcement authorities.** MICI confirmed during its June 2022 mission that, as reported by IDB Invest, Project security (in addition to being provided by a private security company) is being provided by the National Police and the Army through confidential agreements signed with the Client, which are based on the IHP's declaration of national interest.¹⁸⁰
- 2.205 **Role of the Army and the National Police.** Interviews conducted during the field mission confirmed the well-known fact that, to this day, the National Army is responsible for securing the Project's perimeter (with several military bases located around it), while the National Police are responsible for maintaining law and order (stationed at a police station in the Project area).

Risk assessment

- 2.206 **General identification of risks in the ESDD.** Regarding the identification of security and conflict risks, MICI found that after the ESDD process, the ESRS¹⁸¹ indicated that the entire region had been considered a "guerrilla zone and the FARC has had a presence there in the past." The information reviewed shows that the Project's SMP contained a general overview of the activities of the armed groups and the security risks for the affected communities.¹⁸²
- 2.207 **The risks of interaction between the Project and the context of violence were not identified.** Beyond its initial identification of risk in the ESDD, IDB Invest failed to ensure that it identified the risks associated with the Project's interaction with the context in which it was being developed and how that context affected the communities. It also failed to verify what risks or impacts were created by the potential interaction between the security services and the Project; and, during supervision, it failed to verify the risks that could be created by the involvement of public forces in providing security for the Project.

¹⁷⁹ ESAP, action 4.2.

¹⁸⁰ The Ministry of Mines and Energy declared the IHP to be of public utility and social interest (DUPIS) in Resolution 317 of August 26, 2008, as amended by Resolution 254 of September 22, 2010, and supplemented by Resolution 119 of April 29, 2013.

¹⁸¹ Ibidem, p. 19.

¹⁸² ESRS, p. 3; SMP, paras. 8.89 et seq.

- 2.208 **Reference to social conflicts and measures.** The SMP refers at several points to social conflicts in the Project's area of influence as a key risk. For example, it refers to the municipalities and the victims of illegal groups during the last 40 years, whose effects have destroyed the social fabric and community relations, delegitimizing State institutions and affecting community development. It also notes that citizen security and conflict resolution have been determined by cultural patterns associated with the armed conflict, which directly and indirectly affect coexistence and citizen security. Finally, it proposes measures to foster coexistence and citizen security and identifies the need to establish partnerships with municipal, departmental, and national governmental entities to build citizen and institutional arrangements that promote healthy coexistence and help rebuild the social fabric and community development.¹⁸³
- 2.209 **The SMP envisaged an observatory on the socio-political environment.** IDB Invest indicated in the ESRS that the SMP included a component called the "Follow-up and Reading the Surroundings Program," whose main objective, according to the ESRS, is to detect any situation that could change peace conditions in the region.¹⁸⁴ However, MICI was unable to verify the existence of such a program as part of the SMP. Instead, it found a program called "Program for Monitoring the Project's Area of Influence," whose general objective is to set up an observatory on the Project's socio-political environment, in order to identify relevant factors that could pose risks to the population in the area of influence and to the Project's normal execution.¹⁸⁵ The SMP considered that the dynamics of the Project's development may be conducive to the emergence of social, institutional, and community actors who, as they interact, may create positive or negative scenarios for the Project; therefore, it was necessary to analyze the social and political environment in order to identify the dynamics that these actors may bring about in the region.
- 2.210 **Observatory's general and specific objectives.** The observatory's general objective was "to implement strategies that promote the formulation of plans or agreements on citizen security and coexistence, in order to address the problems associated with community conflicts and armed conflict, with the active participation of community organizations and leaders, municipal governments, and authorities and entities with a presence in the project's area of influence."¹⁸⁶ The specific objective was to monitor the sociopolitical environment in order to identify the relevant elements that could put the population at risk. To this end, it was decided that a "stakeholder matrix" should be prepared¹⁸⁷ to identify the different stakeholders directly and indirectly related to the Project and their interrelationships during sensitive periods throughout the Project's construction phase (municipal elections, armed incursions, social protests, forced

¹⁸³ SMP, para. 8.57.

¹⁸⁴ ESRS, p. 19.

¹⁸⁵ SMP, para. 8.83.

¹⁸⁶ SMP, para. 8.85.

¹⁸⁷ The following were mentioned as examples of the actors to be considered in the matrix: institutional actors, including public security forces (Army and Police); social actors, such as representatives of civil society; and armed actors, such as guerrilla groups (FARC-EP, ELN), emerging gangs (Águilas Negras, Rastrojos, Urabeños, and others) and common crime groups.

displacements, municipal or departmental governmental actions, etc.). This matrix should be reevaluated every six months based on the results obtained in the different periods.¹⁸⁸

- 2.211 **Implementation of the observatory.** With regard to the implementation of this observatory, MICI found, based on a comprehensive review of documentary sources, that the objectives of the “Program for Monitoring the Project’s Area of Influence,” under which the observatory was created, were distorted and its original design was not implemented.
- 2.212 **Community Spokespersons Program.** As mentioned earlier,¹⁸⁹ MICI found, in its documentary review and from testimonies collected during its field mission, reference to the formation of the Community Spokespersons Program after the 2018 contingency. These spokespersons help to identify risks and levels of violence and crime in downstream communities.
- 2.213 **The Project’s risk matrix shows no associated risks for communities.** MICI had access to a Project’s risk matrix that appears in the Fifth IAP Report.¹⁹⁰ The matrix is dated February 2021. Based on the information provided in this matrix (Figure 3), it can be concluded that, as of that date, IDB Invest had not verified that Project risks associated with risks to or impacts on the communities were being assessed comprehensively. The matrix shows only risks to the Project and refers only to actions carried out by illegal armed groups against the Project or against interest groups related to the Project; while this could be interpreted as including the affected communities, this interpretation is not clear and conclusive. MICI further concludes that IDB Invest also failed to verify that the Client had assessed whether the Project’s existence could exacerbate the situation of conflict or violence in the region toward the affected communities.

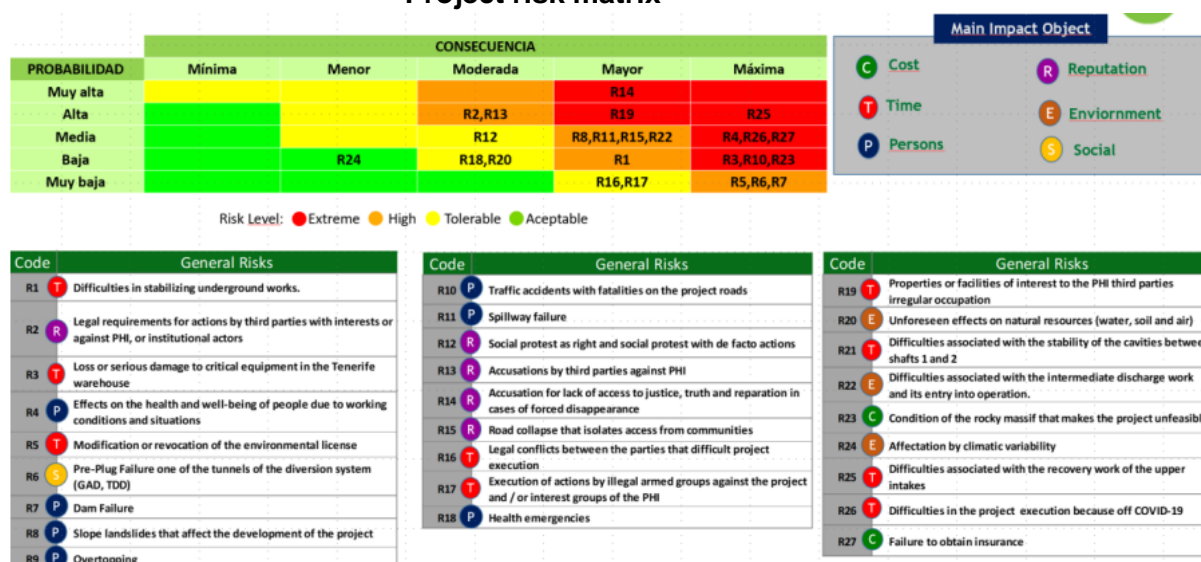
Figure 3

¹⁸⁸ SMP, para. 8.87.

¹⁸⁹ In the section related to consultation processes and forms of participation.

¹⁹⁰ IAP, Fifth Report, March 2021, p. 8.

Project risk matrix



Source: Fifth IAP Report, published on the IDB Invest website, Ituango Hydroelectric Plant.

2.214 **Presence of National Police and Army in the Project area.** MICI found that IDB Invest also failed to require an analysis of the potential risk to the affected communities associated with the presence of the National Police and the Army in providing security for the Project.

2.215 **Gender, conflict, and security.** MICI found no reference to the identification of differentiated security needs, risks, or impacts between men and women. This stems from the absence of a gender policy, an issue that has already been mentioned and analyzed in the relevant section of this report on gender-differentiated impacts.

2.216 **Migration, conflict, and security.** MICI found references throughout the SMP to the risk posed by migratory pressure in terms of conflict and security issues.¹⁹¹

Management measures (prevention, control, and mitigation)

2.217 **Human rights policy.** IDB Invest determined, during the ESDD process, that the client had a human rights policy that it found to be in line with Colombian law and international best practices, and consistent with the aim of seeking business management efficiency in a framework of good relations with employees, communities, and the environment.¹⁹²

2.218 **Lack of gaps closure through the ESAP.** The ESAP required the Client to submit to various policies, including those related to human rights, without stating whether this

¹⁹¹ SMP, paras. 8.1 et seq.

¹⁹² ESRS, p. 4. See [Política Institucional de Derechos Humanos de EPM](#) [Institutional Human Rights Policy of EPM]. Paragraph 3 states: "Security and human rights: Agreements and contracts for the provision of surveillance and security services with private companies and State security agencies explicitly include commitments to respect and promote human rights. In no case will the project accept the provision of these services by social actors outside the constitutional and legal framework."

should result in the implementation of prevention, control, or mitigation measures. Consequently, MICI finds that IDB Invest did not require the Client to assess, prevent, or mitigate any potential Project impacts on the situation of conflict and violence in the communities during the entire Project cycle.

2.219 **Measures in the Social Management Plan.**¹⁹³ MICI determined that, when IDB Invest became involved in the Project, the SMP included regional and specific risk management measures that addressed the issues of conflict and violence.¹⁹⁴ These management measures include several programs: (1) information and communication for participation; (2) comprehensive restoration of living conditions (related to displacement and resettlement issues); (3) institutional and community strengthening; (4) coordination of the Land-Use Planning Framework and Municipal Development Plans (activity focusing on resettlement); (5) monitoring and management of impacts due to migratory pressure; (6) regional development bridging (related, *inter alia*, to migratory pressure); (7) environmental education; and (8) monitoring of the Project's area of influence (project part of the aforementioned observatory on the socio-political environment). MICI finds that these measures help to reduce the risk of conflict and violence, as required by the Performance Standards. However, it found no evidence that IDB Invest had analyzed or measured their effectiveness.

2.220 **Protocol for private security action.** The ESRS states that private security personnel were unarmed, followed strict protocols to monitor persons entering and exiting the camps and, given that the project is in an area considered a guerrilla zone, checked every vehicle to ensure that it was not a threat to the facilities or personnel. The ESRS stated that security personnel were constantly being briefed on issues related to the use of force and appropriate behavior toward workers and the surrounding communities, and that a grievance mechanism was in place for the community to present any concerns regarding the security company.¹⁹⁵

2.221 **Prevention and control measures.** Several prevention and control measures addressing the risk of conflict and violence were mentioned in the face-to-face interviews conducted during the June 2022 field mission. Some of these measures were verified through documentation and/or supported by on-site observations and interviews: (1) agreements between the Client and public security providers, which are considered confidential, as mentioned earlier; (2) close and regular coordination between the Client and public security providers and other relevant institutions regarding possible security incidents; (3) unarmed, trained, and supervised private security providers (observed by MICI in the field); (4) commitments with interested parties, including members of Movimiento Ríos Vivos, through "dialogue tables" (confirmed through interviews with the Requesters and project staff, as mentioned earlier in this report); and (5) financing of engagement offices in the municipalities (confirmed through interviews with relevant stakeholders). MICI finds

¹⁹³ EIA, chap. 7, Social management plan.

¹⁹⁴ SMP, paras. 8.1 et seq.

¹⁹⁵ ESRS, p. 18.

that these measures help to reduce the risk of conflict and violence, as provided for in the PS. However, it found no evidence that IDB Invest analyzed or measured their effectiveness.

- 2.222 **Unarmed private security.** The Requesters' allegations refer to incidents in which private security was armed.¹⁹⁶ However, MICI determined, through Project documents and those related to the ESDD and the supervision phase, as well as through the interviews conducted during the June 2022 mission, that the measure to disarm private security had already been adopted when IDB Invest entered the Project and that other measures were adopted progressively. As stated at the beginning of this section, MICI observed guards and private security providers without weapons or helmets during its field mission. It was also noted that the Project's security personnel were equipped with communication devices, such as radios and cell phones, as well as dogs trained for deterrence purposes.
- 2.223 **Field observation of members of the National Police.** Finally, MICI also observed during the mission that police officers carry and move about with heavy defense equipment and weaponry. The police station is located in the immediate vicinity of the Project's Tacui Cuni camp.
- 2.224 **Verification of compliance with local laws and regulations.** Regarding verification of the Project's private security company's (or companies') compliance with national laws and regulations and existence of adequate action protocols, MICI found that the Project documents show that IDB Invest carried out this verification both in the framework of its ESDD and as part of its supervision. MICI considers that it was impossible for IDB Invest to conduct any verification of this nature with respect to the National Police or the National Army, who act under their legal mandates and their own action protocols in the performance of their duties.
- 2.225 **Performance evaluation.** MICI found that, as part of its supervision, IDB Invest required the Client to evaluate the performance of the private security companies. However, there was no confirmation of the results of this evaluation during 2018, 2019, and 2020, and it was not until the end of 2021 that IDB Invest noted that, although the results were presented, there were no indicators to measure them. Despite the lack of measurement indicators, MICI also determined, based on interviews with Client security officers during the June 2022 mission, that they were aware of and followed good international industry practice.
- 2.226 **Training measures.** MICI obtained information on training measures to strengthen the Client's organizational capacity with regard to (1) public security and order, and citizen security, (2) importance of assertive communication on physical safety, (3) communication

¹⁹⁶ In their verbal comments to the Draft Report during the July 10, 2023, meeting, the Requesters asked MICI to consult with the Supervisory Authority for Private Security and Surveillance [*Superintendencia de Vigilancia y Seguridad Privada*] to analyze potential human rights violations committed by the Project's private security companies. MICI conducted the relevant interviews during its investigation stage and consulted various documents to review compliance with the PSs cited in this section. It is also important to reiterate that MICI's mandate is to investigate IDB Invest and not the Client or its contractors.

strategies for reading the local context, (4) engagement with stakeholder groups, (5) conflict management, (6) system and procedure for complaints and grievances against security forces, (7) public or private security and surveillance companies, (8) illegal occupation of land (squatters), (9) socio-environmental conflicts, (10) migratory pressure and ethnic groups, (11) inclusion of legal value chains, and (12) human security. However, MICI found no evidence that these trainings included elements such as identifying how security could negatively impact human rights.

