European Bank
for Reconstruction and Development

Project
Complaint
Mechanism

Belgrade Solid Waste Public Private Partnership

REQUEST NUMBER: 2019/02

ELIGIBILITY ASSESSMENT REPORT – April 2020

The Project Complaint Mechanism (PCM) is the accountability mechanism of the EBRD. PCM independently reviews issues raised by individuals or organisations concerning Bank-financed Projects, which are believed to have caused, or be likely to cause harm. The purpose of the mechanism is to facilitate the resolution of social, environmental and public disclosure issues among Project stakeholders; to determine whether the Bank has complied with its Environmental and Social Policy and the Project-specific provisions of its Access to Information Policy; and where applicable, to address any existing non-compliance with these policies, while preventing future non-compliance by the Bank. For more information about PCM, contact us or visit the PCM webpage.

Contact information

The Project Complaint Mechanism (PCM)
European Bank for Reconstruction and Development (EBRD)
One Exchange Square
London EC2A 2JN
Telephone: +44 (0)20 7338 6000
Email: pcm@ebrd.com
http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism.html

How to submit a Complaint to the PCM

Complaints about the environmental, social or public disclosure performance of an EBRD Project can be sent by email, telephone or in writing to the above address, or via the online PCM Complaint form at:
http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/submit-a-complaint.html

TABLE OF CONTENTS

EXECUTIVE SUMMARY

PCM Complaint:

The PCM registered a Complaint[1] in relation to the EBRD's Belgrade Solid Waste Public Private Partnership (PPP) in Serbia in October 2019. The Complaint raises concerns regarding: the robustness of the Project's environmental and social impact assessment, including the appropriateness of the alternatives analysis; the alignment of Project due diligence with Serbian law and EU Directives; and potential direct and indirect social impacts to informal waste pickers. In their Complaint, Complainants requested that PCM conduct a Compliance Review.

Assessment of Complaint Eligibility for Compliance Review:

Following careful review of the Complaint, Project documentation, and following key interviews with Bank management, Complainants and the Client, PCM has confirmed that the issues raised in the Complaint relate to EBRD responsibilities under the 2014 Environmental and Social Policy (ESP), namely:

- **Performance Requirement (PR) 1: Assessment and Management of Environmental and Social Impacts and Issues;**
- **PR 3: Resource Efficiency and Pollution Prevention and Control; and**
- **PR 10 - Information Disclosure and Stakeholder Engagement.**

The Complaint also meets the temporal eligibility requirements, as it relates to an active Project approved by the EBRD Board of Directors.

Consequently, the Eligibility Assessors find that the Complaint satisfies the Compliance Review eligibility criteria, as set out in the 2014 PCM Rules of Procedure (PCM RPs).

PCM will initiate the Belgrade Solid Waste PPP Compliance Review in April 2020.

[1] Unless otherwise indicated, capitalised terms used in this Report are those as set forth in the 2014 PCM Rules of Procedure, available at http://www.ebrd.com/downloads/integrity/pcmrules.pdf

1.0 BACKGROUND

1.1 The Project

The EBRD Belgrade Solid Waste PPP Project (the Project) will be located at the site of the existing Vinca waste dump, west of Belgrade, Serbia. The Project involves debt financing of up to EUR 70 million to Beo Cista Energija d.o.o Beograd (the Client), a limited liability company established in order to finance and operate the Project. It is owned by a consortium of Suez, Itochu and the Marguerite Fund. The Project envisages:

i. the remediation, closing and aftercare of the existing landfill;
ii. the construction of a new landfill; and
iii. the construction of an Energy-from-Waste Facility (EfW) and Construction and Demolition Waste (CDW) Facility.

These operations will enable the Client to finance, build and operate landfill facilities to treat and dispose of collected residual municipal waste, generated in 13 municipalities of the City of Belgrade. The Project was approved by the EBRD Board of Directors on 18 September 2019, as a Category A Project under the 2014 ESP.[2]

The Project will contribute towards the Bank's Green Economy Transition by enhancing environmental dimensions of the Serbian solid waste management sector, resulting in significant greenhouse gas savings of approx. 130,000 tons CO2-equivalent p.a. It also seeks to promote the sustainability of natural resources and will reduce the degradation of ecosystems.

1.2 The Complaint

The PCM received a Complaint with respect to the Project on 12 September 2019, one week prior to Project approval by the EBRD Board of Directors.[3] The Complaint was submitted by civil society organisations (CSOs) Ne davimo Beograd (Serbia) and CEE Bankwatch (Regional) (the Complainants), who raised concerns regarding:

- the robustness of the Project's environmental and social impact assessment, including the alternatives analysis, alleging an absence of attention in the Project design to municipal waste prevention and non-incineration alternatives, which in their view, misses the "avoid" and "minimise" aspects of the 2014 ESP mitigation hierarchy.
- the alignment of Project due diligence with Serbian law and 2014 ESP Policy commitments, citing delays of up to five and six months respectively for receipt of responses to issues raised during the EBRD Environment and Social Impact Assessment (ESIA) and national-led Environmental Impact Assessment (EIA) disclosure periods; concerns surrounding the public access and disclosure period for the national-led EIA studies relating to the incinerator and landfill gas facility components of the Project; the absence of baseline data and projections to be considered in the Project design; and coverage of the landfill rehabilitation component of the Project design.
- alleged non-compliance with EU pollution control standards, raising concerns as to whether the incinerator component of the Project is in line with the new EU Waste Incineration BREF[4] standards (approved on 17th June 2019) and whether it has been considered in the EBRD ESIA and the Serbian EIA as a standard requirement to be followed in Project design.

[2] Project Summary Document for Belgrade Solid Waste PPP, available at https://www.ebrd.com/work-with-us/projects/psd/belgrade-solid-waste-ppp.html .
[3] Complaint 2019/02, available on the PCM Register and in Annex 1 of this Report.
[4] The BREFs are a series of reference documents covering, as far as is practicable, the industrial activities listed in Annex 1 to the EU's IPPC Directive.

- potential direct and indirect social impacts to informal waste collectors residing in and around the waste management site, alleging a lack of assessment of potential impacts on these groups, including being affected by "a potential clampdown on informal recycling".

The Complainants assert that the Project is likely to reduce the nation's investments in sustainable forms of waste management such as recycling by supporting an Energy from Waste (EfW) approach, alleging Serbia risks failing to meet targets enshrined in the 2008 EU Waste Framework Directive.

The Complainants relayed their desire to see the Board of Directors reject the Project, and alternatively, requested that PCM recommend that the EBRD Board of Directors suspend the Project due to their view of imminent and irreparable harm.

The Complainants requested that PCM consider a Compliance Review. Please see Annex 1 for the full Complaint submitted to PCM.

1.3 Complaint Registration

As PCM may only review complaints related to *approved* Bank Projects, Complaint registration was only considered after Project approval. Following registration, the EBRD Board of Directors appointed Mr. Owen McIntyre as PCM Expert to co-assess Complaint eligibility with the PCM Officer, as per para. 53 of the PCM RPs.

2.0 ELIGIBILITY ASSESSMENT METHODOLOGY

To determine whether the eligibility criteria set out in the 2014 PCM RPs were met, the Assessors conducted both primary and secondary research:

i) inviting EBRD management and the Client to provide written responses to the concerns raised. EBRD management submitted their response on 1 November 2019 (see Annex 2) and the Client submitted their response on 22 November 2019 (see Annex 3);

ii) holding meetings with Complainants, EBRD staff and the Client to discuss their views and data provided, continuing written communications through January 2020;

iii) undertaking a site visit to Belgrade 2-5 December 2019, involving in-person meetings with Complainants, Project-affected people and Client staff; and a visit to the Project site in Vinca, Serbia; and

iv) reviewing new documentation provided by the Parties following the site visit.

3.0 SUMMARY OF OTHER PARTIES' VIEWS

EBRD management and the Client's responses to the Complaint are each summarised below. Please see Annexes 2 and 3 for full responses submitted to PCM.

3.1 EBRD Management Response

In their response to the Complaint, EBRD management identified that the Project has been designed - and would be implemented and operated - in full alignment with the EBRD's 2014 ESP,

applicable Serbian legal and regulatory requirements, and applicable EU standards, environmental principles and practices, to the extent these maybe applied at the Project level.

With respect to the concerns raised regarding allegations that the Project is likely to prevent the development of a sustainable waste management system in Belgrade / Serbia, EBRD management expressed that they believe these issues to be outside the scope of the EBRD's 2014 ESP.

On the issue of stakeholder engagement, EBRD management stated that the Project due diligence was conducted in an open, transparent manner. They asserted that this included extensive dialogue with Project stakeholders - including the Complainants – and covered all issues raised in the Complaint. EBRD management highlighted that the ESIA documents, including the Non-Technical Summary, the Resettlement Action Plan, the Stakeholder Engagement Plan and the Environmental and Social Action Plan were disclosed for public comment for 11 months prior to EBRD's Board of Directors' approval of the Project. EBRD management highlighted that during this consultation period, the only comments the EBRD received on the ESIA were from Complainants Ne davimo Beograd, and that as a result of those comments, some sections of the ESIA were updated to provide additional information and better align the English and Serbian versions. The updated ESIA was then published and a summary of the changes were provided to Ne davimo Beograd and CEE Bankwatch prior to the Project's approval.

