

1. Name of the person

[REDACTED]

2. Contact information

[REDACTED]

[REDACTED]

3. Is there a representative making this Complaint on behalf of the Complainant

NO

4. Are you requesting that this complaint be kept Confidential

NO

5. Please provide the name or a description of the EBRD Project at issue:

The project is American Hospital in Kosovo and is located in Pristina, Republic of Kosovo. The name of the local company is American Hospital Kosova sh.p.k, owned by Bedminster Capital Management L.L.C (BMC), 22 Thorndal Circle, Darien, Connecticut 06820, USA..

Bedminster Capital Management manages the South East Europe Equity fund II, majority of which is funded by OPIC and EBRD. BMC has invested in health care sector in Albania since 2008 and in Kosovo since 2011.

American Hospital Kosovo sh.p.k, BMC company in Kosovo, is currently managing the largest general hospital in Kosovo with 5400 m², 65 patient beds and more than 200 employees located in Prishtina, Shkupi street nr. 25 near Clinical University Center of Kosovo.

6. Please describe the Harm that has been caused or might be caused by the Project

First of all, my concerns extend beyond my personal grievances with the American Hospital Kosovo project, and are focused to protect primarily the Kosovar professional staff that are currently put under enormous undue pressure. In addition, I wish to defend the main interest of the public interest of investment in this project, which is to build a sustainable local Kosovar capacity to provide quality health care services in Kosovo. I believe that public-private investments should be carried out in adherence to the highest corporate conduct standards, and in compliance with the governing investment laws and regulations.

I was hired by the company American Hospital Kosova sh.p.k at the end of 2011 and signed my Management Agreement as the Executive Director of the company and hospital, on January 16, 2012. My engagement had clear objectives of establishing the company in Kosovo and creating the American Hospital in Kosovo. I was reporting directly to the Board of the American Hospital.

At the end of 2011, I started the process of mobilizing a professional team which would be the backbone for the creation of the company and the hospital. In a record time, by April 2012, the first American Hospital was opened in Hajvalia, suburbs of Prishtina, Kosovo, and after more than three years of functioning, in August 2015 the hospital expanded its operations to a more central location, with larger premises in Pristina. Over the course of four years of its existence, the hospital managed to create an excellent reputation and helped a lot of Kosovar patients in need.

My contract with American Hospital ended without any cause or written justification in January 2016.

I have filed a complaint with OPIC in 2016 and due to EBRD being part of the South East Europe Equity fund, I have been recently advised by OPIC Accountability Office to file my complaint with EBRD as well.

My concerns extend beyond my personal grievances, and are focused to protect primarily the Kosovar professional staff and the public interest of the funds engaged in development of this business. The motivation behind this is to have lessons learned and avoid this kind of situations in future.

I consider that I have been treated unfairly by Bedminster Capital Management (BCM), respectively American Hospital Kosova Sh.p.k. when the board of BCM decided not to extend my management agreement and refused to honor the terms of my agreement after four years of dedicated hard work, without appropriate indication that this might happen. I was as well not allowed to make handover of my duties and responsibilities.

This unfair treatment was extended to my local colleagues who were close to me and worked hard to establish the hospital. Their positions have been changed, and for some this resulted in the termination of their employment.

I believe that Bedminster Capital management has:

- Violated my human and worker rights as well as the rights of many other Kosovar colleagues
- Misused my professional and personal integrity;
- Discriminated Kosovar professionals by not offering them publicly a chance to apply for managerial positions at the hospital;
- Installed fear and insecurity among Kosovar staff
- Ruined the enormous efforts made in raising the human resources capacity of Kosovars in the health care sector.
- Violated the objective of the investment by not working on sustainability of the project and allowing business practices that would prioritize financial interests only.

7. If you are requesting the PCM's help through a Problem Solving initiative, you must have made a genuine effort to contact the EBRD or Project Sponsor regarding the issues in this complaint

NO

8. If you have not contacted the EBRD and/or Project Sponsor to try to resolve the harm or expected harm, please explain why

At that time I believed that I will be able to resolve the situation on my own, but could not do it. After my contract ended, I filed a complaint with OPIC, not knowing that I should file to both, OPIC and EBRD. Analysis of my complaint in OPIC took long time, from my submission in April 2016 until May 2017, when I was advised to file a complaint with EBRD as well.

9. If you believe the EBRD may have failed to comply with its own policies, please describe which EBRD policies

I believe that my labour rights were not respected in line with ESP2008 art 3:

3. The EBRD will seek to ensure through its environmental and social appraisal and monitoring processes that the projects it finances:

- are socially and environmentally sustainable
- respect the rights of affected workers
- and communities and are designed and operated in compliance
- with applicable regulatory requirements and good international practice.

I believe that the EBRD has in the sub-project with the American Hospital failed to promote decent work in line with ESP2008 art 5:

5. The Bank will seek to finance projects that have the potential to realize additional environmental and social benefits, such as socio-economic benefits to project-affected communities and, where appropriate and feasible, equitable access amongst project-affected parties to those benefits. Particular attention will be given to projects which include elements that focus upon priority environmental and social issues facing the region and which promote implementation of relevant EU strategies. The EBRD will build partnerships with clients to assist them in adding value to their activities, improve long-term sustainability and strengthen their environmental and social management capacity.