- 2.227 **Human rights training.** MICI found that IDB Invest ensured that the Client implemented human rights training for its private security providers. Employees of the Project's private security company also indicated, in interviews with MICI during its June 2022 mission, that they currently receive human rights training as part of their basic training. MICI was able to view the training schedule; however, no evidence of the topics and frequency of such training was provided.
- 2.228 **Training for law enforcement personnel.** As far as training the National Police and the Army is concerned, there are legal constraints that prevent both IDB Invest and the Client from requiring any training of the public security forces at the Project site.
- 2.229 **Update of protocols after 2015.** MICI notes that it was impossible to determine which protocols and processes were implemented in the Project's early years. From the interviews conducted during the mission, Project officials indicated that in 2015 the guide on the use of force and rules of engagement for private security providers was updated, including, as mentioned above, the non-use of firearms, which MICI was able to observe in the field. MICI reiterates that legal constraints prevent directing, analyzing, or limiting how the police or the army use force in their interventions. However, MICI notes that during interviews with the Requesters and with some members of the public security forces, it was acknowledged that the latter had used force in some evictions carried out throughout the Project cycle.
- 2.230 **Gender, conflict, and security.** MICI found that IDB Invest failed to require the adoption of management measures of any kind (prevention, control, or mitigation) to manage the risk of conflict and violence or to undertake security activities with a gender-differentiated approach. This noncompliance with the ROPs has been analyzed in the respective section of this report.
- 2.231 **Migration, conflict, and security.** MICI determined that IDB Invest ensured that the SMP acknowledged the likely impacts on the communities of Project-related migration in the area of direct influence, one such impact being the emergence of new social conflicts.¹⁹⁷
- 2.232 **Consultation mechanisms.** MICI found that there was no consultation with the affected communities regarding security measures to be implemented in the Project. This is not

¹⁹⁷ SMP, para. 8.3.

part of the obligations established by the ROPs or the PS, but it is mentioned in GN26 of GN4.

Incidents

- 2.233 **Evictions in years prior to 2016, the year IDB Invest became involved in the project.** According to what the requesters described in the request and recounted during the interviews conducted during the June 2022 mission, violence was used to evict people living on the land surrounding the reservoir. Most of these evictions date back to years prior to 2016, i.e., before IDB Invest's involvement in the project. As part of the ESDD, IDB Invest reported no incidents involving the use of force or conflicts with the community in the eviction process.
- 2.234 **Evictions before 2016.**¹⁹⁸ The requesters reported that the evictions were carried out by State security forces, either police or military, accompanied by civilian authorities such as inspectors and, in some cases, also by project personnel. In the field interviews, in all cases, the requesters described the use of force involving weapons, the violent destruction of people's homes, and threats and insults.
- 2.235 **Eviction of February 2017.** One of the most notable of these incidents occurred at Playa La Arenera in February 2017 and was reported in the news media. According to statements by the client and by Toledo authorities, these evictions were carried out "*legally and peacefully*" and "*accompanied by the authorities,*" and that they were carried out because people were "*illegally occupying land that was property of the Ituango Project.*"
- 2.236 **Allegation of disproportionate use of force and the ESMAD.** In relation to the disproportionate use of force, the requesters reported, in field interviews, that nearly 200 members of the security forces arrived to evict 80 people. Consistent accounts were also provided, affirming the use of violence by the Mobile Anti-Disturbances Squadron of the Police (ESMAD), an institution that began operating in the area after 2013. Even when talking about the use of force by private security providers, the community representatives mentioned the use of heavy weapons and "*hoods used to cover their faces.*" Interviewees stated that the police often used disproportionate force, including against women and children, during protests and in the eviction of communities from the land and part of the riverbanks where they lived. On this matter, a National Police representative stated in an interview that "during confrontations with the communities, force would only be used when the communities refused to leave, or returned to, the areas they were unlawfully occupying, but firearms would never be used."
- 2.237 **Monitoring of incidents.** MICI determined that, during the last few years that IDB Invest was involved with the project, it was aware of the client's continuous monitoring of the project's risks, including security incidents. However, MICI found no information on the

¹⁹⁸ In its comments to the Draft Report, the MRV reiterates the harm experienced as a result of evictions during 2010, 2011, and 2015, which MICI had already considered in this finding.

monitoring of security incidents specifically linked to the communities, according to the accounts described in the previous paragraphs.

Grievance mechanism and investigation procedures

- 2.238 **The grievance mechanism.** The information examined by MICI indicates that there is a mechanism in place to review complaints about incidents such as those reported by the requesters. During its involvement in the project, IDB Invest ensured that the client met this requirement and continuously identified areas for the improvement of this mechanism, such as the need to classify complaints by type¹⁹⁹ and to conduct the appropriate follow-up to document the outcome of the response provided, so that information would be available to take corrective actions. Finally, MICI noted a suggestion from IDB Invest to also distinguish whether any of the complaints came from the downstream communities affected by the 2018 contingency.
- 2.239 **No evidence of investigations.** The documentation to which MICI has had access provides no evidence that investigations were carried out, or that IDB Invest had requested information in this regard, based on paragraph 14 of PS4.
- 2.240 **Actions to support the grievance mechanism.** During field interviews with the client's representatives in June 2022, MICI was informed that the following actions are being carried out in support of the mechanism: (a) all risks are assessed, including socio-political risks, the presence of mines, human rights, and security and related violence; (b) protocols are in place to deal with possible incidents in close collaboration with national and local institutions; (c) social media platforms, including WhatsApp and Facebook, are available for communities to access information and share concerns; and (d) one of EPM's programs offers a variety of socioeconomic measures, such as psychosocial support to Project-affected communities, and includes the financing of engagement offices in the municipalities. However, MICI found no evidence that IDB Invest had verified the implementation of these measures or that their effectiveness had been evaluated.
- 2.241 **Response to security incidents and complaints.** During the June 2022 mission, representatives of the Requesters mentioned that they had filed complaints about some security incidents with the Attorney General's Office and that they had informed the Client about them. However, they never received a reply from either of them. Although support for these assertions was provided by the Requesters, at the time of writing this report, no copies of the allegations, complaints, or petitions filed with the Client or the Attorney General's Office have been received.
- 2.242 **Security personnel mention cooperating with authorities.** In interviews conducted during the June 2022 mission, some of the Project security officials referred to the

¹⁹⁹ Based on its review of the project documents, MICI clarifies that there are several categories of complaints, one of which is called "Public Security/Private Security/International Humanitarian Law."

commitment to uphold human rights in the exercise of security tasks; they even mentioned making evidence available to the authorities in the event of human rights violations.

- 2.243 **Comment from IDB Invest.** In its comments to the Draft Report, IDB Invest stated that this finding does not reflect the actions taken following the murder of two Project opponents, on May 2, 2018, when IDB Invest instructed the Client to submit a communication to the Attorney General's Office, the Office of the Inspector General of Colombia, and the Office of the Ombudsperson, requesting that they conduct an investigation to determine the motive and the perpetrators of this deplorable act. It added that the Client made this request in communication 20180130054592 dated May 3, 2018, the day after the event and after having received the instruction from IDB Invest. However, MICI found no evidence that IDB Invest ensured that these complaints had been monitored as required by the ROPs.

MICI's criteria for determining compliance with the ROPs and findings of harm

- 2.244 **Failure to identify risk factors and security impacts.** IDB Invest failed to comply with directive B.4 of OP-703 and paragraphs 2 and 5 of PS4 regarding the obligation to require the clear identification of risk factors and security impacts on affected communities associated with (i) social concerns related to the preexistence of armed conflict in the Project area and the possibility that the Project could exacerbate the already sensitive local situation; (ii) the presence of illegal armed groups within the project area; (iii) the presence of public security forces to protect the Project's development; and (iv) the potential for reprisals against Project opponents. The identification of security risks and impacts focused on risks to the Project itself rather than on the affected communities.
- 2.245 **Failure to comply with the obligation to design risk management measures.** Due to its noncompliance with the above obligation, IDB Invest also failed to comply with its obligation to design, with the Client, the appropriate management measures to manage these risks, as provided for in paragraph 4.18, Directive B.4, of OP-703. MICI recognizes that there are legal constraints on the ability to formulate management measures regarding the presence of State security forces, but there are no such constraints on identifying and assessing the risks and impacts of their presence in the Project (as noted in the preceding paragraph).
- 2.246 **No supervision of general management measures that help to manage security risks.** The SMP refers explicitly to the conflict, violence, and security situation in the Project area at the time of its adoption; it also contains general management measures of regional and area-specific risks. However, IDB Invest's supervision framework does not show that IDB Invest required an assessment of these measures' impact to adequately manage the prevailing conflict, violence, and security risks faced by the affected communities in the Project area, thus failing to comply with Directive B.7 of OP-703.

- 2.247 **Failure to implement a key measure to identify risk factors.** MICI considers that the implementation of a socio-political environment observatory, as foreseen in the Program for Monitoring the Project's Area of Influence, was a key measure for identifying risk factors and security impacts on the affected communities throughout the Project cycle. However, this observatory was not implemented and IDB Invest neither verified this omission during the supervision phase nor required corrective action in this regard, thus also failing to comply with Directive B.7 of OP-703.
- 2.248 **Prevention and control measures adopted, but not supervised.** IDB Invest complied with paragraphs 5 and 12 of PS4, as well as paragraphs III.1 and III.4 of the Environmental and Social Sustainability Policy, in terms of its obligation to verify the existence and implementation of prevention and control measures, such as (i) assessing risks posed by its security arrangements to those within and outside the Project site; (ii) ensuring that, in making such arrangements, the Client will be guided by the principles of proportionality and good international practice in relation to hiring, rules of conduct, equipping, (unarmed providers) and monitoring (close supervision) of such workers, and by applicable law; (iii) having a human rights policy in place, (iv) financing engagement offices in the municipalities; and (v) evaluating performance. However, IDB Invest's supervision framework does not reflect an assessment of the impact or effectiveness of these measures in adequately managing security risks to affected communities.
- 2.249 **Grievance mechanism implemented.** IDB Invest complied with paragraph 12 of PS4 and paragraphs III.1 and III.4 of its Environmental and Social Sustainability Policy in terms of verifying that the Client (i) had a grievance mechanism for affected communities to express their concerns regarding security aspects of the Project; (ii) conducted reasonable investigations to ensure that security officers had not been implicated in past abuses; and (iii) trained them adequately in the use of force and appropriate conduct toward workers and affected communities. With respect to the latter obligation, it was impossible for MICI to confirm the content of the training received by the private security personnel.
- 2.250 **Failure to assess risks arising from the use of government security personnel.** IDB Invest failed to comply with paragraph 13 of PS4 in relation to ensuring that the Client assessed and documented risks arising from the Project's use of government security personnel deployed to provide security services.
- 2.251 **Failure to verify investigation of all reports.** IDB Invest failed to comply with paragraph 14 of PS4 because it failed to ensure that the Client was investigating all allegations of illegal or abusive acts by security personnel that reached the grievance mechanism, including forced evictions, and that it was taking necessary corrective actions.
- 2.252 **Noncompliance with supervision obligation.** In view of the above, IDB Invest failed to comply with paragraphs III.1, III.20, and III.21 of the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703, insofar as they require IDB Invest to supervise compliance with all the requirements of the ROPs.

- 2.253 **Harm.** The Requesters have alleged that the Project's presence has made them less safe as Project opponents, indicating that: they have been criminalized and stigmatized; they have received threats; they have faced reprisals, forced evictions, and violence; and several of their leaders have been murdered. However, MICI must evaluate whether the instances of noncompliance with the ROPs have worsened the Requesters' lack of security or contributed to that worsening. Given that it is a well-known fact that the Project is located in a context of decades-long armed conflict, tremendous insecurity and violence, it is also highly likely that individuals who oppose a given Project will face reprisals. It is therefore impossible for MICI to ignore this contextual reality and establish a link—even in contributory terms—between IDB Invest's failures to comply with the ROPs and the harm alleged and experienced by the Requesters.
- 2.254 **Comment from the MRV.** In its comments to the Draft Report, the MRV expressly requested that MICI explain its conclusion that it was unable to establish a link or at least some form of contribution between the identified noncompliance and the potential harm. It expressly asked MICI to address this issue based on the information that the Colombian Ombudsperson's Office had provided to MICI. In this regard, we can confirm that MICI analyzed several reports from the Colombian Ombudsperson's Office to examine the risk factors the Office had identified as leading to the exacerbation of violence and insecurity. MICI examined the reports generated in the municipalities in the Project's area of influence since 2016, the year in which IDB Invest became involved in the Project.
- 2.255 The information gleaned from these reports shows that violence and insecurity as a risk to the civilian population in these municipalities arise from and is fueled by the armed conflict in all its dimensions. For example, one of the reports states: "The first element of the current risk is precisely the entry and control of the illegal armed group recognized as the Gaitanista Self-Defense Forces of Colombia (Autodefensas Gaitanistas de Colombia, AGC) after the demobilization of the AUC, and their encirclement of the Temporary Normalization Zone in Santa Lucía, with an armed presence due to their territorial expansion in Antioquia and southern Córdoba."²⁰⁰ It adds: "...The risk-generating factor for the civilian population in Ituango is the incursion and expansion of the AGC, which has created a favorable scenario for the expansion of other illegal armed groups with an interest in the territory."²⁰¹ In another report, the Ombudsperson's Office notes that: "The transformation of the conflict by the breakdown of previous agreements, the formation of new alliances, and the general interest of illegal armed groups in gaining control of the territory, control over transportation routes for drugs, weapons, and supplies, and social and economic control in the region, have intensified the risk scenario observed in August 2017, linked to the dynamics of the armed conflict in the south of the department of Córdoba and the Bajo Cauca subregion in Antioquia, creating the current risk situation

²⁰⁰ Office of the Ombudsperson of Colombia, Risk Report No. 037-17, August 14, 2017 (concerning Municipality of Ituango), p. 4.