Finally, EBRD management committed to provide documents and supporting information that evidenced their position.[5]

3.2 The Client Response

With respect to Complainants' concerns alleging the risk of the Project detracting from Serbia's progress towards sustainable forms of waste management (such as recycling) by employing an Energy from Waste (EfW) approach in the Project design, the Client maintains it is not possible to achieve the EU Landfill Directive Target of 10% and the 2035 Recycling Target without energy recovery. The Client explained that high recycling targets in Europe result in larger volumes of residual waste, stating that energy recovery is the solution to treat pre-sorted residuals from sorting and recycling plants, whilst providing low carbon energy in the form of electricity and heat.

On the issue of air pollution, the Client stated that energy recovery is one of the most strictly regulated and transparent industrial sectors. They identified multiple studies that found no evidence of adverse impacts on human or environmental health as a result of energy recovery. The Client stated that only a very small fraction of European air emissions comes from energy recovery plants, and that the Project design meets the current Industrial Emissions Directive 2010/75/EU emission limits (i.e., the current applicable regulation).

With regards to the alternatives assessment, the Client asserted that energy recovery should be considered a sustainable technology and source of energy that preserves the value of residual waste by turning it into electricity or heat, due to efficient cogeneration under strictly controlled conditions, preventing resource losses, decreasing the need for fossil fuels, increasing energy security and contributing to the reduction of greenhouse gas emissions.

The Client noted that during the EIA and ESIA processes, they made all reasonable efforts to adhere to Lenders' requirements, including those around public consultation. The Client further confirmed that the questions raised by NGOs during the ESIA and the EIA consultations were answered without exception.

[5] EBRD management response to Complaint, available in Annex 2.

Finally, on the issue of informal waste pickers, the Client indicated that these stakeholders would be subject to the City of Belgrade's 2021-2030 waste management plan,[6] which has specific provisions relating to programs required to be developed by law for the collection of non-hazardous and hazardous waste. Further, they claim that only ten families were identified by the City of Belgrade during the ESIA preparation to have their settlements in the vicinity of the Vinca Landfill site. All other waste pickers were identified as being employed by private companies not residing in the Vinca Landfill.

4.0 COMPLIANCE REVIEW DETERMINATION AND RATIONALE

Through the Eligibility Assessment process outlined in Section 2.0, PCM confirmed that the Complaint meets the Compliance Review eligibility criteria outlined in the PCM RPs, as it:

- raises issues that fall under the Bank's obligations, as per the 2014 ESP, where the Bank has either direct and/or monitoring-related responsibilities;
- meets the temporal requirements for Complaints, as the EBRD maintains active investment in the Project;
- presents allegations that reflect more than a minor technical violation of the 2014 ESP;
- provides supporting documentation of Complainants' previous efforts to resolve their concerns through EBRD management; and
- identifies Complainants' desire for PCM to undertake a Compliance Review to address the issues they raised, indicating their desired outcome: "*We ask the PCM to assess whether the EBRD has acted in accordance with its own policies.*"

As per para. 28 of the PCM RPs, the Eligibility Assessors did not find that the Complaint:

- was filed fraudulently or for a frivolous or malicious purpose;
- seeks competitive advantage through the disclosure of information; or
- relates solely to the obligations of a third party.

Finally, as per para. 24 of the PCM RPs, the Eligibility Assessors did not judge the merits, truthfulness or correctness of the allegations made in the Complaint, which will be examined through the subsequent Compliance Review.

5.0 NEXT STEPS

A Compliance Review will be initiated in April 2020, within five days of the publication of this Report. The Compliance Review Terms of Reference is presented below.

[6] Client response to Complaint available in Annex 3.

COMPLIANCE REVIEW TERMS OF REFERENCE
BELGRADE SOLID WASTE PPP

Complaint: 2019/02

1.0 TERMS OF REFERENCE APPLICATION

These Terms of Reference apply to all actions undertaken as part of the Belgrade Solid Waste PPP Compliance Review. The objective of the Compliance Review is to determine if (and if so, how and why) any EBRD action - or failure to act - has resulted in non-compliance with the EBRD's 2014 ESP with respect to this Project.

Activities carried out under these Compliance Review Terms of Reference may be subject to modification at any time, provided that the PCM Officer and the Compliance Review Expert expressly agree to the change, and so long as such changes do not prejudice the interests of any Party.

2.0 COMPLIANCE REVIEW EXPERT AND OPPORTUNITY FOR CASE TRANSITION

The PCM Officer will appoint a PCM Expert to initiate the Compliance Review, as per the 2014 PCM RPs. The Compliance Review Expert shall undertake the Compliance Review in a **neutral, independent and impartial manner**, and will be guided by principles of objectivity and fairness, giving consideration to (among other things): the rights and obligations of the Parties; the general circumstances surrounding the Complaint; and due respect for EBRD staff. The PCM Expert's work on the Compliance Review shall continue until the transition date of the 2019 Project Accountability Policy (anticipated to be 1 July 2020).

Should this case extend to the transition date to 2019 EBRD Project Accountability Policy, the IPAM Head will consult with the Complainants and other Parties regarding the potential to complete the Compliance Review under the 2014 PCM RPs or finalise the Review under the 2019 Project Accountability Policy, prior to any decision being taken.

As per Section V c) of the 2019 Project Accountability Policy, the IPAM Head will then, at their discretion, determine whether a Compliance Review commenced but not yet completed under the PCM RPs will be finalised by the assigned PCM Expert or under in-house case processing, taking into account the extent of the Review already carried out; its duration; and whether the PCM Expert has already reached any conclusion. Any such determination, and the reasons for it, will be published on the IPAM Case Registry.

3.0 COMPLIANCE REVIEW SCHEDULE

The Compliance Review will be initiated in April 2020, as soon as possible following the posting of this Eligibility Assessment Report to the PCM Register on the PCM webpage. A schedule will be designed for all stages of the Compliance Review process. Every effort shall be made to ensure that the Compliance Review is conducted as expeditiously as possible, setting out the conclusion of the Compliance Review within 60 Business Days of its commencement.

4.0 COMPLIANCE REVIEW SCOPE

The scope of the Compliance Review is outlined below, developed in consideration of the issues raised in the Complaint; the outcomes of primary and secondary data collection by the Assessors; and consideration of the relevant provisions of 2014 ESP. Although the Terms of Reference make reference to specific PRs, it does not preclude potential inter-linkages between the different PRs.

With respect to the general requirements arising under the 2014 ESP:

a) Did the Bank seek within its mandate to ensure, through its environmental and social appraisal and monitoring processes, that the Project was designed for implementation and operation in compliance with applicable regulatory requirements?[7] In particular, did the Bank apply the mitigation hierarchy[8] in line with para B.6?

b) Did the Bank engage in meaningful dialogue with stakeholders during the Lender-led ESIA process, in accordance with the Bank's Public Information Policy (as outlined in para. B.15 of the ESP)?

c) During the environmental and social impact assessment process, did the Bank promote good practices in stakeholder engagement and information disclosure to its Client, in accordance with ESP B.15, and PR 10.2?

d) Did the Bank seek to ensure that the Project achieves outcomes consistent with the ESP PRs as they relate to livelihood restoration and/or the resettlement of informal waste-pickers, even if the outcomes are dependent upon the City of Belgrade as a third party? Did the Bank require the Client to collaborate with the City of Belgrade during the environmental and social due diligence process to achieve outcomes consistent with ESP PR 5 **where relevant**, and **within the scope of their influence**, as per para C.39?

PR 1: Assessment and Management of Environmental and Social Impacts and Issues and PR 3: Resource Efficiency and Pollution Prevention and Control

e) Did the Bank ensure that the environmental and social assessment process was based on recent emission and solid waste baseline data at an appropriate level of detail, as part of the assessment of air quality and waste levels, in line with PR 1.7?

f) Did the Bank satisfy itself that the assessment of climate (GHGs), air quality and socio-economic impacts was commensurate with and proportionate to the potential impacts and issues associated with the Project, and that it covered, in an integrated manner, all relevant direct and indirect environmental and social impacts and issues at the operations stage of the Project cycle, in line with PR 1.8?

g) With respect to the analysis of waste management alternatives, did the Bank confirm that the environmental and social assessment process:

   i. included an examination of technically and financially feasible alternatives, documenting the rationale for selecting the course of action proposed (PR 1.10); and

[7] Regulatory requirements in force at the time of environmental and social due diligence and/or those in force during Project monitoring to date.

