



## ACS Group (Grupo Cobra): Kidnapping rivers

Spanish infrastructure company Grupo Cobra supported the construction of a hydraulic power plant, despite knowing it would impact the human rights of indigenous communities in Guatemala.

### Problem Analysis

This case illustrates how corporations headquartered in Europe make profits in developing countries without respecting human rights and the environment.

This case shows how Grupo Cobra, owned by the Spanish ACS Group, failed to conduct a proper due diligence process when it joined the construction of the Renace hydroelectric power project, and so became an accomplice in an environmental and social catastrophe in Guatemala. Despite the fact that Grupo Cobra was contracted by a local company, which had a governmental permit to carry out the construction work, Grupo Cobra should have known that the project would cause ecological and social harm. The case shows that there is insufficient accountability when foreign companies are subcontracted by companies located in countries with weak environmental and human rights standards.

### Company

**Company:** ACS Group (Spanish construction and infrastructure multinational)

**Head office:** Spain

**Subsidiary:** Grupo Cobra

### Company background

**Public company** (traded on the stock exchange)

**Top 5 shareholders:** Inversiones Vesan, S.A. (12.52%), Blackrock (3.01%), Invernelin Patrimonio, S.L. (2.77%), Percacer, S.L. (1.39%) and Comercio y Finanzas, S.L. (1.37%)<sup>1</sup>

**CEO & Chairman:** Florentino Pérez, \$2.1 billion wealth (salary 2016: € 1.89 million in fixed salary and € 2.67 million in bonus<sup>2</sup>)

**Annual net profit:** € 751 million (2016)<sup>3</sup>

**Annual turnover:** € 32.5 billion (2016)<sup>4</sup>

**Presence:** North America hosts 46% of the company's total activity, followed by the Asia-Pacific region (26%) and Europe (21%), South America (6%) and Africa (1%). Primary countries of operation (annual billings exceeding €900 million) are the United States, Australia, Spain, Hong Kong, Mexico, Canada and Germany.<sup>5</sup>

**Number of employees:** 176,755 (2016)<sup>6</sup>

### Company activity

Grupo Cobra is the main industrial sub-holding company of the ACS Group which is involved in infrastructure, manufacturing and construction.<sup>7</sup>

### Country and location in which the violation occurred

Guatemala, specifically the Renace hydroelectric power plant construction, which affects a 30 kilometers stretch of the Cahabón river bed in Alta Verapaz Department, to the north of Guatemala city.

### Summary of the case

ACS is one of the largest companies in Spain. Its CEO is the president of Real Madrid football club and one of the richest men in Spain.<sup>8</sup> ACS's subsidiary company Grupo Cobra is harming the environment and threatening the survival of indigenous communities in Central America by building parts of a hydraulic power plant along the Cahabón river. The water from the river is essential for the drinking water supply of the almost 29,000-strong Quekch'is community but has almost disappeared.

The Renace hydroelectric power project is promoted by the family-owned Guatemalan multinational company Corporación Multi-Inversiones (CMI).<sup>9</sup> Once completed, Renace will be the largest hydroelectric power plant in Guatemala. The construction is taking place along 30 kilometres of the Cahabón riverbed in Alta Verapaz. The Spanish firm Grupo Cobra, a subsidiary of ACS, is building parts of the project.

The Cobra Group is carrying out construction works for the plant in phases II, III, IV and V according to the following chronology:

- Construction of RENACE II was awarded to the ACS-Cobra Group in 2012. Construction started in January 2012 and ended in June 2014.
- Construction of RENACE III was awarded to the ACS-Cobra Group in 2014.
- Construction of RENACE IV was begun in June 2016 by the ACS-Cobra Group, and it is expected to be operational by 2019.
- RENACE V began construction with the participation of the ACS-Cobra Group during 2017.