²⁰¹ Ibid, p. 19.

that gives rise to this Early Warning of Imminence”.²⁰² Also regarding impacts on the population, a report states that: “During 2018, as homicides increased so did other forms of intimidation toward the civilian population, such as direct threats and widespread intimidation. The illegal armed groups thus sustained the fear and anxiety created by them with targeted killings, first securing social control in areas where territorial control had not yet been openly disputed.”²⁰³ With respect to the municipality of Valdivia, one of the reports also mentions attacks on law enforcement that resulted in the death of police officers, stating: “These attacks have led to widespread intimidation of the civilian population, who fear heightened vulnerability as a result of law enforcement agencies limiting their deployment in the territory as a military containment strategy, disregarding the requests of the at-risk population. [...] The proliferation of threats by illegal armed groups with a presence in the municipality of Valdivia has been one of the most frequent and uninterrupted crimes in the last four years, sometimes being the first offense to be perpetrated before others such as forced displacement or targeted killings.”²⁰⁴ These impacts derived from the violence of the armed conflict and unfortunately endured by the population within and outside the area of influence, originated before IDB Invest’s financing, have continued to this day, and are attributable to the territorial and social control processes of the armed conflict, its dynamics, and its progression. In its comments to the Draft Report, the MRV notes that it is not requesting that the Report establish a direct causal relationship between the Project and the violence, although it considers that such a relationship exists. Nor are they claiming that the loan or the Bank was responsible for the massacres and other harms, but rather that there should have been a different relationship with the people in the area who were already victims of the situation of violence. In this regard, MICI clarifies that indeed, one of the main findings of this investigation is that vulnerable populations were not identified and characterized—particularly those who are victims of the violence of the armed conflict—and that, consequently, no differentiated measures were designed for these populations. Paragraphs 2.24, 2.48, 2.61, 2.63, 2.65, 2.67, 2.68, 2.69, 2.72, 2.301, and 2.324 of this report confirm the finding or noncompliance. However, MICI is unable to conclude that it would have been possible to prevent the alleged harm from occurring, even in the case of full compliance with IDB Invest’s operating policies.

Environmental impacts and mitigation measures

5. Biodiversity, natural habitats, ecosystem services, and water flows

- 2.256 This section will analyze whether IDB Invest ensured that the Client assessed and characterized the potential environmental impacts of the Project, adopted adequate environmental measures to respond to environmental risks, and established management

²⁰² Office of the Ombudsperson of Colombia, Early Warning of Imminence No. 029 - 18, March 9, 2018 (concerning the municipality of Ituango), p. 5.

²⁰³ Office of the Ombudsperson of Colombia, Early Warning No. 004-2020, January 24, 2020 (concerning the municipalities of Ituango and Briceño), p. 25.

²⁰⁴ Office of the Ombudsperson of Colombia, Early Warning No. 002-19, January 04, 2019 (concerning the municipality of Valdivia), pp. 8, 14.

and mitigation plans for such impacts, as well as measures to adequately monitor their implementation.

Requesters' allegations

- 2.257 **Serious impacts on the area's natural resources.** The Requesters allege that Project construction (1) has contributed to the disappearance of the habitats of endemic and endangered species and (2) has destroyed a large part of tropical dry forest.²⁰⁵ The Requesters also assert that the alleged impact of forest logging has not been mapped as part of the chain of interdependence of the ecosystem and that no measures for its management have been established. In addition, they argue that if flooding were to occur, the river flow could change and water quality could deteriorate. As an example, they note that, downstream, sedimentation of the riverbed and the Caucasia marshes has already occurred, causing species loss and soil quality degradation due to the loss of soil fertility.
- 2.258 **Although the original Request²⁰⁶ does not specifically mention impacts on ecosystem services, MICI identified this topic as relevant in its Recommendation to investigate,** because, throughout MICI's case management the Requesters have indicated that reviewing this issue is vitally important to the investigation.²⁰⁷

Management's response

- 2.259 **Regarding the environmental and social assessment process, IDB Invest indicates that it complied with the requirements of OP-703 and PS1.** It also clarifies that the methodologies and international best practices for identifying and assessing environmental impacts are based on assumptions that do not always reflect actual conditions; and that, in the best of cases, they focus on determining the most likely and most significant impacts, always through the lens of probability of occurrence. Management notes that, unlike OP-703, PS1 requires the creation of an "environmental and social management and occupational health and safety system" (ESMS-OHS), whose objective, among others, is to identify in advance possible impacts that the EIA process would not have been able to identify. In this case, IDB Invest affirms that the Project, in addition to having a well-prepared EIA, has a solid ESMS-OHS that has been in place even before the start of the Project's construction.²⁰⁸
- 2.260 **Land Habitat Compensation Plan and Integrated Management System for Biodiversity and Ecosystem Services.** In its comments on the draft version of the Recommendation for a Compliance Review, Management indicated that a Land Habitat Compensation Plan was being implemented, which consisted of an "adaptive plan to allow for the management of any species not identified when establishing the baseline for the

²⁰⁵ The Requesters assert that one of the causes of wildlife displacement is the loss of flora for species' breeding sites.

²⁰⁶ Claim before the Independent Consultation and Investigation Mechanism (MICI) of the Inter-American Development Bank (IDB).

²⁰⁷ Recommendation for a Compliance Review, para. 6.25.

²⁰⁸ Management's Response, p. 7.

development of the original plan,”²⁰⁹ and that this plan is “complemented by an Integrated Management System for Biodiversity and Ecosystem Services.”²¹⁰

Relevant Operational Policies

- 2.261 **Financing will only be provided for operations already underway if they comply with OP-703.** As noted in previous sections of this report, Directive B.12 of OP-703 states that the IDB Group will finance operations already under construction, only if the borrower can show that the operation complies with all relevant provisions of this Policy. It also provides that, in the event of identified noncompliance, an action plan, with defined actions and a timetable for implementation, must be submitted to IDB Invest prior to Board approval of the operation. These obligations are also reflected in paragraphs III.1, III.2, and III.4 of the Environmental and Social Sustainability Policy of the IIC.
- 2.262 **An ESMS commensurate with the nature and scale of the project, including key risks and impacts and management measures.** In relation to the management of potential risks and impacts, PS1 requires establishing and maintaining an Environmental and Social Management System (ESMS) appropriate to the nature and scale of the Project and commensurate with the level of its environmental and social risks and impacts. Directive B.5 of OP-703 states that key impacts and risks and the design of the environmental and/or social measures proposed to avoid, minimize, compensate and/or mitigate these risks, among other elements, must be included.
- 2.263 **Identification of impacts on biodiversity and ecosystem services.** Paragraph 6 of PS6 states that the risks and impacts identification process as set out in PS 1 should consider direct and indirect project-related impacts on biodiversity and ecosystem services and identify any significant residual impacts. This identification process will consider relevant threats to biodiversity and ecosystem services, especially focusing on habitat loss, degradation and fragmentation, invasive alien species, overexploitation, hydrological changes, nutrient load, and pollution. It will also take into account the different values for the affected communities and, where appropriate, other stakeholders.
- 2.264 **Avoiding impacts on biodiversity and ecosystem services.**²¹¹ PS6 also states, in paragraph 7, that impacts on biodiversity and ecosystem services should be avoided.²¹²

²⁰⁹ MICI, Recommendation for a Compliance Review and Terms of Reference. Revised Version. Ituango Hydroelectric Project. MICI-CII-CO-2018-0133, p. 77. (Management’s Comments on the Draft Recommendation for a Compliance Review, p. 11).

²¹⁰ Idem.

²¹¹ PS6 defines ecosystem services as the benefits that people, including businesses, derive from ecosystems. It identifies four: provisioning services, regulating services, cultural services, and supporting services.

²¹² PS6 on Biodiversity Conservation and Sustainable Management of Living Natural Resources defines ecosystem services as the benefits that people, including businesses, derive from ecosystems. There are four types of ecosystem services: (1) provisioning services, which are the products people obtain from ecosystems; (2) regulating services, which are the benefits people obtain from the regulation of ecosystem processes; (3) cultural services, which are the nonmaterial benefits people obtain from ecosystems; and (4) supporting services, which are the natural processes that maintain the other services.

When it is not possible to avoid them, measures should be taken to minimize impacts and restore biodiversity.²¹³ Regarding ecosystem services, paragraph 24 specifies that a systematic review will be carried out to identify priority ecosystem services. In addition, where affected communities are likely to experience impacts, they should participate in the determination of priority ecosystem services, taking into account the uses and values attached to them by the communities. Lastly, paragraph 25 of PS 6 provides that the Client will implement mitigation measures.

- 2.265 **Biodiversity offsets.** In paragraph 10, PS6 states that, for the protection and conservation of biodiversity, the mitigation hierarchy includes biodiversity offsets, which may be considered only after appropriate avoidance, minimization, and restoration measures have been applied. A biodiversity offset should be designed and implemented to achieve measurable conservation outcomes that can preferably result in a net biodiversity gain. However, for critical habitats, a net biodiversity gain is required. The design of a biodiversity offset must adhere to the “like-for-like or better” principle²¹⁴ and must be carried out in alignment with best available information and current practices. When a client is considering the development of an offset as part of the mitigation strategy, external experts with knowledge in offset design and implementation must be involved.
- 2.266 **Critical habitats.** In Directive B.9, OP-703 specifically states that the IDB Group will not support operations that in its opinion involves the significant conversion or degradation of natural habitats, unless (1) there are no acceptable feasible alternatives, (2) comprehensive analysis demonstrates that overall benefits from the operation substantially outweigh the environmental costs, and (3) the operation includes acceptable mitigation and compensation measures that are adequately funded, implemented, and supervised. PS6 similarly states that natural habitats will not be significantly converted or degrades unless (1) it is demonstrated that no other viable alternatives exist, (2) consultation has established the views of stakeholders, including affected communities, with respect to the extent of conversion and degradation, and (3) any conversion or degradation is mitigated. Paragraph 8 of PS6 states that, in the case of natural and critical habitats, competent professionals will be retained to assist in identifying risks and impacts and in designing their management measures.

²¹³ Guidance Note 30 of PS6 specifies that: “A biodiversity offset is a set of actions with on-the-ground ‘measurable conservation outcomes’ that can balance significant residual biodiversity losses caused by the client’s project only after appropriate avoidance, minimization and restoration measures have been applied, with equivalent biodiversity gains in terms of ecological characteristics (‘like-for-like or better’) and size of expected gains. The decision to undertake a biodiversity offset therefore would never be a substitute for the implementation of good management practices that prevent significant impact. The actions must be designed to deliver ‘on-the- ground’ conservation outcomes for as long as project impacts persist, usually at one or several offset sites located within the region.”

²¹⁴ The standard includes a footnote that reads as follows: “The principle of ‘like-for-like or better’ indicates that biodiversity offsets must be designed to conserve the same biodiversity values that are being impacted by the project (an ‘in-kind’ offset). In certain situations, however, areas of biodiversity to be impacted by the project may be neither a national nor a local priority, and there may be other areas of biodiversity with like values that are a higher priority for conservation and sustainable use and under imminent threat or need of protection or effective management. In these situations, it may be appropriate to consider an ‘out-of-kind’ offset that involves ‘trading up’ (i.e., where the offset targets biodiversity of higher, priority than that affected by the project) that will, for critical habitats, meet the requirements of paragraph 17 of this Performance Standard.”

2.267 **Mitigation strategy.** Finally, PS6 (paragraph 18) provides that, where a client is able to meet the requirements outlined in the previous paragraph, the project's mitigation strategy will be described in a Biodiversity Action Plan. This Plan will be designed to achieve net gains of those biodiversity values for which the critical habitat was designated. To achieve this, the Plan will propose biodiversity offsets as part of the mitigation strategy, verifying through an assessment that the project's significant residual impacts on biodiversity will be adequately mitigated. If significant impacts on the affected communities are unavoidable, mitigation measures will be implemented with the objective of maintaining the value and functionality of priority ecosystem services, as described in PS3.

2.268 **Supervision.** As stated in the General framework of reference section (paragraph 2.2 of this report), the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 establish IDB Invest's supervision obligations in relation to safeguards compliance.

Findings of the investigation

2.269 The findings section of this thematic axis is divided into three parts: (a) findings on biodiversity and natural habitats, (b) findings on ecosystem services, and (c) findings on water flows.

Findings on biodiversity and natural habitats

2.270 **Identification of potential impacts.** The Project's environmental and social assessment identified a high level of intervention on natural resources in the Project's area of influence, such as mining and commercial logging. It was noted that these activities prevented the recovery of plant species.²¹⁵ MICI found that a baseline was established in accordance with international good practices. With respect to biodiversity, the EIA also noted the low diversity of terrestrial species and identified two major migratory fish breeding areas. The following potential environmental impacts were also identified: (1) habitat loss or fragmentation²¹⁶ during the construction stage, due to the removal of vegetation, disposal of excavation material, and the filling of the reservoir; (2) death and displacement of fauna species; and (3) changes in the abundance of fish species in the Cauca River.²¹⁷

2.271 **Design of management measures.** To manage potential impacts, compensation measures were developed to offset the impact of forest harvesting and biomass removal on vegetation cover, restoring the forest cover.²¹⁸ The following biotic environment

²¹⁵ It was also noted that they presented various threats such as loss of wetlands, river pollution, overfishing, and the introduction of invasive species, among others.

²¹⁶ The EIA noted that the removal of vegetation cover and soil has an irreversible and permanent impact on terrestrial wildlife habitats; as a result, some populations may be temporarily or permanently isolated depending on their ability to move and the distances generated between habitat fragments.

²¹⁷ EIA, 2011, paras. 5.5, 5.8, 5.9, 5.19, 5.49, 54.

