



Independent  
Project  
Accountability  
Mechanism

**MAP Monitoring Report III**  
**Monitoring Period: August– December 2020**

**Southeast Europe Equity Fund II Project**  
**EBRD Project Number 34894**  
**Case 2017/05**


**February 2021**

**Note:** This case was received under the Project Complaint Mechanism (PCM) - the former accountability mechanism of the EBRD - in accordance with the [2014 PCM Rules of Procedure](#) and the Monitoring stage was initially conducted under PCM Rules and Procedures.

Effective 1 July 2020, the Project Complaint Mechanism was replaced with the [Independent Project Accountability Mechanism](#), brought into effect through the [2019 Project Accountability Policy](#). Under the Policy's provisions for case transition, monitoring of the Southeast Europe Equity Fund Management Action Plan from the date above is now undertaken in alignment with the requirements of the [2019 Project Accountability Policy](#).

IPAM is the independent accountability mechanism of the EBRD. It reviews environmental, social, and Project disclosure-related concerns raised by Project-affected people and civil society organisations. IPAM can address concerns through two avenues: i) Problem-solving, which supports dialogue between Complainants and Clients to resolve environmental, social and public disclosure concerns without attributing blame or fault; or ii) Compliance Reviews, which determine whether the EBRD has complied with its Environmental and Social Policy and Access to Information Policy in relation to the Project.

For more information about IPAM, please contact us at [ipam@ebrd.com](mailto:ipam@ebrd.com) or visit the [IPAM webpage](#).

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*Unless otherwise indicated capitalised terms used in this report are those as set forth in the 2019 Project Accountability Policy.*

## List of Abbreviations

Abbreviation	Long Form
BCM	Bedminster Capital Management, G.P., LLC (the initial Fund Manager)
EP	Environmental Policy 2003
ESP	Environmental and Social policy
FI	Financial intermediaries
IPAM	Independent Project Accountability Mechanism
MAP	Management Action Plan
PCM	Project Complaint Mechanism
Policy	IPAM Project Accountability Policy
PR	Performance Requirement
SEEF (the "Fund")	Southeast Europe Equity Fund (the Project)

## Executive Summary

The EBRD Project Complaint Mechanism (PCM) completed a [Compliance Review](#) (CR) of the [Southeast Europe Equity Fund \(34894\)](#) Project in Kosovo (“the Project”) in October 2018, identifying one instance of non-compliance with the EBRD’s Environmental Policy (EP) 2003<sup>1</sup>. The Compliance Review determined that Bank did not meet its obligations to provide ongoing Project monitoring under EBRD’s Environmental Procedures for Private Equity Funds. The independent PCM Expert responsible for the Compliance Review made one recommendation to Bank Management:

**Recommendation 1:** Address the inconsistency in the Bank’s application of Procedures and Performance Requirements (PRs) across Bank Projects, to ensure that all Private Equity Fund Projects are brought under a common framework of compliance.

The PCM Expert noted that the implementation of this recommendation would require that Client investment agreements contain provisions stipulating that compliance requirements evolve in line with ESP policy and procedural changes introduced by the Bank (e.g., in subsequent iterations of these documents), in the pursuit of continuous improvement and Project performance.

### Management Action Plan

In response to the finding of non-compliance, the Bank developed a [Management Action Plan \(MAP\)](#) to address the Expert’s recommendation, approved by the EBRD Board of Directors on 29 October 2018. Bank Management committed to undertake two actions:

**Management Action 1:** Renew the Bank’s FI monitoring strategy to take a more active approach to funds (as per the requirements under the Environmental Procedures for Active Funds, which replaced the previous Procedures under which the Project operated).

**Management Action 2:** Include elements of Continuous Risk Improvement in the Environmental and Social Management Plans under which Funds operate, in order to recognise and encourage the development of a ‘dynamic’ approach to environmental risk management. These requirements are to be featured in:

- i) the 2019 ESP and
- ii) the 2019 ESP PR9 Guidance.