[8] The mitigation hierarchy comprises measures taken to avoid creating environmental or social impacts from the outset of development activities, and where this is not possible, to implement additional measures that would minimise, mitigate and, as a last resort, offset and/or compensate any potential residual adverse impacts (EBRD 2014).

ii. considered technically, financially feasible and cost-effective options for waste management, to avoid or minimise Project-related greenhouse gas emissions during the operation of the Project (PR 3.14)?

h) Through the environmental and social assessment process, did the Bank support the Client in adopting technically / financially feasible and cost effective measures to recover and re-utilise waste materials in implementing the Project, in line with PR 3.6 and its objective of resource efficiency?

i) Did the Bank seek to ensure that the Client's environmental and social assessment process determined the appropriate pollution prevention and control methods, technologies and practices to be applied to the Project, best suited to avoid or minimise adverse impacts to human health and environment, taking into consideration the characteristics of the planned Project facilities and operations, the Project's geographical location and local ambient environmental conditions, in line with PR 3.8?

j) Did the Bank promote, and seek to confirm, that the Client structured the Project to meet substantive EU environmental standards in effect (namely, the Waste Framework Directive, the Environmental Impact Assessment Directive, and the Industrial Emissions Directive), where these can be applied at the Project level,[9] in line with PR 3.9 and B.7?

PR 10 - Information Disclosure and Stakeholder Engagement

k) Did the Bank make reasonable efforts to confirm that the national-level EIA consultation process met the applicable requirements, procedural and substantive, arising under Serbian environmental impact assessment laws, in line with PR 10.24?

5.0 COMPLIANCE REVIEW METHODOLOGY

The Compliance Review Expert shall conduct the Compliance Review process in a manner wholly consistent with the PCM RPs, and in consideration of the context of the Complaint. The Compliance Review Expert must:

a) review the Complaint, the Bank's response, the Client's response, the Eligibility Assessment Report (EAR), and all meeting minutes and notes produced in the development of the EAR;
b) review public, PCM, EBRD and Client documentation relevant to the Complaint;
c) engage EBRD Project staff, including personnel from the Bank's Environment and Sustainability Department, the Operational Lead, the relevant EBRD Resident Office, as well as consultants involved in the Bank's appraisal, implementation or monitoring of the Project, the Complainants, the Client and other stakeholders as relevant for the execution of the Compliance Review, gathering further Project data, as relevant. Information may be gathered through written communications, meetings, the receipt of supplementary Project documentation, and other engagement methods, as appropriate.
d) Identify where additional technical expertise is needed to robustly address any technical allegations, in alignment with PCM RPs 59, collaborating with the PCM to establish the supplementary Terms of Reference.
e) if there were to be findings of non-compliance, identify recommendations for Project-specific **and** procedural / systemic remedial changes relevant to rectify the non-compliance(s), subject to the consideration of any restrictions already committed to by the Bank or other Parties in existing Project-related agreements; and

[9] For the purpose of this PR, EU environmental standards can be applied at the project level where the EU secondary legislative document itself contains clear quantitative or qualitative requirements that are applicable at the project level (as opposed to the ambient level, for example).

f) take any other action as may be required to complete the Compliance Review within the required schedule at the instruction of the PCM Officer, as appropriate.

Subject to reasonable notice, the Compliance Review Expert shall have full, unrestricted access to relevant Bank staff and files. Bank staff shall be required to cooperate fully with the Compliance Review Expert in carrying out the Compliance Review, as per PCM RPs 63. All Parties shall cooperate in good faith with the Compliance Review Expert. Parties must endeavour to comply with requests from the Compliance Review Expert for obtaining access to sites, submission of written materials, provision of information and attendance at meetings. The Compliance Review Expert will advise the PCM Officer of situations where the actions or lack of action by any Party hinders or delays the conduct of the Compliance Review, and may reference such issues in the Compliance Review Report if necessary.

Access to, and use and disclosure of, any information gathered by the Compliance Review Expert during the Compliance Review process shall be subject to the Bank's 2019 Access to Information Policy and any other applicable requirements to maintain sensitive commercial and/or other information confidential. The Compliance Review Expert may not release any document or information that has been provided on a confidential basis without the express written consent of the party who owns such document (PCM RPs 63).

In conducting the Compliance Review, the Compliance Review Expert shall take care to minimize disruption to the daily operations of all Parties.

The findings (and where relevant, any recommendations for remedial change) included in the Compliance Review Report shall be based only on the circumstances relevant to the present Complaint **and shall be strictly impartial**, in accordance with RPs 54.

6.0 COMPLIANCE REVIEW REPORTING

In accordance with PCM RPs 42, the Compliance Review Expert shall prepare a Compliance Review Report, which shall include:

1) Executive Summary

2) A Case Introduction

    a. The Project cited in the Complaint
    b. The Parties to the case
    c. The Complaint

3) Case Processing and Compliance Review Methodology (illustrating the robustness of the approach)

    a. Compliance Review Objectives
    b. PCM case processing prior to the Compliance Review
    c. Compliance Review Methodology

4) Compliance Review Framework

    a. The Bank's obligations in the application of the 2014 ESP PRs

5) Analysis of the EBRD's Compliance with the 2014 ESP

    a. PRs 1 and 3
        i. Parties' Positions

ii. Policy Obligations
iii. Compliance Assessment
iv. Compliance Review Finding (and in-depth rationale for these findings)

b. PR 10
i. Parties' Positions
ii. Policy Obligations
iii. Compliance Assessment
iv. Compliance Review Finding (and in-depth rationale for these findings)

6) Recommendations (if relevant)

a. Procedural / Systemic Recommendations
b. Project-specific Recommendations

7) List of Abbreviations

Prior to sending the draft Compliance Review Report to the Relevant Parties for comment or disclosing the final Compliance Review Report to the Relevant Parties and the EBRD Board of Directors, the PCM Expert and PCM Officer will verify that there are no restrictions on the disclosure of information contained within the Report as a result of the Bank's 2019 Access to Information Policy, and may consult with the Parties regarding the confidentiality and accuracy of the factual information contained therein.

7.0 COMPLIANCE REVIEW PRESENTATION

In the case that non-compliance is identified, the Compliance Review Expert will develop a PowerPoint presentation and speaking notes to present to the Audit Committee of the EBRD Board of Directors, presenting the methodology, findings and recommendations of the Report, as well as anticipated FAQs and talking points, in consultation with the PCM Officer.

7.1 Consideration of Stakeholder Feedback

Parties to the Compliance Review shall be provided an opportunity to comment on the draft Report, and the Compliance Review Expert shall consider their comments in its finalisation.

ANNEX 1: Complaint

Complaint Form

In order for the PCM to address your Complaint, you must provide the following information:

European Bank for Reconstruction and Development | Project Complaint Mechanism

Step 1: Details of the Complaint

1. Name of the Person(s) or Organisation(s) filing the Complaint ("the Complainant"). Ne davimo Beograd/Don't Let Belgrade Drown, Cvijićeva 106, 11 000 Belgrade, Serbia CEE Bankwatch Network, Heřmanova 1088/8, Prague 7, 170 00, Czech Republic
2. Contact information of the Complainant (Please include address and, if possible, phone number and email address). Don't Let Belgrade Drown, Cvijićeva 106, 11 000 Belgrade, Serbia, [redacted] Contact person: [redacted] CEE Bankwatch Network, Heřmanova 1088/8, Prague 7, 170 00, Czech Republic. [redacted] Contact person: [redacted]
3. Is there a representative making this Complaint on behalf of the Complainant? [redacted]
4. Are you requesting that this Complaint be kept **confidential**? [redacted]
5. Please provide the **name or a description of the EBRD Project** at issue. Belgrade Solid Waste PPP, Serbia. The project has passed final review and is pending Board Approval: https://www.ebrd.com/work-with-us/projects/psd/belgrade-solid-waste-ppp.html
6. Please describe the **harm that has been caused or might be caused** by the Project *(please continue on a separate sheet if needed):* The project is likely to prevent the development of a sustainable waste management system in Belgrade and lock the city into a long-term contract obliging it to provide a certain amount of unsorted communal waste for the incinerator. This will make it difficult for Serbia to meet its EU waste recycling targets and may impact on informal waste collectors if the City cracks down on informal recycling in order to keep up the amounts of waste needed. It will also increase air pollution more than is strictly necessary as it is not in line with the latest EU standards for waste incinerators. We also seriously doubt that the Serbian authorities have the capacity or political will to enforce air pollution legislation, based on the experience so far with coal power plants.

Step 2: Problem-solving Initiative

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 (Client) regarding the issues in this complaint.

a. Have you **contacted the EBRD** to try to resolve the harm caused or expected to be caused by the Project?