²¹⁸ EIA, 2011, para. 5.44.

management programs were also developed (1) for management of habitats and organisms (wildlife and fish conservation) and (2) for vegetation management (forest harvesting and biomass removal, forest cover restoration, and compensation for forest cover damage).²¹⁹

2.272 Critical habitat assessment. During the ESDD process, IDB Invest verified the possible existence of critical habitats through various studies and plans²²⁰ concerning biodiversity management in the Project. The ESRS states that the Project would directly affect small patches of natural habitat on the banks of the Cauca River that would be flooded by the formation of the reservoir. A few tens of hectares of these patches were identified as critical habitat. The updating of the baselines of the terrestrial flora and fauna components (done in 2014) showed a mosaic of isolated areas within the Project's area of indirect influence that could be considered critical habitats. However, it was specified that these areas would not be affected by the Project; instead, they would be managed as part of the Land Habitat Compensation Plan.²²¹

2.273 Land habitat compensation plan. This plan, which existed before IDB Invest's involvement in the Project, seeks to ensure that the Project does not generate a net negative impact on natural habitats, but rather that it achieves a net biodiversity gain. About 47% of the total land acquired for the project would be used as land habitat compensation.²²² MICI emphasizes that the purchase of this land is one of the initial activities needed to establish an offset and is consistent with the ROPs.

2.274 Aquatic habitat compensation plan. IDB Invest verified that the Client also prepared, in April 2016, an Aquatic Habitat Compensation Plan. This study identified four properties in the municipality of Cauca as potential offset sites. These properties are associated with wetland systems in urban and rural areas, comprising 28.54 ha of water bodies, 11.33 ha of buffer zone, and 7.19 ha of additional management area on one of the properties.

2.275 IDB Invest's requirements of the Client in the ESAP. To address gaps found during the ESDD process, IDB Invest subsequently required two actions from the Client in the ESAP relating to habitat compensation plans: (1) determine the land compensation area (action 6.3.1) in a manner that includes (i) its characterization, (ii) the respective management plan, (iii) a risk analysis of land acquisition and action; and (2) determine the fish compensation area (6.3.2) to include (i) its characterization, (ii) the respective management plan, and (iii) a risk analysis of land acquisition.

²¹⁹ EIA Update, chap. 07, pp. 7-186.

²²⁰ The studies carried out during the project were: (1) updating of the baselines of the project's terrestrial fauna and flora components; (2) academic studies on migratory fish; (3) study of "genotypic and phenotypic variation of populations of rheophilic fish species present in the project's area of influence"; (4) adaptive management plan for the conservation of fish species in the Cauca River; and (5) compensation plan for aquatic habitats associated with wetland systems in urban and rural areas.

²²¹ ESRS, p. 22.

²²² ESRS, p. 25.

- 2.276 **Plan designs consistent with good practice.** IDB Invest verified the existence of compensation plans that, in MICI's opinion, were designed in accordance with good practice to achieve zero loss or a net gain through restoration actions, identifying gaps and recommending specific actions to address the requirements of PS6 related to biodiversity.
- 2.277 **Development of conservation outcome metrics.** Although IDB Invest was monitoring the compensation plans, MICI found that, at the time of its exit from the Project, IDB Invest had failed to verify that there was a specific metric framework for evaluating conservation outcomes within the Project.
- 2.278 **During the supervision phase of the project, IDB Invest verified that the two actions required in the ESAP related to habitats were completed.** Management confirmed that the compensation plan included the criteria for determining the offset areas. IDB Invest also supervised the acquisition of land for the land compensation plan to increase the connectivity of terrestrial environments, terrestrial and aquatic fauna rescue actions, and actions related to aquatic habitats. Based on the documentation it reviewed and analyzed, MICI found that IDB Invest supervised compliance with the actions established in the ESAP related to habitats.
- 2.279 **Periodic reporting of information on restoration actions.** As part of IDB Invest's Project supervision, in relation to the results of the restoration actions, MICI found evidence of periodic reporting on the status of the offset area—both terrestrial and aquatic—including an analysis of (1) connectivity between critical areas, (2) the effectiveness of the respective management plan, (3) the conservation of biological corridors, and (4) the conservation or recovery of ecosystem services.

Findings on ecosystem services²²³

- 2.280 **Identification of economic activities in the area.** The 2011 update to the EIA identified that the Project's area of influence included economic activities such as agriculture, livestock, fishing, and mining, which employed 50% of the male population and 11% of the female population. It was also noted that the majority of the population was self-employed in agriculture and mining activities. As part of this initial identification, MICI found that the EIA did not assess whether the community used the river or any other natural resource²²⁴ as part of an ecosystem service.²²⁵

²²³ The analysis of ecosystem services, in light of paragraphs 24 and 25 of PS6, establishes that it is only possible to identify a service if there is a beneficiary, and that there can be no evaluation of ecosystem services without identifying the beneficiaries of each service, their location in relation to the area that provides each service or group of services, and without knowing the benefits obtained. This reasoning is key to understanding how the project can affect the provision of services to its beneficiaries.

²²⁴ In the 2011 update of the EIA, the water quality of the river was characterized by a medium level of pollution.

²²⁵ EIA, 2011, paras. 5.2, 5.4, 5.8, 5.12.

- 2.281 **Identification of potential impacts on economic activities.** The following potential impacts were identified in the environmental and social assessment based on the “with project” scenario: (1) impact on water quality and (2) possible changes in economic activities. With regard to the former, it was noted that activities such as the clearing of vegetation, surface and underground excavations, and the exploitation of material, could diminish the quality of water sources, which could be affected by the discharge of household and industrial wastewater from the municipalities in the Cauca River basin. It was also noted that water availability would be affected during Project construction due to construction-related water use and consumption activities.²²⁶ With respect to possible changes in economic activities, it was observed that some people may choose to discontinue traditional work and seek to join the project, given the offer of more stable and better-paid direct and/or indirect employment. It was further indicated that, although some people’s property may not be affected, their economic activity could be totally or partially restricted, for example, if they are engaged in artisanal mining.²²⁷
- 2.282 **Design of measures to manage adverse impacts on water quality and economic activities.** Measures to prevent and control the potential impact on water quality were included through the development of management programs for (1) waste, (2) surface water, (3) wastewater, (4) instability, (5) erosion, (6) excavation materials, and (7) caves and material sources. With respect to the availability of water resources, plans were made to develop a surface water management program and monitor the measurement of captured flows.²²⁸ In addition, programs such as the following were planned to manage the impact of changes in the economy: (1) restoration of living conditions, (2) job creation, and (3) strengthening of productive activities.²²⁹ MICI finds that these last three measures were designed exclusively to address potential impacts on economic activities, with no reference to ecosystem services or how they might impact community livelihoods.
- 2.283 **IDB Invest detected a gap in the identification of ecosystem services.** IDB Invest detected a gap in the identification of priority ecosystem services and their respective mitigation and compensation measures. To address this gap, IDB Invest included the following actions in the ESAP: (1) provide an ecosystem services identification and characterization study, including consultations with affected communities (action 6.4.1), which was to be completed by 15 October 2016; and (2) provide information on mitigation and compensation measures to address adverse impacts on priority ecosystem services of relevance to affected communities (action 6.4.2), prior to the first disbursement (December 2018).
- 2.284 **Action Plan for the Integrated Management of Biodiversity and Ecosystem Services (APBES).** The first action requested in the ESAP (to provide a study of ecosystem services) was satisfied through the delivery of a document called the Action Plan for the

²²⁶ EIA, 2011, paras. 5.2, 5.8, 5.12, 5.15, 5.19, 5.27, 5.28, 5.29, 5.30.

²²⁷ EIA, 2011, para. 5.78.

²²⁸ EIA, 2011, paras. 5.29, 5.31.

²²⁹ EIA, 2011, para. 5.81.

Integrated Management of Biodiversity and Ecosystem Services (APBES) in the Project's area of influence,²³⁰ which some other project documents characterize as "preliminary." This study can be found on the IDB Invest Project website. However, MICI found that IDB Invest overlooked that (1) the study lacked a complete analysis of the ecosystem services impacted by the Project and relevant for the communities in the area of influence; and (2) it lacked a mitigation and/or compensation plan for the impacts on these ecosystem services.

- 2.285 **Outdated and incomplete APBES references.** MICI found that IDB Invest also failed to identify that APBES presented a conceptual framework on ecosystem services based on references dating back to 2013 and did not mention Performance Standards or any other way of applying the concept of ecosystem services to the environmental and social impact assessment, as required by the ROPs. It also failed to verify (1) that the beneficiaries were properly identified and a consultation process involving all affected communities was carried out in accordance with the ROPs,²³¹ (2) the benefits they derive from the ecosystems, (3) how the project may affect the services and benefits offered, and (4) what the management measures would be for addressing Project impacts on ecosystem services.
- 2.286 In subsequent Project documents, relevant to the study of ecosystem services, MICI found that among other ecosystem services, *barequeo*²³² was identified as an ongoing year-round practice, along with fishing, and that the remaining shortcoming in the APBES was the absence of management measures to address Project impacts on ecosystem services.²³³
- 2.287 **Comments from the MRV.** In its comments to the Draft Report, the MRV describes the Project's impacts on the population and the harm that has been caused. It emphasizes the loss of *barequeo* (gold panning) and fishing activities as a way of life and livelihood, which not only entails economic or material losses, but also affects the life plans, identity, and culture of the individuals and communities of the Cauca Canyon and the Cauca River, particularly the life plans, identity, and culture of women. It maintains that these were traditional activities, a product of the relationship between past and present generations, and that they structured the daily life of families and communities along the river. In view of this comment, MICI recalls that *barequeo* is considered an ecosystem service and, consequently, the harm alleged by the MRV in relation to *barequeo* is examined in paragraph on Harm of this chapter, as well as in the Ecosystem services section of the Biodiversity, natural habitats, ecosystem services and water flows chapter.

²³⁰ Partnership Agreement CT-2015-001294 (15-121) EPM – HTM – lavH. Progress Partial Deliverable No. 2 Scope 1 Action plan for the integrated management of biodiversity and ecosystem services (APBES) in the area of influence of the Ituango Hydroelectric Project, Progress Report June 12, 2016. No final version of the APBES was published.

²³¹ The APBES indicates that a consensus was reached with the communities involved in the process undertaken for this purpose, but does not explain how this consensus was reached. In addition, very few communities were involved in the process.

Findings on water flows

- 2.288 **Explanatory note on water flows and the 2018 contingency.** In this section, some of the Project's impacts on the hydrological regime of the Cauca River will be analyzed, based on Directive B.5 of OP-703 and PS1. Flow variations due to the 2018 contingency are not the subject of this analysis; nor is the evaluation of the technical and operational decision that led to changes in the minimum flow rate established during this contingency.
- 2.289 **The EIA finds changes in river dynamics, with adverse effects.** MICI determined that the EIA analyzes effects such as the "adverse impact on the availability of surface and groundwater resources" and the "modification of the fluvial dynamics of surface waters and navigability of the Cauca River," and reports that "as part of the quantitative assessment of the Project's effects on fluvial dynamics, a simulation of the effect of its operation on the flow regime conditions and sediment retention downstream of the dam site was carried out using HEC-6 software."²³⁴ The description of this impact states that the dam will trap sediment and that the downstream channel "will become more abrasive," with expected erosion ("degradation"). It concludes that "the change in the dynamics of the Cauca River has negative effects on its behavior and, consequently, on its navigability, due to variations in the flow regime governed by the discharge operation."²³⁵
- 2.290 **Regarding the area of influence of this impact,** the EIA states that the changes in the geomorphological behavior of the Cauca River will extend from the tail of the reservoir to sectors downstream of the Project, where the river regains its stability and water quality improves.²³⁶ A sediment and river dynamics study, which is also part of the EIA, assesses sediment retention in the reservoir and predicts the area to which the effects of erosion on the riverbed may extend.²³⁷
- 2.291 **Flow study in the EIA.** Flow rates were studied in the updated EIA. This document reports that the water levels and flows of the Cauca River were studied based on data from several official limnological stations²³⁸ operated by IDEAM, from 317 km upstream of the dam site to 203 km downstream at the Las Flores locality.²³⁹
- 2.292 **The EIA does not point to the decrease of downstream flows as a possible impact.** During the ESDD process, it was only indicated that, during the filling of the reservoir, the project will ensure the discharge of the minimum water flow required by ANLA of 450 m³/s.

²³⁴ EIA Update, chap. 5, pp. 5-24.

²³⁵ EIA Update, chap. 5, pp. 5-34.

²³⁶ EIA Update, chap. 5, pp. 5-35.

²³⁷ EIA Update, chap. 5, pp. 5-127 et seq.

²³⁸ Institute of Hydrology, Meteorology, and Environmental Studies ([Instituto de Hidrología, Meteorología y Estudios Ambientales](#))

²³⁹ EIA Update, chap. 03, pp. 3-102.

- 2.293 **Minimum flow rate.** Regarding minimum flow rates, the EIA states that: “[...] The Project’s Environmental Constraints Study (ECA), carried out in 2004, considered it essential to establish a system for closing tunnels and filling the reservoir in order to guarantee a flow of at least 300 m³/s, which is close to the minimum historical flow recorded in the Cauca River in the Project area.” However, this rate was ultimately set by the Ministry of Environment, Housing, and Territorial Development during the filling of the reservoir at 450 m³/s, which is associated with a return period of around 2.33 years.²⁴⁰
- 2.294 **The ESRS states that the river will maintain a minimum flow of 450 m³/s.** Similarly, the ESRS reports that “[...] filling the reservoir includes operating the diverter gates and the bottom and middle discharges to always maintain a minimum water flow of 450 m³/s, promoting, during this process, a controlled filling of the reservoir until the relief height is reached and preventing the dewatering of the river; [...] just a few hundred meters downstream from the dam site, the Cauca receives the Ituango River, which has a flow rate that is comparable to that of the Cauca River’s ecological flow. With this, the river will never be dewatered and even at times of maximum generation and zero relief, only a small stretch of the river measuring a couple of hundred of meters would be affected by a flow decrease.”²⁴¹
- 2.295 **The Contingency Plan and preventive measures for emergencies caused by reduced water flow.** As discussed in the Risk management chapter of this report (paragraphs 2.37-2.72), the EIA includes a contingency plan. This plan identified a number of hazards, including a “river flow decrease below the ecological flow rate” and its consequences.²⁴² One of the management measures refers to “preventive measures for emergencies caused by a river flow decrease below the ecological flow rate,”²⁴³ which is related to possible hydrological problems rather than to a flow decrease due to situations such as the contingency that occurred in 2018. There are also “emergency response measures for decreased river flow below the ecological flow level” to alert the population and remove fish from the river “that have died because of the temporary water quality conditions.”²⁴⁴
- 2.296 **No noncompliance with the ROPs was found with respect to water flows.** In conclusion, MICI has not found any noncompliance with the ROPs in relation to the minimum flow rate required in the project under normal conditions.

