

United Nations Development Programme – OAI, Social and Environmental Compliance Unit



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TERMS OF REFERENCE (TOR) FOR INVESTIGATION

**In response to allegations of non-compliance with
UNDP's social and environmental commitments in the context of
UNDP's "Funding Facility for Stabilization" project**

Case No. SECU0022

Date: 8 April 2024

Basic Data

Case No.	SECU0022
Category of Non-Compliance:	Social and Environmental
Location:	Iraq
Date Complaint received:	5 September 2023
Source of Complaint:	Confidential
Eligibility assessment conducted by:	Richard Bissell, Lead Compliance Officer
Compliance Officer assigned:	Christine Reddell
Other members of the case team:	Paul Goodwin, Helena Toledo
Related Case(s):	N/A

I. Overview

1. On 5 September 2023, the UNDP Social and Environmental Compliance Unit (SECU) received a referral from the Investigations Section (IS) in the Office of Audit and Investigations (OAI). The referred complaint was submitted to IS on 4 September 2023. The complainant is an individual citizen from Mosul, Iraq. The complaint relates to UNDP's Funding Facility for Stabilization project in Iraq.
2. The complainant alleges that three houses, including their own, have partially collapsed and that these houses were serviced by a UNDP rehabilitation programme in 2020. The complainant alleges that the UNDP provided their house with plastic pipes for water and that there were leaks. The complainant is concerned that these leaks affected the stability of their house and caused or contributed to the structural damage of their and their neighbor's homes. According to the complainant, there is now a big cavity under the street, and there is fear that additional houses may collapse at any time.
3. SECU spoke with the complainant on 6 September 2023. The complainant detailed that their house (which belonged to their late father) was severely damaged during military attacks in 2017, which left only 20-30% of the town intact. According to the complainant, UNDP's renovation efforts began in 2019 and were completed in early 2020. The complainant expressed some doubt as to the precise cause of the cavity. The complainant also expressed concern about the UNDP's rehabilitation project for not assessing soil conditions prior to carrying out the renovations, blaming the UNDP for overlooking issues of structural integrity.
4. The Funding Facility for Stabilization project (FFS)¹ is a Direct Implementation Modality (DIM) project with a total budget of 1,288 million USD, a start date of May 2015, and an extended end date of 31 December 2026.
5. According to the Project Document (Prodoc), the FFS aims to "support stabilization efforts of the Government of Iraq (GOI) in 31 locations across the newly liberated governorates of Anbar, Diyala, Salah-Al-Din, Kirkuk, and Ninewa".² The FFS approach to stabilization "was designed with the aim of deterring the re-occurrence of violent conflict in Iraq." The project relies on 4 primary "windows" of activities: 1) public works and light infrastructure rehabilitation, 2) immediate livelihood support for returning internally displaced people (IDPs), 3) capacity support for local governments, boosting their immediate response capacity to cope with the challenges arising during stabilization and, 4) promoting social cohesion among the target communities.
6. The first window of activities appears to be relevant to the complaint. According to the Prodoc: "Window One focuses on public works and light infrastructure rehabilitation in newly liberated areas. In the context of Iraq, the focus is to help to kick-start critical public services that have been damaged by the armed conflict. Light to medium rehabilitation of infrastructure is supported in sectors which are critical for meeting basic needs, such as health, water, education, electricity, sewage, housing, roads and bridges and municipality"³. Additionally, the Prodoc highlights the following consideration for Window 1 activities: "Window 1: conflict-sensitive and sustainable

¹ Atlas Award ID: 00089459

² UNDP Iraq, Revised FFS Project Document (2021-23), 2021, p. 3

³ UNDP Iraq, Revised FFS Project Document (2021-23), 2021, p. 4

approach in the assessment/prioritization, with a view of full functionality for not just the structure that is rehabilitated, but also from the perspective of whole grid of the service sector (ex. water, electricity, health, education), based on Build Back Better (BBB) principles. The whole network will be examined to assess where potential loss occurs (ex. old water piping and damaged pipes) and to ensure efficient and effective delivery including strengthened network redundancy.”⁴