The project was approved by The Commission on the Environment of Natural Resources and the Ministry of Energy and Mines, despite serious weaknesses in the environmental impact assessment and despite a lack of consultation of indigenous communities. This is required under the ILO Indigenous and Tribal Peoples Convention (No. 169), which has been ratified by Guatemala. Although partial studies of each of the five phases have been done to obtain the required permits, a study of the 30km long hydroelectric complex that takes into account the cumulative impacts of the entire project has not been carried out. This omission has diluted the perception of the impacts that are generated and, therefore, the environmental and social responsibilities of this initiative. The river near the hydraulic plant is the main source of electricity and drinking water for the thousands of people living along it, yet it is being diverted to fuel the power plant. As a result, the water flow of the river near the communities and thus their livelihood, has almost disappeared.<sup>10</sup>

The Cahabón river is not privately-owned, yet communities that depend on it for survival have been stopped from accessing it freely, with access restricted to between 5am and 7pm.<sup>11</sup> In Spain the NGO Alianza por la Solidaridad ran a public campaign, launched a report and collected around 25,000 signatures.<sup>12</sup> The Guatemalan NGO MadreSelva appealed to the Guatemalan Constitutional Court in support of the indigenous community and indigenous leaders. This appeal was rejected in September 2017. In a hearing in the Inter-American Commission on Human Rights (IACHR), a group of organizations and communities denounced the fact that those who assert their rights and those indigenous communities opposed to hydroelectric projects in Guatemala suffer human rights violations and are victims of threats, attacks and murders.<sup>13</sup>

Alianza por la Solidaridad tried to contact the ACS group in Spain to discuss the concerns surrounding the project, but the company refused to meet with them, arguing that Grupo Cobra / ACS are not responsible for any social or environmental issues since they are subcontracted by the local company CMI, which Grupo Cobra maintains is ultimately responsible for the site and its operations.<sup>14</sup>

## Endnotes

- 1 "Significant shareholders and Treasury stock," ACS Group company website at <http://www.grupoacs.com/shareholders-investors/the-share/share-capital/significant-shareholders> (accessed on 14-11-2017)
- 2 Franklin, "The Salary of Florentino Perez at ACS Revealed," Ghana Man Sports, 10 May 2017, <http://ghanamansports.com/2017/05/10/salary-florentino-perez-acs-revealed> (accessed at 14-11-2017)
- 3 "2016 Integrated Report," ACS, Chapter 5. The Financial Management p. 103 at [http://www.grupoacs.com/informe-anual-2016/index\\_en.html](http://www.grupoacs.com/informe-anual-2016/index_en.html) (accessed at 14-11-2017)
- 4 Ibid.
- 5 Ibid.
- 6 Ibid.
- 7 "Presentation of the Company," Grupo Cobra at <http://www.grupocobra.com/content/page/presentation-of-the-company> (accessed at 14-11-2017)
- 8 "Florentino Perez" at <https://www.forbes.com/profile/florentino-perez/> (accessed at 09-12-2017)
- 9 "Caso Renace-Cobra (ACS), La hidroeléctrica que destruye derechos en Guatemala," Alianza por la solidaridad, undated at <http://www.alianzaporlasolidaridad.org/wp-content/uploads/Maq.-Tierra3.pdf> (accessed at 14-11-2017)
- 10 Ibid.
- 11 "Against the seizure of an indigenous river by a Spanish firm in Guatemala," Alianza por la solidaridad, 17 June 2016 at <http://www.alianzaporlasolidaridad.org/en/noticias/contra-el-secuestro-de-un-rio-indigena-por-una-empresa-espanola-en-guatemala> (accessed at 7-12-2017)
- 12 "Caso Renace-Cobra (ACS), La hidroeléctrica que destruye derechos en Guatemala," Alianza por la solidaridad, undated at <http://www.alianzaporlasolidaridad.org/wp-content/uploads/Maq.-Tierra3.pdf> (accessed at 14-11-2017). In Spain the NGO Alianza por la Solidaridad ran a public campaign, launched a report and collected around 25,000 signatures.
- 13 "Guatemala: Informe sobre violaciones de derechos humanos y ataques a defensores/as por proyectos hidroeléctricos," Business & Human Rights Resource Centre, undated at <https://www.business-humanrights.org/es/denuncian-ante-la-cidh-violaciones-de-derechos-humanos-y-ataques-a-defensores-as-por-proyectos-hidroel%C3%A9ctricos-en-guatemala> (accessed at 7-12-2017)
- 14 "Caso Renace-Cobra (ACS), La hidroeléctrica que destruye derechos en Guatemala," Alianza por la solidaridad, undated at <http://www.alianzaporlasolidaridad.org/wp-content/uploads/Maq.-Tierra3.pdf> (accessed at 14-11-2017)