### Management Action Plan First Monitoring

PCM started monitoring the implementation of the Board-approved MAP on the Project and completed its [first Management Action Plan Monitoring Report](#) in relation to the Southeast Europe Equity Fund Project. The Report covered the period December 2018 to July 2019 and provided update to the EBRD Board of Directors, Relevant Parties and the public on the execution of the MAP. It determined that continued monitoring is required with reference to Action 1 and Action 2 pending the development of ESP Guidance Note on PR 9 (and any associated documentation) in order to ensure that the practices set out therein facilitate Continuous Risk Improvement for Bank funds.

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<sup>1</sup> <https://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html>

### **Management Action Plan Second Monitoring**

With the adoption of the new Policy effective as of 1<sup>st</sup> July 2020 IPAM undertook the monitoring for this case. In August 2020, the [second Management Action Plan Monitoring Report](#) was issued, covering the period August 2019 to July 2020. During that period, Management Actions 1 and 2.i were completed, while Action 2.ii remained outstanding.

### **Management Action Plan Monitoring**

The current report covers the period August 2020 to December 2020 and is the third in the series of biannual monitoring obligations set in the PAP.

It presents:

- a) the monitoring activities undertaken by IPAM during the referred period, and
- b) the findings and conclusions resulting from IPAM monitoring.

This Monitoring Report reflects the status of MAP implementation to date. Following a review of the documentation received from Bank Management regarding the action reported pending in the last monitoring report<sup>2</sup>, IPAM has found that Action 2.ii remains outstanding.

#### **SUMMARY OF ACTIONS**

<b>S.No.</b>	<b>ACTIVITY</b>	<b>TIMELINE</b>
1.	Compliance Review completion	October 2018
2.	Management Action Plan approval	October 2018
3.	<a href="#">1<sup>st</sup> monitoring report</a> covering period November 2018 – July 2019	July 2019
4.	<a href="#">2<sup>nd</sup> monitoring report</a> covering period August 2019 – July 2020	August 2020
5.	3 <sup>rd</sup> monitoring report covering period August 2020 – December 2020	February 2021

IPAM shall continue to monitor the implementation of Action 2.ii and update on progress at end of June 2021. If the action is completed before that, IPAM will issue a final report at that stage.

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<sup>2</sup> The [Case Registry](#) provides details on this case and all case reports issued to date.

## 1 Introduction

This Monitoring Report provides an overview of:

- a) the background and context of the IPAM case;
- b) the monitoring activities undertaken by IPAM during the August - December 2020 monitoring period; and
- c) the monitoring findings and conclusions.

## 2 Background and Context

### 2.1 Complaint Submission and Eligibility Assessment

In August 2017, PCM received a [Complaint](#) from a Project-affected person, alleging unfair treatment and discrimination by the American Hospital in Kosovo, a subsidiary of the American Hospital in Albania (i.e., a sub-project under the [Southeast Europe Equity Fund II](#)). At that time, Bedminster Capital Management (BCM) LLC managed the Project. The Complainant alleged inadequate warning/consultation regarding termination of their employment contract. It identified similar unfair treatment among other employees of Kosovan backgrounds, who identified as being subject to systemic discrimination or termination of their employment based on their nationality.

Mr. Victor Thorpe was appointed to undertake a Compliance Review as an external PCM Expert.

### 2.2 Compliance Review Finding

In the review of Bank compliance with the EP 2003, the PCM Expert found the Bank to be non-compliant in one instance, as the EBRD failed to monitor the effectiveness of the Client's environmental performance, required by the EBRD Policies and Environmental Procedures for Private Equity Funds, Annex 8, and Annual Environmental Report.

The PCM Expert also noted that the practical application of the 2003 Environmental Procedures for Private Equity Funds lacked the proactive promotion of environmentally and socially sustainable development foreseen in the Agreement Establishing the Bank.

### 2.3 Compliance Review Recommendations

In response to the finding of non-compliance, the PCM Expert made one recommendation to the Bank of a systemic / procedural nature, as outlined in the Expert's [Compliance Review Report](#).

**Recommendation:** Address the inconsistency in the Bank's application of Procedures and Performance Requirements (PRs) across Bank Projects, to ensure that all Private Equity Fund Projects are brought under a common framework of compliance.