[redacted]

We are seeking a compliance review rather than a problem-solving initiative. We believe it is important to underline that we have repeatedly communicated with the bank and the bank's answers have not resolved the issues. The communication has included the following:

- Our representative travelled to the EBRD annual meeting in May 2018 and discussed the project with bank staff and the Board of Directors, as well as distributing an issue paper regarding the project.
- In September 2018 we contacted [redacted] and asked for a meeting.
- In September 2018, as Board approval of the project looked imminent, we wrote to the Board of Directors outlining our concerns and unanswered questions about the project.
- In September 2018, we met with EBRD representatives from the Bank's Belgrade Office: [redacted] (Director), [redacted] (Principal Banker), [redacted] (Principal Banker, Municipal & Environmental Infrastructure) and [redacted] (Principal Manager, CSEU, External relations and Partnerships).
- On 20 September 2018 we also sent a list of questions about the project to [redacted], with the Environmental and Social Department and CSO liaison in cc.
- On 27 November 2018 we sent a request for clarifications on some of the answers.
- On 10 December 2018, we submitted 92 pages of comments on the Environmental and Social Impact Assessment to [redacted]
- On 19 December 2018 we informed [redacted] of the City of Belgrade's publication of the ESIA which was not in line with the national legislation.
- On 24 January 2019 we notified the EBRD ([redacted]) that the scoping decision for the environmental impact assessment at the national level had been cancelled.
- On 28.02.2019 our representative discussed the project with [redacted] on the margins of the Good Governance Policy consultations.
- In May 2019 our representative travelled to the EBRD annual meeting in Sarajevo and raised the project at the sessions on MEI and climate financing. Colleagues from Bankwatch also raised the issue at the Board of Directors meeting.
- On 19 July 2019 we sent a response to [redacted] (cc. [redacted] and several others) regarding the response we received in May on our comments on the Environmental and Social Impact Assessment, outlining the unresolved issues.
- On 3 September 2019 we sent another letter regarding these unresolved issues to [redacted] (cc. [redacted] and several others).

Please also describe any response you may have received.

We have received written responses from the bank as follows:

- 16.10.2018 E-mail from [redacted] with answers to our questions sent on 20 September.
- 21.12.2018 E-mail from [redacted] with answers to the questions sent on 27 November.
- 25.01.2019 E-mail from [redacted] thanking us for the update and stating that the bank is looking into the issues.
- 06.02.2019 Response from [redacted] stating that the bank is looking into the waste management issues and the ESIA comments.
- 03.05.2019 Response from [redacted] on our comments on the ESIA submitted in December 2018 (or rather, from the Client, passed on by [redacted]).
- 29.07.2019 Holding reply from [redacted] in response to our letter of 19.07.2019
- 20.08.2019 Response from [redacted] on the points we sent about the EIA process and contents and the new Waste Incineration standards on 19 July.

Please provide a record of this contact with the EBRD, as instructed at the end of this form.

b. Have you **contacted the Project Sponsor** (Client) to try to resolve the harm caused or expected to be caused by the Project?

Yes *(if yes, please list when the contact was made, how and with whom)*

The Project Sponsor was cc-ed in most of the communication with the EBRD, and provided the answers to our comments on the ESIA. However, in general, we do not consider the project sponsor the most relevant actor because our concerns relate to the choice of project, procedural aspects and the authorities' capacity to monitor and enforce the law, which are questions that should be answered by the public authorities and the EBRD, not the project sponsor.

Please also describe any response you may have received.

The response to our comments on the ESIA is the only written response from the project sponsor. The responses were technical in nature, as one would expect from the project sponsor, and avoided the most important questions related to waste management policy as being outside of the scope of the project.

Please provide a record of this contact with the Project Sponsor (Client), as instructed at the end of this form.

Step 3: Additional information

Although not required, it would be helpful to the PCM if you could also include the following information:

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

Failure to apply the mitigation hierarchy and lack of alternatives assessment

The Belgrade waste PPP project includes the construction of a 340,000 tonnes per year "waste-to-energy" incinerator that would burn around 66% of Belgrade's communal waste, a landfill gas facility, a new municipal waste landfill, a facility for handling construction waste, and the partial rehabilitation of the existing municipal waste landfill. The project takes place in a context of a very low level of recycling in the city, which is mainly carried out by informal waste collectors, and in a context of heavy air pollution.[10]

The EBRD Environmental and Social Policy, in section B.6. commits to follow the mitigation hierarchy: *"EBRD will seek within its mandate to ensure through its environmental and social appraisal and monitoring processes that projects are designed, implemented, and operated in compliance with applicable regulatory requirements and good international practice (GIP). Central to this approach is the application of the mitigation hierarchy." "The mitigation hierarchy comprises measures taken to* ***avoid*** *creating environmental or social impacts from the outset of development activities, and where this is not possible, to implement additional measures that would* ***minimise, mitigate,*** *and* ***as a last resort, offset and/or compensate*** *any potential residual adverse impacts." (Our emphasis)*

In PR 3.8, it is further specified that: *"The [[environmental and social]] assessment process will identify technically and financially feasible and cost effective pollution prevention and control techniques that are best suited to avoid or minimise adverse impacts on human health and the environment. The techniques applied to the project will favour the* ***prevention or avoidance of risks and impacts*** *over minimisation and reduction,* ***in line with the mitigation hierarchy approach*** *and consistent with GIP, and will be appropriate to the nature and scale of the project's adverse impacts and issues." (Our emphasis).*

In the case of any waste management project, avoiding adverse impacts must start with the application of the waste hierarchy, enshrined in the EU Waste Framework Directive, which prioritises those forms of waste management that save the most energy and resources. Thus, the first step must be **waste prevention**, followed by **preparing for re-use**, then **recycling**, and only then **energy recovery and disposal**.

The EBRD also affirms its commitments to EU principles, practices and substantive standards in its Policy, section B.7: *"EBRD, as a signatory to the European Principles for the Environment, is committed to promoting the adoption of EU environmental principles, practices and substantive standards by EBRD financed projects, where these can be applied at the project level, regardless of their geographic location."* The waste hierarchy and circular economy are both clearly EU environmental principles, thus it should be clear that the EBRD is committed to adopting them at the project level.

This project, however, does not include any element of municipal waste prevention, re-use or recycling, thus turning the waste hierarchy on its head, and skipping completely the "avoid" and "minimise" aspects of the mitigation hierarchy.

Waste incineration, even with energy recovery, is a highly inefficient way to obtain energy. A wide array of studies have demonstrated that waste incineration with energy recovery saves much less GHG emissions than waste prevention and recycling, and for some materials it offers little advantage relative even to landfilling (see here for references: https://bankwatch.org/wp-content/uploads/2019/06/Waste-incineration-6-june-2019.pdf). Incineration of refuse-derived fuel (RDF), waste and other 'alternative' fuels with energy recovery is also less resource-efficient than recycling. It destroys resources that need to

[10] The ESIA admits that "In the 2010-2016 period, except in 2014, Belgrade had heavily polluted air of III category, mainly due to increased concentrations of PM10 particles or occasionally also due to the increased concentration of NO2, as was the case in 2016 (Figure D-74)."

be replaced, therefore creating demand for more extraction and manufacturing of new materials, while eliminating the far superior option to reuse and recycle. Incineration entails burning fossil fuels with mixed waste, as they do not burn very well on their own, thus generating air pollution, greenhouse gases, and ash and filter residues that are partly hazardous. Therefore, minimising pollution through the use of filters is only a fourth-best solution compared to preventing, preparing for re-use and recycling of waste.

Documents obtained by Transparency Serbia seem to indicate that no less than 29% of Belgrade's waste is food waste. Paper and cardboard make up another 18%, plastics 14% and green garden waste 7%. Almost none of these - which amount to **68% of waste** altogether - need to be disposed of and should be prevented, recycled or composted. The response to the ESIA provided by the Client via the EBRD in May 2019 with figures for 2016 showed the following share of recyclable or compostable materials: glass 8.5%, paper 7.4%, cardboard 7.9%, metal packaging and other metal 2.8%, metal - Al cans 1.0%, plastic packaging waste 5.6%, other biodegradable waste 30.5% and garden waste 14.8% - a total of **78.5% recyclable or compostable materials**.

Right from the scoping phase of the EIA on the national level, we have consistently asked why non-incineration alternatives to the project were not considered. They were not described or evaluated in the request for a decision on the scope and content of the EIA study (scoping request), nor in the actual EIA studies. During the scoping process it was mentioned that alternatives had been studied in a document by Fichtner called the *Environmental and Social Scoping Study for the Belgrade EfW Project in Serbia*, but as the findings were not described in the official documentation in the scoping or EIA processes, we do not consider it relevant.

The EBRD's Environmental and Social Policy contains several provisions stipulating the examination of alternatives, each from a slightly different angle. We state below the extracts why we consider these particular provisions to have been breached.

PR 1.10 stipulates that: "*The ESIA will include an examination of technically and financially feasible alternatives to the source of such impacts, including the non-project alternative, and document the rationale for selecting the particular course of action proposed".*

We cannot assess which alternatives are technically and financially feasible because none of the EIA documentation or other communication from the bank or client provides the information that would be needed to do this. We believe this undermines the whole idea of "meaningful stakeholder engagement", as it cannot be meaningful if the necessary data is not shared.