7. The UNDP Iraq Country Office (CO) confirmed to SECU that the house to which the complaint refers was covered under the Funding Facility for Stabilization project, contract #PAM 222-19 for the rehabilitation of 274 houses in Nabi Jarjees and Ras Alkur neighborhoods in Mosul. According to the CO, only houses that were deemed to be structurally stable and repairable were selected for rehabilitation under this project, and this assessment was done on the basis of a visual inspection.

II. Process to Date

8. On 7 September 2023, SECU registered the complaint on its online case registry and requested documentation and information from the UNDP Iraq CO.
9. In response to being notified of the complaint, the CO visited the complainant’s house and confirmed that the house is currently deserted due to safety concerns and that visual inspections indicate a significant cavity underneath the house extending to the narrow road and other nearby houses. The CO indicated that an initial assessment suggested that seven nearby houses have also experienced similar settlement issues and have been evacuated due to safety concerns. The CO indicated to SECU that it had contacted the municipality and urgently requested their intervention and that in response, the municipality had closed the road, initiated soil investigations, and initiated communication with the Directorate of Antiquities, given the historical significance of the area.
10. On 13 February 2024, SECU determined that the complaint met the eligibility criteria for a compliance review: (1) The complaint relates to a project or programme supported by UNDP; (2) raises actual or potential issues relating to compliance with UNDP’s social and environmental commitments, and (3) reflects that, as a result of UNDP’s noncompliance with its social and environmental commitments, complainants may be or have been harmed.⁵

III. Applicable Social and Environmental Commitments

11. The complaint, as presently understood by SECU, raises potential issues related to compliance with the following provisions of the 2015 UNDP Social and Environmental Standards (SES)⁶:
 - a. Overarching Programming Principle 2 – Human Rights (right to adequate housing)
 - b. Project-Level Standard 3: Community Health, Safety and Security

⁴ UNDP Iraq, Revised FFS Project Document (2021-23), 2021, p. 6

⁵ Section 8.2 of SECU’s Investigation Guidelines detail the eligibility criteria for a SECU Compliance Review. Available at <https://www.undp.org/publications/secu-investigation-guidelines-0>

⁶ As the project’s revision occurred during the SES transition period and the SESP included in the annex is the 2015 version (updated in April 2020), compliance will be assessed against the 2015 SES policy.

- c. Policy Delivery Process and Accountability Requirements:
 - i. Screening, Assessment, and Management of Social and Environmental Risks and Impacts
 - ii. Stakeholder Engagement and Response Mechanisms
 - iii. Access to Information

12. The relevance of other applicable social and environmental commitments may be uncovered during the course of the investigation.

IV. Scope of Work

13. The aim of this compliance review is to establish a background factual record through the objective gathering of evidence, make findings based on this record, and, if necessary, make recommendations on how to bring UNDP-supported activity into compliance with the SES and other relevant policies and procedures, mitigate any harm that results from any breach of UNDP's social and environmental commitments and help identify avenues to prevent similar compliance concerns in the future.

14. The scope of this compliance review, like all compliance reviews, is limited to that over which UNDP has reasonable control. It does not focus on the actions of other entities except insofar as they relate to UNDP's commitments to assess, mitigate and address social and environmental risks that occur in the context of UNDP supported activities.