MICI’s criteria for determining compliance with the ROPs and findings of harm in relation to biodiversity and natural habitats, ecosystem services, and water flows.

- 2.297 **Biodiversity and natural habitats.** MICI concludes that IDB Invest complied with Directive B.9 of OP-703, with PS6, and with the Environmental and Social Sustainability

²⁴⁰ EIA Update, chap. 03, pp. 3-110.

²⁴¹ ESRS, p. 25.

²⁴² EIA Update, chap. 9, paras. 9.7 et seq.

²⁴³ EIA Update, chap. 9, para. 9.54.

²⁴⁴ EIA Update, chap. 9, paras. 9.70-9.71.

Policy (paragraphs III.1, III.2, III.4, III.20, and III.21) since, from the ESDD, Management verified the existence of gaps and identified actions to address them in its ESAP. MICI also verified that compliance with biodiversity offset obligations for potential Project impacts on natural habitats in both terrestrial and aquatic environments was monitored. IDB Invest ensured that potentially existing critical habitats in the Project's area of influence would not be adversely affected by the operation. MICI found that Management supported the implementation of the land and aquatic habitat compensation plans and guided the Client to (1) demonstrate that the Project could achieve zero net loss; and (2) develop and apply metrics for (a) reporting whether the actions taken were sufficient to demonstrate conservation outcomes and (b) evaluating the effectiveness of the measures adopted. However, despite the abovementioned relevant actions taken by IDB Invest, the obligation to implement a metric framework to evaluate conservation outcomes had not been met as of the institution's exit from the project. IDB Invest thus failed to comply with the Sustainability Policy of the IIC (paragraphs III.1 and III.21), Directive B.7 of OP-703, and paragraphs 7 and 10 of PS6.

- 2.298 **Ecosystem services.** MICI concludes that IDB Invest failed to comply with Directive B.5 of OP-703, the Environmental and Social Sustainability Policy of the IIC (paragraphs III.1 and III.4), and paragraphs 6 and 7 of PS6 because Project documents addressing the gaps identified in the ESAP in this area failed to identify and propose measures for managing the impacts on ecosystem services based on the mitigation hierarchy. The assessment of impacts on ecosystem services is not limited to the identification and determination of the significance of those impacts. IDB Invest's Client request to produce an impact assessment on ecosystem services for a project that was already under construction only makes sense if that study also analyzes, at a minimum, whether the project's impact mitigation measures are sufficient to mitigate the impacts on priority ecosystem services and on the beneficiaries of those services, which did not happen in this case.
- 2.299 **Water flows.** MICI concludes that IDB Invest complied with Directive B.5 of OP-703, the Environmental and Social Sustainability Policy of the IIC (paragraphs III.1, III.4, III.20, and III.21), and PS1 and PS3, since (1) the potential water flow impacts were adequately analyzed from the outset of IDB Invest's Project involvement; (2) appropriate management measures were analyzed and designed to address these potential impacts, including prevention measures for emergencies caused by a decrease in river flow below the ecological flow level (i.e., minimum flow); (3) it was verified that the minimum flow required by the local authority is higher than the historical minimum flow of the Cauca River; and (4) the management measures were monitored to ensure that they were adequately implemented (for example, the flow of the Cauca River is monitored at different points).
- 2.300 **Harm related to biodiversity and natural habitats.** In relation to biodiversity and natural habitats, MICI found only one omission that constitutes noncompliance: the lack of a metric framework to assess the conservation outcomes that would be generated by the land and aquatic compensation plans, respectively. Thus, the risk of generating a net loss

of biodiversity (a risk that the ROPs seek to avoid) and, consequently, contributing to environmental harm, could potentially occur.

- 2.301 **Harm related to ecosystem services: testimonies from the community.** IDB Invest failed to ensure the identification and design of management measures of Project impacts on ecosystem services (including barequeo and fishing), related to the use of the Cauca River and changes to the community's livelihood and way of life, including women's lives,²⁴⁵ in accordance to the mitigation hierarchy. Because of this, there could be an impact that is not being adequately managed. MICI stated in the section on Harm of the chapter on Identification of the affected and potentially affected population, that vulnerable populations—especially those who were victims of the violence generated by the armed conflict—were not identified, and that the Project should have implemented differentiated management measures for them. In reports issued through its Early Warning System, the Office of the Ombudsperson of Colombia has described how these communities, both within and outside the Project's area of influence, have become increasingly vulnerable due to the loss of livelihoods and ways of life. For example, it has stated that “the confluence of economic interests in the territory, particularly those linked to the Hidroituango hydro-energy project, has meant the closure of shorelines and roads that were once used by *barequeros* and ancestral miners to earn a living, threatening the income levels and survival of the informal mining communities.”²⁴⁶
- 2.302 During the MICI investigation team's field mission, the claimant communities went to great lengths to express their ancestral connection to the river. They maintained that without an understanding of their worldview it is impossible to gauge the harm that the Ituango Hydroelectric Project has caused them. In their comments to the Draft Report, they emphasized that their life plan was built around the ecosystem services provided by the Cauca River.²⁴⁷ Beyond the analysis and findings of the Project's social and environmental documents, MICI considers it important to include some community testimonies obtained as part of its on-site fact-checking. The following excerpts reflect some of the claimants' experiences in relation to the Project's development.

“The river was the vein that brought us life. We were poor, but the Cauca gave us everything we needed and asked for nothing in return. If we were hungry, we would

²⁴⁵ MICI highlights the finding described in the chapter on Gender-differentiated impacts regarding the potential negative impact on women's economic activities. MICI noted that, given the higher participation of men in mining, a male-dominated sector, IDB Invest should have corroborated whether the Project's economic displacement of *barequeo* workers could disproportionately affect women.

²⁴⁶ Office of the Ombudsperson of Colombia, Early Warning No. 004-2020, January 24, 2020 (concerning the municipalities of Ituango and Briceño), p. 36.

²⁴⁷ In its comments to the Draft Report, the MRV added: “We *barequeros*, fisherfolk, and farmers learn our trades from childhood. They complement each other depending on the time of the year in which we performed and learned them. The craft was passed down from generation to generation, through oral tradition and as empirical knowledge. The entire day was spent observing and learning about the river's dynamics throughout the year. It is estimated that at least four consecutive generations of the riverine villages and hamlets have depended on *barequeo* and fishing in the Cauca River to build our life project.”

go to the river and catch fish to eat or to sell. If we needed more, we would go panning for gold and the river would give us gold to live on. We didn't take more than we needed because the river was always there."

"Remigio Antonio Moreno Rueda was our doctor. He cured us with all the medicine that the river gave us, because the Cauca and the plants on its banks were the source of all the remedies we needed. He knew all the plants that our ancestors used to cure all kinds of ailments. When the dam flooded all our land, almost all the plants disappeared. Remigio died a few months later. He could not live knowing that the river, which was our health, had died."

"Our culture, our memory, cannot be lost."



The president of Movimiento Ríos Vivos with a photo of Remigio Antonio Moreno Rueda.



Allegorical representation of the traditional subsistence activities of the communities on the Cauca River.

Source: MICI.

2.303 **Alleged harm related to water hyacinth in the reservoir.** MICI notes that, during its field mission, the MICI team observed large quantities of water hyacinth in the reservoir, an issue alleged by the Requesters during the visit as one of the main Project impacts on the communities' use of the river for fishing, recreation, and food. MICI confirmed that IDB Invest followed up on this situation, and even promoted a management plan to prevent its proliferation and keep it within normal ranges. However, MICI considers that if the community's priority ecosystem services (including the use of the river) had been properly identified, specific management measures would have been designed to prevent and mitigate the potential impact from the presence of water hyacinth in the reservoir. The failure to do so could have contributed to the occurrence of the harm alleged by the Requesters.

- 2.304 **Harm related to the allegation concerning water flows.** MICI has a mandate to determine the harm associated with any failure to comply with the ROPs. Since no noncompliance has been found with respect to this issue, MICI need not assess the harm.

6. Cumulative impacts²⁴⁸

- 2.305 This section will analyze whether IDB Invest ensured that the Client assessed and characterized the potential cumulative environmental and social impacts, adopted management and mitigation measures and plans to respond to these impacts, and took measures to adequately monitor their implementation.

Requesters' allegations

- 2.306 **Added pressure and seriousness.** The Requesters highlight that this Project compounds the pressure and seriousness generated by other interventions in the region, such as other hydroelectric plants and micro power stations in the same affected municipalities. They add that, when they filed their claim, five micro power plants were being built in the municipality of San Andrés de Cuerquia, on the tributaries of the Cauca River in the area of the reservoir—San Andrés River and all the municipalities in the Canyon have granted concessions and mining exploitation deeds to the multinational corporation Continental Gold, including for the Buriticá Mine, currently in operation in the municipality of the same name. Although the Project itself is not responsible for the impacts of other projects, a cumulative approach identifies the overlapping impacts to assess them in their proper dimension, establishing, for example, the difference between an impact generated by the Project without the Buriticá Mine and the same impact with the mine.

Management's response to the request

- 2.307 **Studies on the cumulative effects of other projects.** Management underscores that, within the framework of the TC, the Client undertook additional studies on the cumulative effects of a future chain of reservoirs in Cañafisto, Ituango, and Espíritu Santo, and has asked the Client to account for the follow-up and monitoring of these impacts.²⁴⁹

²⁴⁸ PS1 has a footnote that reads as follows (p. 4): "Cumulative impacts are limited to those impacts generally recognized as important on the basis of scientific concerns and/or concerns from Affected Communities. Examples of cumulative impacts include incremental contribution of gaseous emissions to an airshed; reduction of water flows in a watershed due to multiple withdrawals; increases in sediment loads to a watershed; interference with migratory routes or wildlife movement; or more traffic congestion and accidents due to increases in vehicular traffic on community roadways."

²⁴⁹ MICI, Recommendation for a Compliance Review and Terms of Reference. Revised Version. Ituango Hydroelectric Project. MICI-CII-CO-2018-0133, p. 75. IDB Invest Management's Response to the Terms of Reference and Recommendation for a Compliance Review on the Ituango Hydroelectric Project in Colombia (Request MICI-CII-CO-2018-0133).

- 2.308 This year, Management informed MICI that the Cañafisto and Espiritu Santo projects were not granted an environmental license by the National Environmental Licensing Authority (ANLA) and, consequently, will not generate cumulative impacts.

Relevant Operational Policies

- 2.309 **Screening for impacts.** Directive B.3 of OP-703 states that Bank-financed operations will be screened, giving consideration to potential negative environmental impacts whether direct, indirect, regional, or cumulative in nature, including environmentally related social and cultural impacts, of the operation and of its associated facilities if relevant. Bank operations will be classified according to their potential impacts so that the appropriate environmental safeguards and environmental review requirements can be determined.
- 2.310 **Baselines, management and mitigation plans and monitoring measures.** Along the same lines, Directive B.5 of OP-703 states that due consideration will be given to analyzing compliance with relevant legal requirements; direct, indirect, regional or cumulative impacts, using adequate baseline data as necessary;²⁵⁰ impact mitigation and management plans presented in an ESMP; the incorporation of EA findings into project design; and measures for adequate follow-up of the ESMP's implementation. The directive also indicates that an EIA report must be prepared with its respective ESMP.
- 2.311 **PS1 and cumulative impacts.** Paragraph 8 of PS1 states that the project's area of influence encompasses the cumulative impacts (that result from the incremental impact) on areas or resources used or directly affected by the project, from other existing, planned, or reasonably defined developments at the time the risks and impacts identification process is conducted.
- 2.312 **Other plans, studies, and assessments.** Paragraph 11 of PS1 further provides that the findings and conclusions of related and applicable plans, studies, or assessments prepared by relevant government authorities or other parties directly related to the project and its area of influence should be taken into account. This includes cumulative, regional, sectoral, or strategic environmental assessments, where relevant.
- 2.313 **Impacts on vulnerable persons.** Paragraph 12 provides that, as part of the process of identifying risks and impacts, the client will identify individuals and groups that may be directly and differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status.²⁵¹ Where individuals or groups are identified as disadvantaged or vulnerable, the client will propose and implement differentiated

²⁵⁰ These baselines should be recent, have an appropriate level of detail, and indicate who might be affected, according to PS1, paragraph 4.

²⁵¹ According to a footnote in PS1, this disadvantaged or vulnerable status may stem from an individual's or group's race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The client should also consider factors such as gender, age, ethnicity, culture, literacy, sickness, physical or mental disability, poverty or economic disadvantage, and dependence on unique natural resources.

measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing development benefits and opportunities.

- 2.314 **Assessment of combined effects.** Several guidance notes to PS1 add additional requirements that should be understood as good practices. GN38 stipulates that the risks and impacts identification process should include an assessment of the combined effects of the multiple components associated with the project (e.g., quarries, roads, associated facilities) in the context of the project's area of influence. GN40 provides that, even though cumulative impacts may not necessarily be different in quality from impacts analyzed in an ESIA focused on the specific area and timeframe related to the project's direct footprint and execution timetable, a cumulative impact assessment (CIA) and cumulative impact assessment and management (CIAM) expand the scale and timeframe of the assessment. At a practical level, the critical element of such an assessment is to determine how large an area around the project should be assessed, what an appropriate period of time is, and how to practically assess the complex interactions among different projects occurring at different times; GN41 establishes that, in its risks and impacts identification process, the client should identify and assess (1) cumulative impacts from further planned development of the project and other project-related developments, (2) any existing project or condition whose impacts may be exacerbated by the project, and (3) other developments of the same type that are realistically defined at the time of the risks and impacts identification process.
- 2.315 **Supervision.** As stated in the General framework of reference section (paragraph 2.2 of this report), the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 establish IDB Invest's supervision obligations in relation to safeguards compliance.