The non-project alternative was assessed in the EIAs as unacceptable because the existing landfill needs to be rehabilitated. As we have expressed to the EBRD several times, this is an unacceptable manipulation of the situation, in which the incinerator is artificially coupled in a joint project with the incinerator, and then we are told that if we want the landfill rehabilitation we have to take the incinerator too. It should not have been too difficult to assess alternatives which included the landfill rehabilitation but not the incinerator, and included for example a waste prevention programme, door-to-door separate collection and recycling, composting, and landfill only of the stabilised remainder.

PR 3.14 states that: *"The client's environmental and social assessment process* ***will consider alternatives and implement technically and financially feasible and cost-effective options to avoid or minimise project-related greenhouse gases (GHG) emissions during the design and operation*** *of the project. These options may include, but are not limited to,* ***alternative project locations, techniques or processes,*** *adoption of renewable or low carbon energy sources, sustainable agricultural, forestry and livestock management practices, the reduction of fugitive emissions and the reduction of gas flaring." (Our emphasis).*

As we stated above, a wide array of studies have demonstrated that waste incineration with energy recovery saves much less GHG emissions than waste prevention and recycling, and for some materials it offers little advantage relative even to landfilling (References at: https://bankwatch.org/wp-content/uploads/2019/06/Waste-incineration-6-june-2019.pdf). Yet the project ESIA presented the project in a very skewed way in relation to greenhouse gases and did not present any alternatives in this

respect: "*The project will have a positive impact on greenhouse gas emissions, thanks to the electricity and heat production and injection in the Serbian network (with a positive contribution due to the CO2 emission of the actual mix of Serbian electricity production), and the major reduction of CO2 emission from the old landfill. The huge continuous improvement in GHG emissions (due to the remediation of the landfill, the shift to more emission controlled process and the generation of heat and power) will lead to more than 11.5 millions of CO2 tons spared over the global period 2025-2046, the mean yearly GHG reduction being equivalent to more than 112,670 passenger cars driven per year or 250,800 hectares of forest.*"

As Table E-4. of the ESIA shows, it is the remediation of the existing landfill which would stop the emission of harmful gases, whereas the construction of an incinerator would increase them. Likewise, the comparison should be made not only to Serbia's current electricity generation (which is around 70% coal, so cannot continue and must be reduced in line with the EU's long-term climate and energy policy anyway), but with alternative solutions. For electricity, most new solutions have lower emissions than incineration (e g. wind, solar), while for waste management, prevention, composting and recycling certainly have lower emissions than burning waste, especially when one considers the need to manufacture new materials to replace those burnt.

It should also be pointed out that although the ESIA tries to present the incinerator as a sustainable energy source, which might appear to fit the "*renewable or low carbon energy sources"* description in PR 3.14, this is not an accurate portrayal of the situation. Only the biodegradable fraction of municipal waste can be counted as renewable, according to the EU's Renewable Energy Directive 2018/2001 (Art.2), and the Preamble to the Directive also adds that: "*Waste prevention and recycling of waste should be the priority option. Member States should avoid creating support schemes which would be counter to targets on treatment of waste and which would lead to the inefficient use of recyclable waste*." Much of the calorific value for waste incineration comes from plastic made from fossil fuels, and auxiliary fuels need to be added to make the waste burn properly. In the case of Belgrade, the auxiliary fuel would be diesel.

PR 3.6 states: "*The* ***environmental and social assessment process will identify opportunities and alternatives for resource efficiency relating to the project in accordance with GIP****. In doing so,* ***the client will adopt technically and financially feasible and cost effective measures for minimising its consumption and improving efficiency in its use of energy, water and other resources and material inputs as well as for recovering and re-utilising waste materials in implementing the project.*** *The key focus will be on activities that are considered the project's core functions, but similar opportunities in the client's other business activities that are not part of the project will also be considered. Where benchmarking data are available, the client's assessment will make a comparison of its operations with GIP to establish the relative level of efficiency." (Our emphasis)*

The ESIA process could identify opportunities and alternatives for resource efficiency on two levels:
a) The project goal (dealing with Belgrade's waste) and which is the most resource efficient way to do it and
b) Based on the project itself, how processes can be optimised.

The second aspect was examined to some extent in the EIA studies, but it should be pointed out that even this was not done properly as the project's compliance with the parameters from the 2018 Waste Incineration BREF were not examined (see below). But the first aspect is where the really large gains in resource efficiency can be made and should have been the main feature of any analysis on resource efficiency. Yet as explained above, no non-incineration alternatives were examined in the EIAs. The environmental and social impact assessments for the project only attempted to justify the incinerator project that was already decided on.

Moreover, the project is not in line with the Belgrade Local Waste Management Plan 2011-2020, which, while far from satisfactory, at least foresees some separation of waste and pre-treatment in a mechanical-biological treatment facility before incineration of refuse-derived fuel. However the incinerator now planned will burn all kinds of communal waste and no pre-treatment is planned. When we addressed the EBRD about this issue in the comments on the ESIA, the Client answered that "The local plan provides

guidance, and individual projects define specific activities and technology". This is not our understanding, as the plan is, to the best of our knowledge, binding.

In its reply to our comments on the ESIA, the client also stated that "*The primary selection of waste is foreseen, which is realized and organized by the city of Belgrade, is foreseen* (sic)*, so that all users of the service are enabled to perform waste separation for recycling. The City of Belgrade has started installing containers for recyclable waste in the territory of urban municipalities and this process is still ongoing, until all municipalities are covered by this system. In addition, the City of Belgrade has started activities on equipping recycling centres and it is foreseen that at least one recycling centre will be equipped in each city municipality, where citizens will be able to bring all recyclable waste, including waste, electrical and electronic waste, green waste etc.*"

What this is referring to in reality is an ineffective system of placing a few containers per neighbourhood for certain recyclables. Such a system has for years failed to substantially raise recycling levels in numerous capitals in the EBRD regions, for example in Zagreb, Croatia. It is far easier for people to throw their waste in the nearest bin, resulting in the city having the lowest separate collection rate of all EU capital cities according to a 2015 EU report. This cannot be seen as a system which is going to ensure that Belgrade, and Serbia more widely, meets EU recycling targets.

Environmental impact assessment process not in line with Serbian law and the EBRD's Policy commitments

Section B.15. of the Environmental and Social Policy states that: "*EBRD is committed to the principles of* ***transparency,*** *accountability and stakeholder engagement. It will disclose, on an on-going basis, summary information about the Bank's performance on environmental and social issues and* ***will engage in meaningful dialogue with the Bank's stakeholders****, in accordance with the EBRD Public Information Policy (PIP). The Bank will promote similar good practices amongst its clients.*"

The ESIA and national-level EIA processes started with the EBRD's ESIA being subject to public consultation from October 2018 for sixty days. We submitted comments within the deadline (December 2018) and waited 5 months for the answers (May 2019) only to realise that the Bank just relayed responses from the Client, which avoided the main question about whether this project is in line with a sustainable waste management future for Belgrade. On 19.07.2019 we sent a response to the bank in which we had analysed all the responses to our comments and identified the outstanding issues. On 20 August we received a letter responding to the bullet points summarising our list of outstanding issues, but not to the list of outstanding issues themselves.

On the question of Belgrade's waste management system, the bank merely replied: "*We are now satisfied that the project will not prevent Belgrade or Serbia from meeting the target of 65% recycling of municipal solid waste by 2035. The energy from waste plant is fully reflected in Serbia's national waste planning. This planning envisages the introduction of source-separated household waste collection and recycling in 13 regions by 2025 and across the entire country by 2035. The City of Belgrade has reserved a right to exclude source-segregated recyclables from the project's waste envelope."* Again, no figures were published regarding current waste flows and future projections, and no details were given about Belgrade's right to exclude recyclables from the project's waste envelope and how this will work in reality. We do not see how "meaningful dialogue" can take place under such conditions of information asymmetry and consider that this type of communication does not meet the EBRD's commitment to transparency. We therefore sent another letter on 3 September and are awaiting a response.

In addition, although the ESIA was allegedly updated following our interventions, no updated version of the ESIA has been sent or published to date, and the same mistakes in the EBRD ESIA were repeated in the national-level one more than six months after our comments were submitted. This latter fact again calls into question whether the dialogue with the bank has been "meaningful", as well as causing us to spend needless time submitting similar comments twice.

The national level EIA procedure was not carried out according to Serbian law or the EU Environmental Assessment Directive. The period of public availability of the studies (there were two - one for the

incinerator and one for the landfill gas facility) appeared to be only 20 days - no clear deadline was given and the timeline could only be inferred from the date of the public hearing meeting, which by Serbian law comes at the end of the commenting period. This 20-day timeline was contrary to Article 6 of the 2011/2014 version of the Environmental Impact Assessment Directive which requires at least 30 days. Although the Ministry did open an additional 10 days for commenting, following complaints received during the public hearing, the addition was done contrary to the Law on environmental impact assessment's provisions on public announcements and contrary to the timeline set by the Ordinance on the procedure of public review, presentation and public hearing regarding the environmental impact assessment, which sees the public hearing as a final and not an intermediate step of the EIA disclosure. The 2014 amendments of the Directive have been binding for Serbia since 01.01.2019 under the Energy Community Treaty, and irrespective of the fact that Serbia has not yet transposed them, their provisions need to be implemented.