15. The compliance review carried out by SECU will involve the following key activities:

- a. An initial desk-based review of accessible documentation, e.g., project documents, including risk logs, social and environmental screening procedures, any structural integrity and stability assessments, documentation relating to stakeholder engagement, relevant construction and housing national regulations, relevant procurement documentation, including notices and ToRs, and annual workplans. The documentation to be reviewed will include UNDP-generated records, information from national entities, relevant information from donors, the complainant and other local sources, and news articles and other publicly available information. This desk-review will assist SECU in developing a more detailed analysis of compliance issues with UNDP's social and environmental commitments and scoping out the various roles of key stakeholders and decision-makers both within UNDP and outside the organization.
- b. Identifying initial questions to be addressed to a variety of relevant stakeholders, in-country and otherwise. This will necessarily be an iterative process as more information is secured.
- c. Given the current travel restrictions for non-local staff and logistical constraints for UNHQ-based staff to conduct a field visit to Mosul, Iraq, at this time SECU will engage a national consultant, with an engineering or architectural background, to conduct field visits in Mosul. Their tasks will involve some or all of the following: Assessing the current state of structural damage and the likely causes of the damage, reviewing information provided to SECU by the CO and other sources, understanding the scope of the UNDP rehabilitation effort and whether any UNDP activities could have led to or contributed to the formation of the cavities, organizing virtual meetings for online interviews with complainants and other local stakeholders by the SECU team, and obtaining additional needed documentation, such as any available external structural assessments of houses

where the reported cavity is located and information relating to national/local building codes. SECU may explore engaging additional consultants with the same or other complementary skills, as needed.

- d. Identifying individuals and groups to be interviewed. These might include:
 - i. UNDP personnel involved in relevant project activity at the country office, regional bureau, and headquarters levels;
 - ii. Complainant and other affected community members in Mosul;
 - iii. Representatives of local partners involved in project activity, including contractors, government agencies and local institutions;
 - iv. Other groups and individuals who can provide context, evidence regarding UNDP’s compliance with relevant standards and laws, and the existing and potential impacts of relevant UNDP-supported activity.
- e. An assessment of the risks of acts of intimidation or reprisal at various stages of the investigation process and identification of preventative and response measures in consultation with relevant stakeholders as and if necessary.
- f. Establishing contact with individuals and groups identified above to set up interviews.
- g. The preparation of a draft investigation report that assesses compliance of UNDP-supported activities with UNDP’s social and environmental commitments.
- h. Sharing the factual docket with the complainant and relevant UNDP business units for a final fact check.
- i. Finalizing and publishing the draft report for public commenting, and specifically inviting comments from the complainant, the UNDP Iraq Country Office (CO), and other relevant stakeholders.
- j. Reviewing and responding to the received comments and finalizing the report.
- k. Clearing the final report within OAI and the submission of the report to the UNDP Administrator and other relevant units; publishing the report on the SECU registry.
- l. Monitoring the implementation of the Administrator’s decisions once they have been issued.
- m. Closing the case once SECU has determined that all of the Administrator’s decisions as they relate to SECU’s findings and recommendations have been implemented, or as otherwise appropriate.

V. Anticipated Milestones and Timeframes

16. The SECU process expects to achieve the following milestones in terms of developing its report and its component parts:

Milestone	Expected Completion Date
1. Issue Draft Terms of Reference on SECU website for public comment.	April 2024
2. Revise Terms of Reference based on public comments.	May 2024
3. Request additional information and documentation from the complainant, CO staff knowledgeable about the rehabilitation works in Nabi Jarjees & Ras Al Kur neighborhoods in Mosul, and	April – June 2024

<p>other relevant third parties. Desk-based document review, and virtual interviews as feasible and necessary.</p>	
<p>4. Engage a local engineer or architect to assess the structural damage and the likely causes of that damage and provide guidance concerning compliance with relevant Iraqi building standards and regulations, and other commitments.</p>	<p>May – August 2024</p>
<p>5. Continue requests for additional information from relevant stakeholders.</p>	<p>July – September 2024</p>
<p>6. Complete and release for public comment the Draft Investigation Report.</p>	<p>October – November 2024</p>
<p>7. Issue final report to the Administrator and relevant units, publish the report and circulate to all stakeholders.</p>	<p>December 2024 – January 2025</p>