Findings of the investigation

- 2.316 **IDB Invest requested an update in the ESDD of a preexisting study.** During the ESDD process, IDB Invest confirmed that a cumulative impact assessment had been carried out with information on the Cañafisto, Ituango, and Espiritu Santo hydroelectric projects.²⁵² Based on its analysis of this cumulative impact assessment, IDB Invest identified gaps with respect to PS1. Having detected these gaps, IDB Invest included an action (1.16) in the ESAP to update the study and align its methodology with international best practices,²⁵³ including (i) a list of all significant projects that will be developed in Ituango's area of influence, with the corresponding analysis justifying its inclusion in or exclusion from the study of cumulative impacts, (ii) the justification of the valued environmental and social components (VECs) to be considered in the analysis, (iii) the determination of the added impact that each project to be considered would generate, and (iv) the environmental mitigation plan to manage cumulative impacts.

²⁵² ESRS, p. 5.

²⁵³ The ESAP did not refer to the IFC Manual on Cumulative Impact Assessment ([IFC, Good Practice Handbook on Cumulative Impact Assessment and Management: Guidance for the Private Sector in Emerging Markets](#), 2013).

- 2.317 **IDB Invest did not verify the update.** MICI found no evidence that IDB Invest had evaluated the update of the study to confirm that it was aligned with international best practices, as required by the ESAP and the IFC's Good Practice Handbook on Cumulative Impact Assessment and Management, and to ensure that it complied with PS1 or met all the other elements set forth in the ESAP, including the obligation to reflect the concerns of Project-affected communities.
- 2.318 **IDB Invest did not verify compliance with PS1.** MICI found no evidence that IDB Invest verified compliance with PS1, in terms of whether the necessary baselines had been established for the analysis, the link between key environmental and social trends and receptor sensitivity, and whether potential cumulative impacts (including socioeconomic impacts) on vulnerable groups were analyzed.
- 2.319 **Impacts on the local population due to the cumulative loss of ecosystem services.** MICI found that IDB Invest failed to ensure that it had considered the impacts on the local population of any cumulative loss of ecosystem services, including *barequeo* and fishing, which together pose a specific additional risk to livelihoods and food security, with the risks of cumulative impacts being particularly high for vulnerable populations.²⁵⁴
- 2.320 **Cumulative impacts related to physical or economic displacement.** MICI found no mention in Project documents that IDB Invest had verified that an assessment of potential cumulative impacts related to physical or economic displacement had been conducted.
- 2.321 **IDB Invest failed to ensure that a plan was in place.** MICI determined that when IDB Invest exited the project, it failed to ensure that a comprehensive cumulative impacts study and mitigation plan was in place.
- 2.157 **Comment from IDB Invest.** In its comments to the Draft Report, IDB Invest describes the valued ecosystem components (VECs) and the only projects that could be generating significant cumulative impacts on selected VECs. However, MICI reiterates that no socioeconomic impact assessment was conducted as part of a comprehensive cumulative impact assessment.

MICI's criteria for determining compliance with the ROPs and findings of harm

- 2.322 **MICI concludes that IDB Invest complied with the requirement to formally request that the Client update the cumulative impact assessment,** as part of the ESAP, in accordance with Directive B.5 of OP-703, the Environmental and Social Sustainability Policy of the IIC (paragraphs III.1 and III.4) and paragraph 8 of PS1.

²⁵⁴ In addition to this finding, MICI has concluded in the section on Harm to ecosystem services that IDB Invest's failure to verify that the Client identified and proposed measures to manage impacts on ecosystem services, including *barequeo* and fishing, in relation to the use of the Cauca River and changes to the environment and the community's way of life—including the lives of women—could be causing an impact that is not being adequately managed for the most vulnerable populations.

- 2.323 **IDB Invest failed to confirm that the study update was compliant.** MICI found no evidence that IDB Invest confirmed that the study update was compliant with the cited ROPs. Nor did it ensure that the Project's cumulative environmental and social impacts on the affected communities (especially the most vulnerable population, such as the victims of the violence of the armed conflict) had undergone a comprehensive assessment, including both socioeconomic and environmental impacts, as required by Directives B.3 and B.5 of OP-703, PS1, and international best practice.
- 2.324 **Noncompliance with supervision obligation.** In view of the above, IDB Invest failed to comply with paragraphs III.1, III.4, and III.21 of the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 insofar as they require IDB Invest to supervise compliance with all the requirements of the ROPs.
- 2.325 **Harm.** IDB Invest failed to ensure that the Project's cumulative impacts and those of other existing, planned, or reasonably defined projects or developments were rigorously assessed. Nor did it ensure that a mitigation plan for these impacts had been formulated. Therefore, it is possible that harm may occur or may have occurred from the social point of view, in relation to the impact on the livelihoods of the most vulnerable population, especially people engaged in *barequeo* or artisanal mining, fishing, and agriculture; and, from the environmental perspective, in relation to water quality, the geomorphological dynamics of the Cauca River, vegetation, and aquatic ecosystems. The situations described by the Requesters are consistent with the potential occurrence of environmental and social risks that the obligations of OP-703 and PS1 are intended to prevent.

III. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

- 3.1 **Due Diligence.** Under the Sustainability Policy of the IIC and Directives B.1 and B.7 of OP-703, IDB Invest was required to conduct a due diligence and supervision process commensurate with the Projects' risks and impacts to ensure compliance with the applicable environmental and social safeguards.
- 3.2 **ESDD process in this case.** Part of the ESDD process consisted of two field visits, which took place from July 25 to 29, 2016, and from October 4 to 6, 2016.²⁵⁵ While the ESDD

²⁵⁵ The Project ESRS published on the Project web site states on page 1: "As part of the process of evaluating a possible non-sovereign-guaranteed corporate loan to EPM of US\$550 million to partially finance the development, construction, operation and maintenance of Ituango, the Inter-American Investment Corporation (IIC), member of the IBDG, carried out an Environmental and Social Due Diligence (ESDD) which included two site visits (July and October 2016)..."; footnote 2 reads as follows: "The first visit was carried out from July 25 - 29, 2016. The second visit was carried out from October 4 - 6, 2016. Both visits included surveys of the general area of the Project."

process was more comprehensive, the limited on-the-ground opportunity to see and understand the reality of the Project and its impacts may have prevented a broader and more holistic understanding of its complexities, as well as its risks and impacts, when IDB Invest became involved in it.²⁵⁶

- 3.3 **The challenge of ensuring compliance with social and environmental policies.** MICI understands the challenge faced by the institution when it must verify that the environmental and social policies applicable to a project are complied with and continue to be applied until the end of construction and subsequent start-up, especially when construction is well underway at the time of its involvement.
- 3.4 **Identification of gaps and actions to address them.** During the supervision stage there were times when IDB Invest identified the need to conduct studies or design additional management measures to close gaps in relation to compliance with the ROPs and included actions to address these gaps. However, IDB Invest did not always verify their proper implementation and, at other times, failed to realize the need to correct potential noncompliance with the ROPs. MICI concludes that IDB Invest did not thoroughly perform its supervisory role in relation to the issues investigated, since certain actions established to address the identified gaps were not fully implemented, taking into consideration the Project's magnitude, risks, and impacts.
- 3.5 **The ESDD did not adequately identify the population affected by the project.** Considering all the characteristics mentioned in Chapter II, Section B, Thematic axis 1, identification of affected and potentially affected population, MICI concludes that the due diligence process conducted by IDB Invest did not assess whether the population that would be affected by the Project had been adequately identified and whether it included vulnerable groups, especially those who have been victims of violence due to the armed conflict; nor was an action provided for in the ESAP to verify these aspects. Other gaps in compliance with the ROPs were not reflected in the ESAP, in particular: (1) the Contingency Plan failed to clearly identify possible emergency areas (downstream and upstream), including a population census of those areas; (2) the plan also failed to identify vulnerable population groups, especially groups that have been victims of violence due to the armed conflict, and to provide differentiated management measures to address impacts on these populations; and (3) management measures to address Project impacts on ecosystem services, in particular, *barequeo* and fishing, were not established.
- 3.6 **An instrument for early exits from projects.** MICI notes that when IDB Invest exited the project, some of the instances of noncompliance found by MICI had not yet been addressed. MICI concludes that it would be important for the institution to have a procedure and/or instrument to help it define and decide on the implications of an early exit vis-à-vis the specific degree of compliance with the environmental and social requirements the project was to meet. An early and responsible exit should be provided

²⁵⁶ In the interviews conducted during the investigation, MICI was informed of the brevity of the field visits and the possible limitations this may have placed on conducting an assessment, given the Project's complexity.

for from the time IDB Invest decides to participate in an operation, and it should include an exit planning process that involves an analysis of financial and non-financial risks and impacts; it should also reflect the status of the project's compliance with the environmental and social policies and standards that were in place when it received funding from the institution in order to establish commitments in relation to the items that are still unfulfilled at the time of exit or termination of the contractual relationship. It would also be desirable for the institution to address the challenge of having resources available to deal with the consequences of its exit, by identifying tools that provide for access to these resources when required.

3.7 **IDB Invest's new environmental and social sustainability standards.** Chapter II, Section B, presented a detailed analysis of the findings of the investigation, according to which IDB Invest was found to be in compliance and noncompliance with various obligations set forth in IDB Invest's Environmental and Social Sustainability Policy, operating policies OP-703, OP-704, OP-710, and OP-761, and Performance Standards 1, 3, 4, 5, 6 and 7, applicable to this Project. However, it is important to remember that IDB Invest has recently revised its environmental and social sustainability framework. The conclusions of this report refer to the standards and policies that were in force for this project; but since a new policy is in force at the time of publication of this report, some of the conclusions presented here refer specifically to the application of [IDB Invest's Environmental and Social Sustainability Policy](#) for future projects. Some remarks are also made regarding its [Implementation Manual](#).

3.8 The following is a summary table that includes instances of both compliance and noncompliance:

Table 1
Summary of ROP's compliance conclusions

ROPs compliance conclusions	
Thematic axis 1. Identification of the affected and potentially affected population	
Definition of the area of influence	
IDB Invest failed to comply with paragraph 8 of PS1 by not assessing whether the area of influence was adequately identified in the EIA. During the ESDD, IDB Invest examined the area of influence in relation to some specific considerations, requested confirmation on the existence of protected areas and Indigenous peoples. However, it failed to comply with PS1 by not assessing whether the identification of the area of influence in 2016 was in line, at that time, with the ROPs, local laws, and international best practice.	
IDB Invest failed to comply with paragraph 12 of PS1, since, by not ensuring that the area of influence was correctly identified, it also failed to corroborate whether the affected populations had been identified	

and whether those populations included vulnerable groups or individuals, such as victims of the violence generated by the armed conflict; as a result, no differentiated measures were provided for vulnerable groups or individuals.

Definition of emergency areas and disaster risk management

IDB Invest **failed to comply** with the Environmental and Social Sustainability Policy of the IIC, Directive B.7 of OP-703, paragraphs 12 and 20 of PS1, paragraphs 5 and 11 of PS4, and pages 101-104 of the EHS Guidelines. From IDB Invest's involvement in the Project until its exit, IDB Invest failed to detect that the instruments that were part of the Project's disaster risk management did not meet all the requirements established in the ROPs to respond to a potential emergency.

IDB Invest **failed to comply** with the Environmental and Social Sustainability Policy of the IIC, Directive B.7 of OP-703, paragraphs 8, 12, and 20 of PS1 and paragraphs 5, 6, and 11 of PS4, and the EHS Guidelines (pages 101-104), as it failed to assess during the ESDD and during supervision whether the Contingency Plan had adequately identified the emergency areas and the affected or potentially affected populations therein. IDB Invest failed to detect that the Project did not identify, characterize, or conduct a census of the populations likely to be affected by emergency situations, as required by the Contingency Plan, especially the most vulnerable populations such as those who are victims of violence due to the armed conflict.

IDB Invest **failed to comply** with OP-704 (p. 1), Directives B.4, B.5, and B.7 of OP-703, and paragraph 7 of PS1, by failing to detect that the disaster risk assessment did not consider the parameter of magnitude or climatological data, in accordance with generally accepted practice. This prevented the development of adequate risk management measures. Although this parameter was subsequently included in the 2020 version of the DRMPPPE, the disaster risk management measures were not updated.

IDB Invest **failed to comply** with OP-704, Directives B.4, B.5, and B.7 of OP-703, paragraphs 12 and 20 of PS1, and paragraph 5 of PS4 insofar as it failed to detect that emergency preparedness and response measures focused only on the population in the area of influence, and not on communities outside that area.

IDB Invest **failed to comply** with paragraph 11 of PS4 by not verifying that contingency or emergency plans had been adequately disclosed, either within the area of influence, or outside the area of influence to populations that could be in an emergency or risk area.

MICI highlights that IDB Invest's current Environmental and Social Sustainability Policy includes its commitment to assess the impacts of investment proposals, particularly when an investment is located in a highly disaster-prone area, and to require its clients to assess and manage the natural hazards and climate change risks associated with the proposal (paragraph 11).

Consultation processes and forms of participation

IDB Invest **failed to comply** with Directive B.6 of OP-703, because although documentation was presented on stakeholder mapping and on the workings of a stakeholder engagement framework, IDB Invest did not ensure that these processes were meaningful and of sufficient depth and quality to ensure the adequate participation of affected communities.

IDB Invest **failed to comply** with paragraph 27 of PS1, in that it failed to detect that the Client Communication and Participation Program did not constitute a plan scaled to the Project risks and impacts and development stage and tailored to the characteristics and interests of the affected

communities and did not include differentiated measures to allow the effective participation of those identified as disadvantaged or vulnerable.

IDB Invest **failed to comply** with paragraph 30 and 31 of PS1, which establish that consultation is a two-way process that must be documented. Despite having requested it, MICI received no documentation from IDB Invest to confirm that (i) the process was documented, especially the discussions on issues and questions raised by the communities and how, when, and in what format these issues were addressed; and (ii) the communities were then informed of the manner in which their concerns had been considered.

IDB Invest **failed to comply** with paragraph 29 of PS1, as it did not verify the type of information disseminated prior to consultations and whether it had been useful for the affected communities to form an informed opinion and participate in an in-depth and iterative exchange with the Client.

IDB Invest **failed to comply** with paragraph 31 of PS1 and OP-761 because it did not ensure that a consultation process with a gender perspective had been carried out. This is true both in terms of the equal participation of women and men, and in terms of ensuring that the views of men and women were sought out separately or understanding why this was not done.