Thus, the EIA consultation process did not meet PR 10.24 *"In addition, the consultation process must meet any applicable requirements under national environmental impact assessment laws and other relevant laws. …"* At the time of writing, the national-level EIAs have not been approved, so it is as yet unclear whether there will be further violations in the process.

Incomplete environmental and social impact assessments

Several elements were missing or insufficiently covered by the environmental impact assessments:

- As discussed above, baseline data and projections about Belgrade's waste flows were not included in either the EBRD ESIA or the national level studies.
- In none of the EIAs was any baseline information given about informal waste collectors who do not live on the Vinca site but who may be affected by the requirement for the city to provide 340,000 tonnes of waste annually to the incinerator. If the volume of waste in Belgrade does not grow as expected in coming years, the authorities may decide to clamp down on informal recycling in order to ensure a supply of waste to fulfill the contract. This impact is not guaranteed but is possible and should have been assessed.
- The national level EIAs did not cover the landfill rehabilitation project at all, despite it being claimed by the EBRD to be the most urgent component of the project, and despite the fact that the landfill contains dangerous items like sterilised medical waste and needs to be carefully planned. The EBRD claimed in its letter of 20.08.2019 that "*The ESIA disclosed in line with Lender requirements includes information on the existing landfill. This will be re-profiled to improve slope stability, capped and covered, and leachate collection and treatment and biogas collection systems will be installed.*" However, basic information was not clear in this ESIA, for example it mentioned that approximately 800,000 m^3 of waste would be moved and that a dam would be built to stop the waste sliding towards the river Danube, but it did not show how this would be done or whose responsibility it would be. In fact, the most urgent measure, building the dam, has already been carried out by the city of Belgrade, outside of the PPP arrangement.
- Crucial data was missing regarding air quality:
    a) Results of air quality monitoring after 2016;
    b) More detailed map with the position of the air quality monitoring stations, especially in Belgrade;
    c) Exact information on how many of these monitoring stations were active and to what extent at the time of the measurements (2016);
    d) How many of them were active in 2017 and how many are actively collecting data today, on a daily and monthly basis?
    e) How many of these monitoring stations are collecting data on PM2.5?
    f) Data from how many of these PM2.5 stations are included in the yearly assessments of air quality?
    g) In what way are the data from high pollution facilities being collected and how often are they presented to the public?
    h) Is the system of collecting and publishing the data about air quality being managed in accordance with national and EU laws?

The project promoter merely answered that "*Data for 2017 were not available at the time of ESIA redaction. The ESIA is not a document auditing the air quality monitoring network of Belgrade, and refer*

to competent public authority data to present a detailed but didactic and relevant baseline". It is unacceptable that data for 2017 was not available by 2018 and 2019 when the EIAs were written, as it should be available on a constant basis if it is to be of any use to the public. We also find the Client's answer regarding the monitoring network insufficient as a functional network is absolutely needed to ensure monitoring and mitigation measures around the project.

We assert that these deficiencies mean that PR 1.7 and PR 1.8 were not met*: "The environmental and social assessment process will be based on recent information, including an accurate description and delineation of the project and the client's associated activities, and* ***social and environmental baseline data at an appropriate level of detail****",* and *"The assessment process will be commensurate with and proportional to the potential impacts and issues of the project and* ***will cover, in an integrated way, all relevant direct and indirect environmental and social impacts and issues of the project,*** *and the relevant stages of the project cycle (e.g. preconstruction, construction, operation, and decommissioning or closure and reinstatement)."*

There is no assessment of potential impacts on informal waste collectors who do not live at the site but may be affected by a potential clampdown on informal recycling in order to keep waste volumes up. This is also in our opinion a breach of PR 1.9: *"The environmental and social assessment process will also identify and characterise, to the extent appropriate, potentially significant environmental and social issues associated with activities or facilities which are not part of the project, but which may be directly or indirectly influenced by the project, exist solely because of the project or could present a risk to the project. These associated activities or facilities may be essential for the viability of the project, and may either be under the control of the client or carried out by, or belong to, third parties.* ***Where the client cannot control or influence these activities or facilities, the environmental and social assessment process should identify the corresponding risks they present to the project. Where potentially significant adverse environmental and/or social risks relating to third party activities or facilities are identified, the client should collaborate with those relevant third parties to manage and mitigate these risks.****"*

The PR is unfortunately worded in a way that it appears to be more concerned with the risks to the project than the risks to people and the environment, but putting this aside, the PR also states that the client should collaborate with third parties to manage and mitigate these risks. In this case, the relevant third party would be the City of Belgrade. We do not know, because the issue is not explored in the EIAs, whether the client has done so, but given that in its response to our comments from May 2019, the client did not recognise the possibility of this impact occurring as a result of the project, we believe this has not happened.

Another *"potentially significant adverse environmental and/or social risk relating to third party activities"* relates to the Serbian environmental authorities' ability to properly monitor pollution and enforce environmental legislation. Serbia does not have a laboratory that can analyse concentration of the carcinogens, dioxin and furan, which are a direct product of the waste incineration process. The Serbian authorities have shown that they are not able to enforce air pollution legislation regarding coal power plants, as exemplified by Serbia's failure to comply with the Large Combustion Plants Directive[11] - an obligation under the Energy Community Treaty - and the fact it hosts 3 of Europe's 10 most polluting coal plants, with coal plants overall causing an estimated 570 deaths in Serbia in 2016.[12]

The EBRD itself also has painful experience with trying to get Serbia's Elektroprivreda Srbije (EPS) to improve its environmental standards - which again largely depends on the environmental authorities to enforce the law. We have raised this capacity issue with the bank several times regarding the incinerator project but it remains unclear whether the EBRD assessed the capacity of the Serbian authorities to enforce mitigation measures, to what extent mitigation depends on these authorities and how this impacts the chances of successful implementation of the E&S management plans and mitigation measures.

Non-compliance with EU pollution control standards

[11] Energy Community Secretariat: Implementation report 2018: https://www.energy-community.org/implementation/IR2018.html
[12] The Health and Environment Alliance (HEAL): Chronic coal pollution: EU action on the Western Balkans will improve health and economies across Europe, Brussels, 2019.

The incinerator project is not in line with the new EU Waste Incineration BREF standards (approved on 17th June 2019). We argue that this is contrary to PR 3.9: *"Clients will structure the projects to meet relevant EU substantive environmental standards, where these can be applied at the project level. Certain projects that, due to their nature and scale, would be subject to the EU Industrial Emissions Directive will be required to meet EU Best Available Techniques (BAT) and related emission and discharge standards, regardless of location."*

Although the Belgrade incineration facility would receive its integrated permit well after the publication of the new BREF in the Official Journal of the EU, neither the ESIA published by the EBRD nor the EIA published by the Serbian authorities consider the new BREF to be a requirement.

PR 3.8 states that: "*The client's environmental and social assessment process will determine the appropriate pollution prevention and control methods, technologies and practices ("techniques") to be applied to the project. The assessment will take into consideration the characteristics of the facilities and operations that are part of the project, the project's geographical location and local ambient environmental conditions. The assessment process will identify technically and financially feasible and cost effective pollution prevention and control techniques that are best suited to avoid or minimise adverse impacts on human health and the environment. The techniques applied to the project will favour the prevention or avoidance of risks and impacts over minimisation and reduction, in line with the mitigation hierarchy approach and consistent with GIP, and will be appropriate to the nature and scale of the project's adverse impacts and issues."*

As explained above, the EBRD did not ensure that the client prioritised avoidance of risks and impacts, but rather concentrated on mitigating impacts of an already pre-decided project. But even this was not done to an extent which would properly reflect the precautionary principle, and although the 2017 BREF was briefly mentioned in the national level EIA for the plant, the compliance comparison carried out in the EIA was with the provisions of the 2006 BREF, not the newer one.

The EBRD is providing contradictory information on the issue.

In an answer of 16.10.2018, the EBRD stated only that *"EBRD's Environmental and Social Policy requires that projects comply with applicable EU standards adopted at the time of project appraisal."* Considering that appraisal of this project has so far taken at least a year and a half, it is not clear what point in the appraisal is the relevant cut-off date. It should be emphasised that no-one can say they have not seen the new BREF coming - its creation was stipulated by the 2010 Industrial Emissions Directive, and successive drafts of the document have been published, meaning that even when not adopted, it was reasonably clear what provisions it would contain, especially as these are based on expert assessment of real-life plant technologies, not political negotiations.