The PCM Expert noted that the implementation of this recommendation would necessitate Client investment agreements to contain provisions ensuring that compliance requirements evolve in line with Environmental and Social Policy (ESP) and procedural changes introduced by the Bank (e.g., in subsequent iterations of these documents), in the pursuit of continuous improvement and Project performance.

## 2.4 EBRD Management Action Plan

In response to the PCM Expert's finding and recommendation, the Bank prepared a [Management Action Plan](#) (MAP) outlining its proposed measures to respond to the finding of non-compliance.

Management noted that since the time of the Project signing, the Bank's Procedures and Policies had been updated on a number of occasions through the formal 2008 and 2014 reviews and additionally, that the EBRD had since established the Bank's [FI Responsible Investment Index](#).

Bank Management committed to undertake two actions:

**Management Action 1:** Renew the Bank's FI monitoring strategy to take a more active approach to funds (as per the requirements under the Environmental Procedures for Active Funds, which replaced the previous Procedures under which the Project operated).

**Management Action 2:** Include elements of Continuous Risk Improvement in the Environmental and Social Management Plans under which Funds operate, in order to recognise and encourage the development of a 'dynamic' approach to environmental risk management. These requirements are to be featured in the (i) 2019 ESP and (ii) 2019 ESP PR9 Guidance.

In response to the PCM finding, that the EBRD should require Clients to adhere to the Bank's updated ESP requirements as they evolve over time, Management identified that this "is not a practical or commercial option."

## 3 Monitoring Update

### 3.1 Monitoring Activities during the period August 2020- December 2020

IPAM tracks progress on MAP implementation until it has determined that all Actions have been completed as agreed, in accordance with the 2014 PCM Rules of Procedure.

In preparation of this Monitoring Report, IPAM requested written confirmation (and associated documentation) from Bank Management on its MAP progress. The Mechanism carefully reviewed Management's submissions and associated documentation.

### 3.2 Monitoring Findings

As reported at the end of the last monitoring period, there was one outstanding, Action 2.ii. for Management to complete which, as per Bank Management progress, remains outstanding at the end of December 2020.

According to Management, the consultant commissioned for its drafting is currently revising the first draft of the PR9 Guidance note after receiving extensive comments. They expect to have a final version by end of March 2021.

See **Table 1** below.



Table 1: MAP Implementation Progress

Management Action Plan Commitment Approved by the EBRD Board of Directors	EBRD Management Action Plan Commitment	EBRD Management Implementation Update	Status of Management Action Plan Commitment	IPAM Feedback
<b>Procedural / Systemic Recommendations and Management Actions</b>				
<p><b>Action 2:</b> Include elements of Continuous Risk Improvement in the Environmental and Social Management Plans under which Funds operate, in order to recognise and encourage the development of a 'dynamic' approach to environmental risk management. These requirements are to be featured in:</p> <ul style="list-style-type: none"> <li>i. the 2019 ESP (completed during the previous monitoring term); and</li> <li>ii. the 2019 ESP PR9 Guidance.</li> </ul>	<p>2019 PR9 Guidance: A Guidance Note will be finalised by June 2020 for the implementation of ESP PR9, applicable to all new FI Projects approved after January 2020 including funds, where the principle of Continuous Risk Improvement will be a mandatory element of any Environmental and Social Management System established for a Bank Project.</p>	<p>The action has commenced and a draft GN has been prepared, though not yet finalised and approved. Management expects to complete the GN on 2019 PR9 by March 2021.</p>	<p><b>Action 2, ii remains pending.</b></p>	<p>IPAM notes that there has been a significant delay in the preparation of the ESP PR9 guidance note, in relation to the initial deadline set by Management.</p> <p>Given its relevance, IPAM stresses the importance of completing this action by the deadline committed by Management of the end March 2021.</p> <p>Completion will be determined once IPAM receives the final version of the note.</p>

### **3.3 Monitoring Conclusions**

During this period, Management Action 2.ii remains outstanding.

IPAM shall continue to monitor the implementation of Action 2.ii and update on progress in the fourth monitoring report scheduled for June 2021. If IPAM receives information regarding its completion prior to the end of the next monitoring period, the completion report will issued at that time.