MICI underscores that IDB Invest's current Environmental and Social Sustainability Policy reiterates the obligations contained in PS1 and OP-761, by establishing IDB Invest's commitment to undertake (i) meaningful stakeholder engagement, disclosure, outreach and communication to affected communities that is ongoing and iterative throughout the project cycle, starting as early as possible, including different stakeholder categories, which is equitable and nondiscriminatory, and free of intimidation or coercion; and (ii) stakeholder engagement that is inclusive and culturally appropriate and that takes into consideration the feedback provided through such engagement (paragraph 18). The Implementation Manual for the Sustainability Policy emphasizes that an engagement plan should be proportionate to the risk levels, scale and complexity of the project, taking characteristics of different stakeholder groups into account. It also underscores that two of the elements that such plan should contain are (i) how the engagement process will be documented; and (ii) how stakeholder views and concerns will be considered in project design and implementation (pp. 67-68).

Gender-differentiated impacts

IDB Invest **failed to comply** with OP-761 and paragraph 12 of PS1 by failing to identify potential risks and adverse impacts of the Project differentiated by gender, such as the negative impact on women's economic activities, the increase in gender-based violence, or the management measures provided to respond to these impacts.

IDB Invest **failed to comply** with OP-761 and Directive B.7 of OP-703, because it did not ensure that the preparation of this operation included an analysis regarding the relevance of gender issues and, consequently, did not ensure the inclusion of actions to address the main issues and measures to facilitate their implementation. It also failed in its duty of supervision by failing to verify compliance with the ESAP action that required a gender policy.

MICI understands that, under paragraph 21 of IDB Invest's current Environmental and Social Sustainability Policy, IDB Invest is committed to carrying out a gender risk screening assessment as part of the environmental and social due diligence process, and to require the client to address these risks, for all investments with potential gender-based risks and impacts that may disproportionately affect people by their gender or gender identity.

In 2020, IDB Invest developed the Gender Risk Assessment Tool (GRAT) to understand and map how different genders are affected by a project or a company. The analysis includes variables such as the client's workforce and the surrounding community (p. 10). The GRAT characterizes the Gender Plan as an instrument that includes the evaluation of risks and impacts already foreseen in the GRAT, as well as actions structured to prevent and mitigate the negative impacts identified (p. 49).

MICI acknowledges that, when the Board of Directors approved the action plan for the Alto Maipo Hydroelectric Project, the Mechanism confirmed that IDB Invest had modified the ESRS template to include the chapter on gender risks for category A and B projects, and that it was being implemented. MICI also verified that the GRAT form includes a questionnaire to prepare the gender risk assessment.

Thematic axis 2. Assessment of socio-environmental risks and impacts and their management measures

Cultural and archaeological heritage

IDB Invest **complied** with Directive B.9 of OP-703 and with PS8, in terms of ensuring that the Project properly identified cultural and archaeological heritage, in a process that involved the community; IDB Invest also supervised the measures designed to mitigate these impacts, and therefore **complied** with paragraphs II.1, III.20, and III.21 of the Environmental and Social Sustainability Policy of the IIC and Directive B.7 of OP-703 in this regard. The project also has a chance find procedure.

Social impact and migratory pressure

IDB Invest **complied** with paragraph 12 of PS1, paragraph 5 of PS4, and paragraphs III.2 and III.4 of the the Environmental and Social Sustainability Policy of the IIC, in that it verified that the social risks associated with migratory pressure had been identified, including potential impacts on community health and social cohesion, and that relevant mitigation measures had been put in place.

IDB Invest **failed to comply** with paragraph 22 of PS1, Directive B.7 of OP-703, and paragraphs III.1 and III.21 of the Environmental and Social Sustainability Policy of the IIC because although data on Migratory Pressure Monitoring results are available, there was no analysis of these data to determine the effectiveness of the mitigation measures; nor was there an assessment of the criteria to be considered when designing actions based on the results of the monitoring processes for each indicator.

Involuntary resettlement process

IDB Invest **complied** with the first principle of OP-710 and with paragraph 8 of PS5 because, since the Project was at an advanced stage of construction at the time of IDB Invest's involvement, updating the alternatives studies was not feasible given that the location was irreversible. Therefore, **it complied** with paragraphs III.1, III.2, and III.21 of the Environmental and Social Sustainability Policy of the IIC and with Directive B.7 of OP-703 in this regard.

IDB Invest **failed to comply** with paragraph 12 of PS5 and paragraph III.4 of the Environmental and Social Sustainability Policy of the IIC because it failed to verify the existence of an updated census or initial baseline at the time of its involvement in the Project—10 years after the information was first collected—when the physical resettlement process was about to be completed but the process to address economic displacement was still pending.

IDB Invest **failed to comply** with paragraph 14 of PS5, OP-710, Directive B.7 of OP-703, and paragraphs III.1 and III.21 of the Environmental and Social Sustainability Policy of the IIC as it did not follow up on two ESAP actions (4 and 6). Action 4 prescribes the development of a matrix on the status of the resettlement process that could assist in understanding the initial baseline of individuals affected by resettlement, and action 6 refers to the monitoring and evaluation of resettlement actions, including any corrective actions related to the indicators provided for in the SMP.

IDB Invest **complied** with PS5 by verifying the implementation of the process for compensating individuals affected by physical and economic displacement. It therefore **complied** with paragraphs III.1, III.2, and III.21 of the Environmental and Social Sustainability Policy of the IIC and with Directive B.7 of OP-703 in this regard.

Conflict, security, and violence

IDB Invest **complied** with paragraphs 5 and 12 of PS4, and paragraphs III.1 and III.4 of the Environmental and Social Sustainability Policy of the IIC by verifying the existence and implementation of prevention and control measures related to the Project's private security arrangements; it also verified that these arrangements were guided by international principles. In addition, IDB Invest **complied** with verifying that (1) a human rights policy was in place, (2) the engagement offices in the municipalities were financed, and (3) a grievance mechanism for the communities was in place. It therefore **complied** with paragraphs III.1, III.2, and III.21 of the Environmental and Social Sustainability Policy of the IIC and with Directive B.7 of OP-703 in this regard.

IDB Invest **failed to comply** with Directive B.4 of OP-703 and with paragraph 12 of PS4, in terms of the obligation to identify risk factors safety, and security impacts on potentially affected communities. These risk factors are associated with (1) social concerns related to the preexistence of armed conflict in the Project area and the possibility that this conflict could exacerbate the already sensitive local situation; (2) the presence of illegal armed groups within the Project area; and (3) the Project's development, the presence of public security forces to protect the Project's development, and the potential for reprisals against Project opponents. IDB Invest also failed to ensure that appropriate measures were designed to manage these risks.

IDB Invest **failed to comply** with paragraphs 13 and 14 of PS4 by failing to ensure that (1) the risks arising from the presence of government security personnel deployed to provide security services to the Project were assessed and documented; and (2) all allegations of unlawful or abusive acts of security personnel were investigated, and corrective measures were adequately designed and implemented.

Biodiversity, natural habitats, ecosystem services, and water flows

IDB Invest **complied** with Directive B.9 of OP-703, PS6, and paragraphs III.1, III.2, III.4, III.20, and III.21 of the Environmental and Social Sustainability Policy of the IIC by verifying the existence of biodiversity conservation gaps during the ESDD and determining actions to address them in the ESAP. It also monitored compliance with biodiversity offset obligations for potential Project impacts and ensured that potentially existing critical habitats in the area of influence were not impacted.

IDB Invest **failed to comply** with Directive B.7 of OP-703, paragraphs 7 and 10 of PS6, and paragraphs III.1 and III.21 of the Environmental and Social Sustainability Policy of the IIC, since at the time of its exit from the Project, the obligation to implement a metric framework for evaluating conservation outcomes had not been met.

IDB Invest **complied** with Directive B.5 of OP-703, paragraphs III.1, III.4, III.20, and III.21 of the Environmental and Social Sustainability Policy of the IIC, PS1, and PS3, since the Project's potential impacts on water flows were analyzed, appropriate measures were taken to prevent them, and these measures were adequately monitored during the implementation phase.

IDB Invest **failed to comply** with Directive B.5 of OP-703, paragraphs 6 and 7 of PS6, and paragraphs III.1 and III.4 of the Environmental and Social Sustainability Policy of the IIC because the Project documents addressing the gaps identified in the ESAP in relation to ecosystem services did not identify and propose measures for managing the impacts on ecosystem services based on the mitigation hierarchy. The assessment of impacts on ecosystem services is not limited to the identification and determination of the significance of those impacts that do appear in the project documents.

Cumulative impacts

IDB Invest **complied** with Directive B.5 of OP-703, PS1, and paragraphs III.1 and III.4 of the Environmental and Social Sustainability Policy of the IIC by formally requesting the Client to update an existing cumulative impact assessment of the Project.

IDB Invest **failed to comply** with Directives B.3 and B.5 of OP-703 and with paragraph 8 of PS1, by not ensuring to verify that the Project's cumulative environmental and social impacts on the affected communities, especially the most vulnerable populations, had undergone a comprehensive assessment including socioeconomic impacts, besides environmental impacts.

MICI notes that IDB Invest's current Environmental and Social Sustainability Policy includes the CIAM (Cumulative Impact Assessment and Management) as part of the assessment of a project's potential risks and impacts; in addition, in January 2023, the institution published its Practical Guide for Cumulative Impact Assessment and Management in Latin America and the Caribbean, which addresses the shortcoming noted in the case of this Project in terms of ensuring that the most vulnerable populations participate in the CIAM process.

IDB Invest supervision

IDB Invest **failed to comply** with paragraphs III.1, III.2, III.4, III.20, and III.21 of the Sustainability Policy and with Directives B.1 and B.7 of OP-703, because, based on MICI's findings and conclusions regarding noncompliance, IDB Invest failed to ensure that the Project was in line with the Relevant Operational Policies in the areas specified in this report.

IDB Invest **failed to comply** with PS1 because it did not verify, as part of its supervisory role, that the Project's risk assessment considered the Project's magnitude and maximum risks, carrying out its supervision in a manner appropriate to the nature and scale of the Project.

Source: Prepared by MICI.

Recommendations

- 3.9 **Compliance Review supports the IDB Group's continuous improvement process.** MICI considers that the added value of a compliance review process such as this one is twofold. The first aspect concerns the operation being investigated and is intended to bring the project into compliance and/or strengthen its sustainability. The second aspect concerns more general areas or issues linked to different operational policies that often pose challenges during their implementation. For the latter, MICI's independent

perspective can play a role in IDB Invest's continuous improvement process. In this regard, it is important to recall that IDB Invest has recently revised its environmental and social sustainability framework. Therefore, although this report's recommendations focus on the standards and policies applied to this project, since a new policy is in force at the time of this report, some of the recommendations presented here make some specific references to the application of [IDB Invest's Environmental and Social Sustainability Policy](#) to future projects.

- 3.10 **Monitoring the action plan.** The MICI Policy states that, if the Board of Executive Directors accepts the recommendations and deems it appropriate, as provided for in paragraph 49 of the MICI Policy, it will instruct Management to develop an action plan, in consultation with this Mechanism, and present it to the Board for consideration. If deemed pertinent, MICI will monitor the implementation of any action plan or corrective or remedial action agreed upon as a result of this Compliance Review. These recommendations are included in the table below.²⁵⁷
- 3.11 **Publication of the compliance review report.** In addition, under paragraph 48 of the MICI Policy, once the Board of Directors has considered this report, it will be published in the Public Registry, together with Management's and the Requesters' comments and the Board's final decision regarding the recommendations.

Table 2.

Recommendations

Recommendations by thematic axis
Thematic axis 1: Identification of the affected and potentially affected population
Area of influence and emergency area
<p>Recommendation 1. ESDD in high-risk projects. To improve the analysis of future projects, MICI recommends that IDB Invest should develop an internal guide or technical note providing further guidance to its environmental and social teams, including such elements as: (i) the existence of affected area models for worst-case scenario, (ii) emergency response plans that include a description of the populations affected by different scenarios, and (iii) a plan for the necessary coordination between different actors to implement emergency actions.</p>
<p>Recommendation 2. Periodically update mapping of the affected population. MICI recommends: (i) that IDB Invest produce a technical note for clients and IDB Invest teams identifying good practices</p>

²⁵⁷ In their verbal comments at the July 10 session, the Requesters asked that there be a correlation between findings, harm, and recommendations, and for each finding to have a recommendation. MICI considers the table of recommendations to be appropriately structured, organized by each topic analyzed in the report and including recommendations regarding the instances of noncompliance found.

for stakeholder participation in the process of mapping affected groups and highlighting the importance of periodically updating the mapping of stakeholders and affected communities in the different phases of complex, large-scale, or high-risk projects; and (ii) that the IDB Invest environmental and social supervision report template include a specific action to monitor updates to the mapping of the affected population within a project's area of influence and within the identified emergency area(s).²⁵⁸

Emergency areas and disaster risk management

Recommendation 3. Clarify the role and responsibilities of IDB Invest supervision in projects with government intervention in case of emergency. IDB Invest's current Environmental and Social Sustainability Policy (paragraph 12) requires that clients disclose information on their emergency preparedness and response activities to affected communities, relevant government agencies, or other relevant parties in the planning and operational phases and to provide information promptly in the case that an emergency or disaster occurs, and PS4 provides some guidelines on how clients should act in emergencies handled by governmental authorities. However, there is still an unresolved gap in the ROPs in force for the Ituango Project in relation to the institution's supervision of the activities outlined in a contingency plan, when the project is being implemented under the effects of a government intervention in an emergency or other extraordinary situation.

Therefore, MICI **recommends** that the institution issue a technical note clarifying the supervisory role and responsibilities of IDB Invest where government agencies are involved in the disaster risk management and develop the general guidelines of PS4 on how clients should act in emergency situations in which government agencies intervene.

Community consultation and participation processes

Recommendation 4. Address information gaps experienced by the affected persons. The [Access to Information Policy of IDB Invest](#), effective as of January 1, 2020, states in section B.2 on Post-Approval Disclosure that, for Category A projects approved after the entry into force of this Policy, IDB Invest will disclose progress on the implementation of the ESAPs on an annual basis and, whenever new or revised relevant environmental or social documents for these projects are made available, such documents will be disclosed. Although this Policy does not apply to this Project, MICI recommends that access to relevant information be published on the IDB Invest Project website in order to address the information gaps encountered by the Requesters and identified in this investigation. It is therefore recommended that IDB Invest publicly disclose the following:

- (a) 'All updates to the environmental and social documents that have been produced up to the time of IDB Invest's exit from the Project.
- (b) An easy-to-understand summary, in Spanish, of all the technical opinions rendered by the Independent Advisory Panel on the status of the Project, its potential risks, and actions to address them, in relation to the downstream population, after the contingency, which are currently published on the institution's website, and of any others rendered by the panel that have not been published.