Parallel to the process of the ESIA and the national EIA public disclosure, in a letter dated 20.08.2019, the EBRD on one hand states that as the BREF was only recently approved, it was not possible to take it into account during the EIA process, but at the same time states "*Nevertheless, the broad requirements of the new BREF have been anticipated in the project design and the project will be able to meet these requirements with some adjustments to the project's design and operation. The exact nature of these adjustments is currently being assessed by the project company and the expectation is that they will be fully adopted at or around the time the project becomes operational at the end of 2022."* So the exact nature of these adjustments is going to be assessed by the Client, not by the relevant EBRD body, and this process will take place outside of the ESIA procedure.

Whether or not the PCM finds that the letter of PR 3.9 on Best Available Techniques should have meant the application of the 2019 BREF and not the 2006 one, we emphasise the second Objective of PR3: "*To adopt the mitigation hierarchy approach to addressing adverse impacts on human health and the environment arising from the resource use and pollution released from the project.*" While we argue above that impacts should have been avoided by examining other waste management options, at the very least they could have been minimised by insisting on the application of the current Best Available Techniques - not only in a legal sense, but in the sense of what technologies are actually available that

can best protect human health. We are sure that no investor in an EU country would at this moment invest in a plant that is not in line with the new BREF, and the EBRD's failure to insist on this in Belgrade gives the impression of double standards.
10. Please describe any other complaints you may have made to try to address the issue(s) at question (for example, court cases or complaints to other bodies). .....
11. Are you seeking a Compliance Review where the PCM would determine whether the EBRD has failed to comply with a Relevant EBRD Policy in respect of an approved Project? **Ye** [redacted]
12. Are you seeking a Problem-solving Initiative which has the objective of restoring a dialogue between you and the Project Sponsor (Client) to resolve the issue(s) underlying your Complaint without attributing blame or fault? [redacted]
13. What results do you hope to achieve by submitting this Complaint to the PCM? We ask the PCM to undertake a Compliance Review to assess whether the EBRD has acted in accordance with its own policies. We also ask the PCM to recommend the Board to suspend the project in view of its imminent and irreparable harm. Ultimately we hope that the EBRD will not go ahead with approving, signing or disbursing financing for this project.
Date: 11.09.2019.

ANNEX 2: EBRD Management Response

EBRD management appreciates the opportunity to comment on the Complaint submitted by Ne davimo Beograd and Bankwatch in relation to the Belgrade Solid Waste Project.

Project Context

This project involves the closure of a large unmanaged waste dump and the development of a modern sanitary landfill and energy from waste (EfW) plant. EBRD is providing financing alongside IFC, OeEB and a range of commercial lenders. The project company, Beocista Energija (BCE) is a consortium of experienced international operators and this project represents the first significant private sector investment in the waste sector in the Balkans. The project is structured as a Design-Build-Finance-Operate-Transfer PPP with the project company selected via a competitive tender process.

The project is located at the site of an existing waste dump at Vinca, to the east of Belgrade. As part of the project, the existing dumpsite will be closed and subject to environmental remediation and management measures including leachate collection and treatment and landfill gas collection and utilisation. The current site is 40 years old and is one of the largest uncontrolled dumpsites in Europe. It is located near the Danube River, which is receiving significant volumes of untreated leachate. The dumpsite is located on a hillside and is unstable and prone to periodic collapses. Part of the project involves re-profiling the site to increase stability and constructing a retaining wall to prevent further slippages.

Closing this dumpsite and replacing it with a managed facility will result in significant environmental and social benefits for the City and residents of Belgrade. The EfW plant will generate up to 29MW of electricity and 56MW of heat. The capture of landfill gas together with the generation of low-carbon heat and electricity is estimated to result in the avoidance of around 130k tonnes of CO2e per year. 85 people were living on site in informal housing, with adults working as waste pickers. These families have been rehoused as part of the project and a Livelihood Restoration Plan was developed to provide alternative employment and training opportunities for other waste pickers.

EBRD has categorised the project as A, ESIA documents were disclosed on 12 Oct 2018 and the Board of Directors approved the project on 19 September 2019. The appraisal of the project's environmental and social aspects comprised three main strands:

(1) To ensure that the project's own environmental and social impacts are assessed and managed in line with EBRD's PRs
(2) To disclose relevant information and engage constructively with project stakeholders.
(3) To understand how the project fits with Serbia's and Belgrade's waste management planning, particular with regard to Serbia ability to meet EU recycling targets if it becomes a member state.

Each of these strands is described briefly below.

Environmental and Social Appraisal

EBRD conducted its environmental and social appraisal over a number of years, starting with an initial site visit in November 2015. The project was categorised 'A' requiring the client to develop a full Environmental and Social Impact Assessment in line with EBRD and IFC standards. This ESIA documents , including the ESIA, Non-Technical Summary, Resettlement action Plan, Stakeholder Engagement Plan and the Environmental and Social Action Plan, was disclosed in October 2018 and was available for public comment for 11 months prior to EBRD's Board approving the project. During this time, the only comments the Bank received on the ESIA were from Ne davimo Beograd, one of the participants in this Complaint. As a result of these comments, some sections of the ESIA were updated to provide additional information and better align the English and Serbian versions. The updated version was published on 10 September 2019 and a summary of the changes were provided to Ne davimo Beograd and to Bankwatch prior to the EBRD Board meeting. None of the

updates materially altered the findings or conclusions of the ESIA. EBRD management believes this is a positive example of responsive engagement with civil society groups.

As noted in the Complaint document, a parallel EIA process was carried out in line with Serbian national laws and regulations. The Serbian authorities required that the impact assessment be presented in two separate documents, one for the new landfill and one for the EfW plant. The scope and content of the national EIAs was organised by the Serbian Ministry of the Environment in accordance with Serbian Law. Following approval of the EIAs, the project received all necessary permits and approvals.

The content of the Lender ESIA and the two national EIAs were identical in most respects. The Lender ESIA did provide additional information on the closure and rehabilitation of the existing dumpsite, which in Serbia is addressed through the regulation on the methodology of rehabilitation and remediation projects preparation rather than through EIA legislation. The fact that the Lender's required additional information to be included in the ESIA in line with their policies does not seem to EBRD management to be reasonable grounds for Complaint.

An independent Environmental and Social Consultant was engaged throughout the due diligence process to review the project against EBRD PRs and IFC Performance Standards. The scope of work for this consultant included a detailed review of the ESIA and other relevant documents. The consultant confirmed that the project and the ESIA were structured to comply with the Lenders' environmental and social standards, which was confirmed by the Bank's due diligence, subject to implementation of the agreed Environmental and Social Action Plan. The consultant's report states that "No major gaps have been identified during the ESIA review regarding pollution prevention and biodiversity conservation, but only minor adjustments are suggested for the full compliance with the EBRD, EU, IFC and national legislation standards". These adjustments were adopted by BCE.

The ESIA includes an analysis of alternatives and detailed air quality assessment. Alternatives were also assessed in the environmental and social scoping study[13] although we note that the Complainants "do not consider it relevant". A "without project" alternative was assessed but choosing this option would have resulted in the continuation of significant negative environmental and social impacts. The families on the site, including young children, would have continued to live in unhygienic and hazardous conditions and as noted in the ESIA: *"Option "without project" is unsustainable in the current condition. On the Vinča location, there is currently a typical non-hygienic landfill, which has been formed during more than 20 years of works in this area. The consequence of this landfill has been pollution of the waters of Ošljanski potok (Ošljan stream) and Ošljanska bara (Ošljan pond), and pollution of the surrounding agricultural land and air. The landfill is not equipped with any technical control systems. No bottom linear system (natural or artificial) has been used which has resulted in uncontrolled migration of leachates to the subsurface. No leachates collection and treatment has been installed so the leachate is discharged to the nearby surface water recipients. No sewage system is present at the site. Septic water is removed by tanker trucks. The accumulation of LFG [landfill gas] is not technically controlled or utilized which leads to its subsurface migration and release into the air. Consequently, monitoring of LFG is not possible. The landfill is partially fenced but does not have any vegetation barrier. The dispersion of litter and the air dispersion of waste particles downwind of the landfill are not controlled. No adequate water supply for fire protection is provided at the site"[14].*

Regarding air emissions and the absence of multiple years of air quality data, in line with previous responses on this issue to the Complainants, we would note that the purpose of the ESIA is to establish the baseline environmental context and assess likely impact arising from the project. While the ESIA and the ESAP are not intended to be monitoring tools, they define the monitoring regime for the project, which will include monitoring of all relevant air emission parameters. In

[13] Environmental and Social Scoping Study for the Belgrade WtE project in Serbia (April 2016)
[14] ESIA section G.1.2

addition, a lenders' monitoring consultant has been appointed to provide periodic assessments of the project's compliance with EBRD's PRs and IFC's Performance Standards.