I believe that in this sub-project the EBRD has failed to ensure the implementation of national and international labour law and best practice as committed in ESP2008 art 9 and art 13:

10. The EBRD will actively seek, through its investments, to contribute to the effective implementation of relevant principles and rules of international law related to environment, labour, corporate responsibility⁹ and public access to environmental information. These principles and rules are set forth in instruments such as treaties, conventions and multilateral, regional or bilateral agreements, as well as in relevant non-binding instruments.

I believe that in this sub-project the EBRD has failed to ensure that its contractors is following appropriate social standards

13. In its internal operations, the EBRD will pursue best practices in environmental management (including energy and resource efficiency, waste reduction and recycling) and human resources management (such as equal opportunity, work/life balance, health and safety). The EBRD will seek to work with suppliers and contractors who follow similarly high environmental and social standards. The Bank will take into account sustainability issues for the procurement of internal goods and services.

I believe that the EBRD should have ensured the enforcement of its policy in the American Hospital sub-project, which was financed through the Southeast Europe Equity Fund II (project # 34894), in line with ESP2008 art 17. 24 and 28:

17. In this Policy, the term “project” refers to the business activity for which EBRD financing is sought by the client regardless of the type of EBRD operation. EBRD operations (that is to say, the act of providing financing) comprise a range of different types of financing for proposed projects, such as project finance/limited recourse finance, corporate finance, working capital, quasi-equity, equity, or grants.

24. A proposed project will be classified as FI if the EBRD provides financing to a financial intermediary (FI). Working with FIs is a key way for the EBRD to promote sustainable financial markets and provide a vehicle to channel EBRD funding to the micro, small and medium-sized enterprise (SME) sector. They include, among others, private equity funds, banks, leasing companies, insurance companies and pension funds. [...]

The PCM should review if the EBRD has identified and addressed the failure of the client to follow best labour practices and regulations in line with ESP2008 art 34-37 on monitoring.

The health sector is a new sector for the EBRD as part of its investments in services. From this point of view it is important to understand if the EBRD has done sufficient and good quality ESDD and monitoring as part of its attempts to take a ‘proactive and innovative approach to promote projects and initiatives that are specifically designed to deliver significant environmental and social benefits’ which includes ‘financing pilot projects to explore potential new lines of business with high environmental or social benefits’ in accordance with ESP2008 art. 43-45

I believe that in this sub-project the EBRD has failed to ensure that its client meets all applicable Performance Requirements.

Central to this is a consistent approach to seek to avoid adverse impacts on workers, communities, and the environment, or if avoidance is not possible, to reduce, mitigate, or compensate for the impacts, as appropriate. The PRs also provide a solid base from which clients may improve the sustainability of their business operations.

I believe that client should have strictly comply with Performance Requirement 2 (PR2) in respect of workers’ rights, treating workers fairly and worker/management relationship

Please note that based on your interest, and request, I am ready to provide your office with the concrete evidence that further supports the above statements.

10. Please describe any other complaint you may have made to try to address the issue at question

I have filed a Request form for affected parties of Their representative with OPIC, office of accountability on April 18th 2016 and got a reply in August 19th 2016 stating “We have reviewed your complaint and reached the decision that it is not an eligible claim as it is found to be personnel matter other than labor rights as set out in the paragraph 4.4.3 of OA ‘Operational Guidelines Handbook for Problem – Solving and Compliance Review Services”.

I resubmitted my complaint to OPIC Office of Accountability on September 6th 2016, during May 2017 I have had interview with OPIC Office of Accountability and have been advised to file a joint complaint to both OIPIC and the Project Complaint Mechanism (PCM) of the European Bank for Reconstruction and Development (EBRD.)

I have as well on February 15th, 2016 opened a court case in Basic court in Prishtina for American Hospital sh.p.k not respecting the terms of my work contract and for material and non-material damage. The court process has not started yet.

11. Are you seeking a Compliance Review where the PCM would determine whether the EBRD has failed to comply with its Relevant Policies

I am seeking compliance review to determine whether the EBRD has ensured that Bedminster Capital Management in his project in Kosovo, has conducted its business in line with the Relevant EBRD Policies.

My complaint has not only personal motivation, I think Bedminster Capital Management, respectively American Hospital should have conducted business in strict compliance with the human and labour rights standards and in compliance to the laws of the country were they implement their projects.

As I mentioned in my initial complain to OPIC I was effectively prevented to fulfill my responsibilities as a manager without any cause or written justification and I could not do an handover of responsibilities and this was pure discrimination, however my concerns extend beyond my personal grievance and are focused also on local staff mistreatment, discrimination, unethical practices, violation of human and worker rights, fear, prioritization of financial interests versus capacity building and creation of opportunities for better treatment of population.

I think it would be of public interest for PCM to investigate if the client has complied with EBRD or / and OPIC objectives for the project / fund and making them ‘fix their system’ of management and comply with the objectives of the funding. In addition to my personal interest, this would as well be my desired outcome.

12. Are you seeking a Problem-solving Initiative where the PCM would help you to resolve a dispute or problem with the Project

YES

13. What results do you hope to achieve by submitting this Compliant to PCM?

I would like that lessons learned from this project are taken seriously for other projects of EBRD. For this project in particular, I would like that they try to solve whatever can be still solved and make sure this will not happen in the future for the employees of EBRD's clients in Kosovo.