²⁵⁸ In its comments to the Draft Report, IDB Invest described the difficulties of incorporating standard elements into project ESAPs because such plans are tailored to the needs of each project and the inclusion of standard elements is inconsistent with IDB Invest's environmental and social assessment practices. Based on this comment, the recommendations suggesting the inclusion of a standard element in the ESAP were modified for actions compatible with IDB Invest's evaluation and supervision practices.

However, in response to Management's comments to the Draft Report regarding the confidentiality clauses of the loan contract with the Client, **MICI recommends** the following: If the actions provided for in (a) and (b) above cannot be carried out due to contractual restrictions, IDB Invest should organize a meeting with one of the experts of the Independent Advisory Panel to explain to the representatives of Movimiento Ríos Vivos, in non-technical language, the Panel's work and the conclusions it reached as of the date of its reports.

Recommendation 5. Information and consultation process on security risks management measures. 'MICI recommends: (i) preparing a technical note for clients in projects classified by IDB Invest as having high contextual risk, located in areas of heightened conflict, violence, and insecurity, to help them identify and manage security and contextual risks, with an emphasis on stakeholder participation, particularly that of the affected and most vulnerable communities; (ii) providing training to clients on the topics included in the above technical note; and (iii) including a specific action in the IDB Invest environmental and social supervision report template to monitor stakeholder participation activities, particularly those involving the affected and most vulnerable communities, in the safety management plan.

Thematic axis 2. Assessment of socio-environmental risks and impacts and their management measures

Involuntary resettlement process

Recommendation 6. Resettlement plan update and consideration of external audit upon completion. The Guidance Note to PS5, published in July 2018, recognizes that, over the course of a resettlement process, natural population growth may result in new households and families to be resettled. The note specifies that it is good practice for planners to make provision for population movements as well as natural population increase. It also states that If there is a significant time lag between the completion of the census and implementation of the resettlement or livelihood restoration plan (such as more than three years), a repeat census and inventory and evaluation of assets are undertaken and the resettlement plan updated accordingly (GN 20.4).

MICI therefore **recommends that:** (i) IDB Invest prepare an internal note or guide for its environmental and social specialists that includes the necessary elements to consider in the implementation of a resettlement plan, such as: (a) the best forms of dialogue with the affected communities and feedback actions for those communities during the resettlement process, (b) a review of the mitigation measures implemented by the client when project construction has already begun by the time the Bank becomes involved in the financing, (c) a review of the potential need to update the census and resettlement plan when some time has elapsed between census-taking and implementation of the resettlement plan, and (d) orientation guidelines for its environmental and social specialists and its clients on external audits in involuntary resettlement processes; and (ii) a specific action for monitoring and updating the resettlement plan be included in IDB Invest's environmental and social supervision model, as outlined above.

Conflict, security, and violence

Recommendation 7. Thorough analysis of participation in a project located in fragile areas with a history of conflict. Under the current Environmental and Social Sustainability Policy of IDB Invest, the institution's environmental and social assessment addresses contextual risk, which involves evaluating the risks from the external operating environment and factoring these risks into decision-making and overall risk management (paragraph 32). The Implementation Manual for the Sustainability Policy

recognizes that (i) risk factors that are particularly important from a human rights perspective include characteristics of affected populations, and how contextual risk factors such as fragility, conflict and violence may exacerbate human rights-related impacts; and (ii) high contextual risks may also make mitigation measures more difficult, for example if there is only limited access to an area due to conflict (p. 57). This Manual also notes that the risk of reprisals may be an issue in any project and, therefore, the project's environmental and social assessment process should incorporate attention to conflict, violence, and the risk of retaliation, including through systematic analysis of contextual risk (p. 73).

In its comments to the Draft Report, IDB Invest also states that: (i) it is updating the Environmental and Social Review Procedures Manual of its Environmental, Social, and Corporate Governance Division; (ii) it has begun the hiring process for a project analyst to generate and provide the environmental and social team in charge of the ESDD with information on the Project's contextual risk at the beginning of the process and before field visits are carried out; and (iii) it is using a tool to assess contextual risk for sensitive projects.

Based on the above and on the findings of this report, MICI **recommends that** IDB Invest: (i) institutionalize the aforementioned practices for carrying out a contextual analysis at the beginning of the ESDD process and before conducting field visits in an internal orientation tool (e.g., an internal guide or through the update of the Procedures Manual) for its environmental and social specialists; and (ii) develop a guidance note for its clients on conflict, security, and violence, describing the importance of, and tools for, conducting a comprehensive analysis of these issues for projects located in fragile areas with a history of conflict, violence, and insecurity. Both instruments should consider the analysis of at least the following factors: (1) the context of violence and security in which the project is developed and the geographic area in which it is located, (2) the project's potential interactions with the context of violence and conflict and with the communities, (3) the potential risk of reprisals against project opponents, and (4) possible management measures of impacts, including strengthening relationships with stakeholders, and (iii) Incorporate in its environmental and social supervision report template an action to monitor the client's management of measures to address risks of conflict and violence. '

Recommendation 8. Zero tolerance for reprisals. In order to make IDB Invest's commitment of zero tolerance for reprisals operational in its clients' performance, MICI **recommends that** IDB Invest: (i) documents in project ESRs what are the documents from its clients reviewed during its ESDD that reflect their commitment to human rights and zero tolerance for reprisals; (ii) provide training and guidance to its clients on this topic throughout project implementation; and (iii) include in its **environmental and social supervision report template** an action to supervise the client's actions with regard to the risk of reprisals.

Recommendation 9. Link to IDB Invest instruments on reprisals. MICI understands that IDB Invest has published its instruments on reprisals on its website. In addition, in its comments to the Draft Report, IDB Invest recognizes that it would be beneficial for each project website to include links to all the instruments related to this matter.

Consequently, MICI recommends that the website of every project in which IDB Invest is involved include a link to all such instruments on reprisals in force, both for IDB Invest and MICI. This does not preclude IDB Invest's ability to add links to other environmental and social commitments, such as zero tolerance for gender-based violence.

Recommendation 10. Strengthen IDB Invest's internal capacities to manage projects in fragile and violence-affected areas. Under the Environmental and Social Sustainability Policy of IDB Invest

(paragraph 17), the institution requires its clients to have in place an approach to assess potential human rights risks and impacts of IDB Invest-supported projects.

In line with this requirement, MICI **recommends that** the institution strengthen internal capacities to ensure compliance with security and human rights standards and to manage projects in fragile areas affected by conflict and violence. It is **recommended** that this strengthening should be carried out through periodic training in security and human rights, community security, conflict prevention and management, and/or the hiring of specialists or experts in security and human rights.

Recommendation 11. Update of security agreements and incident reporting information. During its investigation, MICI identified gaps in how to prepare and receive regular reports on security arrangements or agreements (e.g., changes in the security provider, security agreements with public forces and authorities), and in establishing processes for reviewing incident reports when acts of violence, including reprisals, occur in projects.

MICI therefore **recommends** that: (i) a monitoring action on the updating of security agreements, security-related incidents, and description of incident management measures be included as part of IDB Invest's environmental and social supervision model; and (ii) a section in the template of the report required of clients (ICAS or ESCR or its equivalent) include a section in which clients report updates on: (1) substantial changes in security contracts or agreements (public or private); (2) acts of project-related violence that have occurred; and (3) reprisals or threats against its workers or the community. '

Biodiversity, habitats, ecosystem services, and water flows

Recommendation 12. Technical note on metrics for measuring biodiversity offset outcomes. Since neither IDB Invest's former ROPs nor its current Environmental and Social Sustainability Policy and Implementation Manual provide details on how to design metrics to test the outcomes of biodiversity offsets, **it is recommended that** IDB Invest produce a guidance instrument (e.g., a technical note or guide) that would allow its clients to include an effective form of measurement in their projects. These forms of measurement may be existing measurement tools that clients can use for these purposes.

General recommendations

Scope of supervision

Recommendation 13. Develop the concept of mitigation measures and their effectiveness. Although MICI's investigation found information on the supervision of compliance with mitigation measures in the areas of migratory pressure and security, it found no evidence of an analysis of their efficacy or effectiveness to be able to conclude that they accomplished their intended purpose.

According to the Implementation Manual of IDB Invest's new Environmental and Social Sustainability Policy, supervision serves to verify project performance and results in meeting the objectives and requirements of the sustainability framework (p. 138). Hence, supervising the effectiveness of management measures can help IDB Invest identify opportunities to improve a project's environmental and social performance.

MICI notes that IDB Invest's current Environmental and Social Sustainability Policy states that as part of the institution's supervision responsibility, key components of IDB Invest's supervision program include, among other things, where appropriate, identifying opportunities for the client to improve its environmental and social performance and take additional corrective actions, as needed (paragraph 50).

MICI understands that this work frames the analysis of mitigation measures to determine the effectiveness of such measures and **recommends that** this concept be developed through the adoption of a guidance instrument on the new sustainability framework, and that the topic of measuring the effectiveness of mitigation measures in general, and for “migratory pressure” and “security” in particular, be included in the training programs for IDB Invest’s environmental and social teams.

Development of an instrument for exiting projects responsibly

Recommendation 14. Develop an instrument for exiting projects responsibly. In its comments to the Draft Report, IDB Invest states that it is developing a general framework that will reflect the principles of responsible exit from operations and indicates that this issue is unrelated to this investigation because there was no active exit from the Project but rather a prepayment. Management has expressed that this will be consistent with Management’s action plan in response to OVE’s Evaluation of the Independent Consultation and Investigation Mechanism and its recommendations (document RE-542-1).

MICI **recommends** to IDB Invest that the framework being formulated be discussed with MICI and OVE prior to consultation with the Board of Executive Directors.

In addition, MICI **recommends** that the

framework require IDB Invest to consider the following:

- (1) Depending on the nature of the operation, contractual or other approaches to implement the framework principles.
- (2) Before exit, issues or considerations related to the management of environmental and social impacts that are pending management and are in the process of complying with the Project’s environmental and social standards, and that had already been identified by the client, in the supervision process, or by Management in its own monitoring;
- (3) Before exit, issues or considerations related to environmental and social impacts that were part of a Request or Complaint filed by communities, that feel affected by a Project, with the project-level grievance mechanism, the Management Grievance Mechanism, or MICI, and that are at any stage of the MICI process, including the monitoring status of any MICI phase;
- (4) Where appropriate, the design of actions and measures to address the issues identified, as described in paragraphs (2) and (3) above.

Support for local initiatives

Recommendation 15. Support for local initiatives. MICI recommends that IDB Invest support the following projects or programs, which should include a cross integrated gender perspective, for the benefit of the Requesters belonging to the communities in Briceño, Ituango, Toledo, San Andrés de Cuerquia, Valdivia, Sabanalarga, Peque and Caucasia, Antioquean municipalities, represented by the MRV:

Recommendation 15.1 Theme: Biodiversity, habitats, ecosystem services and water flows

15.1.a. Design an educational program with various pedagogical strategies to raise awareness about the importance of caring for the Cauca River canyon biome. The content will be published on IDB Invest’s website.

15.1.b. Disseminate the program towards local authorities and other relevant national and international stakeholders from the public and private sector with a presence in the municipalities of the Project area.
Recommendation 15.2 Theme: Biodiversity, habitats, ecosystem services and water flows
15.2.a. Study for productive, economic and social strengthening with a gender equity approach, seeking to identify socioeconomic options, along with market analysis including its technical feasibility, as an alternative to gold panning and fishing activities, as well as the identification of possible financing alternatives for such initiatives. The content of the study will be published on the IDB Invest website.
15.2.b. Implementation of technical workshops to structure proposals or project financing for the identified initiatives and support from IDB Invest in the structuring process.
Recommendation 15.3 Theme: Gender-differentiated Impacts
15.3 Develop the technical content for workshops to raise awareness within the communities affected by the Project on the importance of women's rights and differentiated impacts; sexual and reproductive rights, with emphasis on the management of sexually transmitted diseases; and prevention of domestic violence and gender-based violence.
Recommendation 15.4 Joint Action
15.4 Analyze the development of one concrete action with lasting impact in conjunction with the Requesters, in line with the terms specified in Recommendation 16 of the Action Plan, to acknowledge the ancestral traditions in the Cauca River Canyon to pass on their history and symbolism to future generations. The action must be framed within the sustainability objectives of IDB Invest.
Develop an action plan
<p>Recommendation 16. Action plan. MICI recommends that Management develop an action plan, in consultation with MICI, regarding the implementation of those recommendations in this report that are approved by the Board of Directors, and that this plan incorporate a gender perspective and an implementation timeline, which MICI would monitor in accordance with paragraph 49 of the MICI Policy.</p> <p>MICI recommends that this plan be completed within 90 days.</p> <p>Since both Management and the MRV have provided verbal and written comments to the Draft Report in support of the possibility for MRV representatives to participate in the process of preparing the Action Plan. MICI recommends this action to be materialized, particularly in relation with the design of the Recommendation 15.4. Upon request of the parties, MICI will aid in the facilitation of the conversations agreed by them.</p>

Source: Prepared by MICI

Annex I: Confidential information on MICI's findings and criteria for determining compliance

This confidential annex only includes confidential information from Management that reinforces the findings of noncompliance established in MICI's investigation. The information is classified as confidential by IDB Invest under the application of IDB Invest's Access to Information Policy.

Annex II: Management's Comments on MICI's Draft Compliance Review Report on the Ituango Hydroelectric Project in Colombia

The document with the comments is available in the following hyperlink:

<http://www.iadb.org/document.cfm?id=EZIDB0000559-1002559224-56501>

**Annex III: Requesters' Comments on MICI's Draft Compliance Review Report on
the Ituango Hydroelectric Project in Colombia**

The document with the comments is available in the following hyperlink:

<http://www.iadb.org/document.cfm?id=EZIDB0000559-1002559224-56429>

Annex IV: Summary of Meeting with Requesters, July 10, 2023

The document is available in the following hyperlink:

<http://www.iadb.org/document.cfm?id=EZIDB0000559-1002559224-56428>