With regard to the mitigation hierarchy, EBRDs Environmental and Social Policy is clear that it is applied within the context of the project development by ensuring that "projects are **designed, implemented and operated** in compliance with applicable regulatory requirements and good international practice" (emphasis added). This approach was applied in this case. All impacts are avoided or mitigation in line with the requirements of applicable EU standards and Serbian legislation.

Contrary to what is stated in the Complaint, the revised EU BREF for Waste Incineration has not (as of October 2019) been adopted or applied within the EU. As per EBRD's Environmental and Social Policy, installations that fall under Industrial Emissions Directive 2010/75/EU must be compliant with the current BREF document of the European Commission. At the time of ESIA preparation the official BREF requirements for Waste Incineration was defined by the BREF edition dated from August 2006. Nevertheless, the general requirements of the new BREF have been anticipated in the project design and the project and the Lenders confirmed with BCE that the project will be able to meet these requirements with some minor adjustments to the design and operation. The exact nature of these adjustments is currently being assessed by the project company with the expectation that they will be fully adopted at or around the time the project becomes operational at the end of 2022. The commitment to assess and meet the requirement of the revised BREF was included in the ESAP.

Management believes that the suggestion that informal waste collectors in other parts of Belgrade may be subject to a "clampdown" by the Serbian authorities at some point in the future is an issue not related to the Bank financed project, it is speculative and is presented in the Complaint without supporting evidence.

Consultation and Engagement

The Complaint implies that the Bank has not engaged in meaningful dialogue. This is not the case. EBRD staff and management have had several face-to-face meetings with both Complainants. The Bank has also responded in writing to comments and questions and arranged for the project company to provide detailed responses to technical questions. The response to these questions did take some time as the involved numerous technical issues and answer had to be translated to Serbian and reviewed by BCE and the Lenders. The ESIA was revised specifically to address questions raised by the Complainant. This is in addition to the public consultation meetings that were organised in Belgrade by the company and the Ministry or Environment in December 2018. Two meetings were organised, one attended by residents near the project and one for CSOs. A formal public consultation meeting was held in Belgrade on 23 July 2019 as part of the local EIAs approval process, again attended by local citizens and Civil Society. At these meetings BCE presented the project and EIA conclusions and answered questions. There were numerous consultation meetings with the families living at the project site at the resettlement approach was discussed. BCE also offered to meet the Complainants directly to discuss any issues that they wanted to raise but this offer was not taken up by the Complainants.

Serbia's Waste Strategy and EU Recycling Targets

The Complaint raises the issue as to whether the project fits with Serbia's overall waste management strategy, the EU Waste Framework Directive and EU waste recycling targets. EBRD management believes these issues are outside of the scope of the Bank's Environmental and Social Policy and notes that the PCM previously advised the Bank that the application of national and EU-level plans and targets are not valid grounds for Complaint[15].

[15] The PCM for the Sostanj Thermal Power Project [PCM 2012/03] is a good example. That complaint related to the application of EU climate policy and targets rather than waste management, but the issues are analogous and the conclusions would apply equally to this case. In relation to the obligations imposed on member states by EU Directives, the Compliance Review Expert noted that in the Sostanj case and in a number previous cases: "the PCM has also made it perfectly clear that the role of the Bank in approving a Project for EBRD financing ought not to be confused with the role of a "competent national authority" in permitting a Project in accordance with the requirements of national law and, where applicable, EU law". Compliance Review Report: Boskov Most Hydropower Project (Request

Nevertheless, the Bank had extensive discussions on Serbia's waste strategy and the project's compatibility with EU recycling targets with the Serbian authorities and the European Commission. EBRD management satisfied itself that the project will not prevent Belgrade or Serbia from meeting the target of 65% recycling of municipal solid waste by 2035. This analysis was presented to EBRD Board of Directors at an Information Session in May 2019. The EfW capacity represents around 12% of current municipal waste generated in Serbia. Municipal waste in Belgrade is forecast to grow in line with economic development meaning that Belgrade's waste volume alone will supply the full capacity of the project and allowing compliance with the EU recycling and circular economy targets.

Contrary to the statement in the Complaint, there is no contractual obligation on the City of Belgrade to deliver a minimum amount of waste to this project. The question of 'lock in' does not arise. The City has reserved a right to exclude source-separated recyclables from the project's waste envelope.

Serbia is currently developing a new national waste strategy with support from the Austrian, Swedish and Lithuanian Environmental Agencies. The energy from waste plant is fully reflected in the current draft of the strategy, which will be subject to public consultation in Serbia in the coming months.

A summary of the draft strategy was provided to the Complainants prior to the approval of the project by EBRD Board of Directors and is attached to this management response as Annex I.

Concluding Remarks

EBRD management believes that this is a much-needed project that will address multiple pressing environmental and social issues and brings new investment and expertise to the waste sector in Serbia. The project is fully aligned with Serbian legal requirements and EBRD's PRs, including EU environmental principles, practices and substantive standards, where these can be applied at the project level. This has been verified by independent environmental and social experts. The project due diligence was conducted in an open and transparent manner that included extended dialogue with the project stakeholders, including the Complainants, covering all of the issues raised in this Complaint.

No. 2011/05 and PCM Compliance Review Report: Ombla Hydropower Project (Request No. 2011/06). Specifically in relation to EU targets, the Compliance Review Expert found that "Even to the extent that these [climate] targets continue to represent established Union policy, as broad emissions reduction targets they leave a great deal of future discretion to policy-makers in both EU institutions and Member States to decide how they are to be achieved in practical terms. Therefore, they could never create binding requirements for EBRD, despite the multiple allusions in the ESP to the nature of the Bank's commitment in respect of climate change". Compliance Review Report Šoštanj Thermal Power Project (Request Number 2012/03), Paragraph 31

ANNEX 3: Client Response

European Bank for Reconstruction and Development
One Exchange Square
London EC2A 2JN
Tel: +44 207 338 6180

PROJECT: **PPP PROJECT FOR THE CITY OF BELGRADE FOR THE PROVISION OF SERVICES OF TREATMENT AND DISPOSAL OF RESIDUAL SOLID WASTE**

Subject:

EBRD Project Complaint Mechanism

Beo Cista Energija Ltd. answers to Complainant

INTRODUCTION

Further to the contents of the Complaint Form submitted by the NGO's "Don't Let Drawn Belgrade" and "CEE Bankwatch Network" on 11th October 2019 that was forwarded to Beo Cista Energija Ltd. on 21st October 2019, we provide in this document elaboration of all aspects of the Complaint.

We had provided our responses segmented to the following main issues recognized from the contents of the Complaint:

A. **Mitigation hierarchy [Recycling / Waste Hierarchy]**
B. **Air pollution - Dioxin and Furan (coverts part of Incomplete environmental and social impact assessment)**
C. **Lack of alternatives assessment - General**
D. **Lack of alternatives assessment – Resource Efficiency**
E. **Environmental impact assessment process not in line with Serbian law and the EBRD's policy commitments**
F. **Incomplete environmental and social impact assessments**
G. **Non-compliance with EU pollution control standards**

We deem to have provided sufficient elaboration and substantiated response that may allow you to decide if above identified issues require further assessment or not.

We are looking forward to hearing from you and remain at your full disposal for any further assistance you may require from Beo Cista Energija Ltd.

Kind regards,

Managing Directors
Beo Cista Energija

Issue A relating to: Mitigation hierarchy [Recycling / Waste Hierarchy]	
Complaint	**Step 1: Details of the Complaint** The project is likely to prevent the development of a sustainable waste management system in Belgrade and lock the city into a long-term contract obliging it to provide a certain amount of unsorted communal waste for the incinerator. This will make it difficult for Serbia to meet its EU waste recycling targets and may impact on informal waste collectors if the City cracks down on informal recycling in order to keep up the amounts of waste needed.
	Step 3: Additional information The Belgrade waste PPP project includes the construction of a 340,000 tonnes per year "waste-to-energy" incinerator that would burn around 66% of Belgrade's communal waste, a landfill gas facility, a new municipal waste landfill, a facility for handling construction waste, and the partial rehabilitation of the existing municipal waste landfill. The project takes place in a context of a very low level of recycling in the city, which is mainly carried out by informal waste collectors, ... In the case of any waste management project, avoiding adverse impacts must start with the application of the waste hierarchy, enshrined in the EU Waste Framework Directive, which prioritises those forms of waste management that save the most energy and resources. Thus, the first step must be waste prevention, followed by preparing for re-use, then recycling, and only then energy recovery and disposal. The EBRD also affirms its commitments to EU principles, practices and substantive standards in its Policy, section B.7: "EBRD, as a signatory to the European Principles for the Environment, is committed to promoting the adoption of EU environmental principles, practices and substantive standards by EBRD financed projects, where these can be applied at the project level, regardless of their geographic location." The waste hierarchy and circular economy are both clearly EU environmental principles, thus it should be clear that the EBRD is committed to adopting them at the project level. This project, however, does not include any element of municipal waste prevention, re-use or recycling, thus turning the waste hierarchy on its head, and skipping completely the "avoid" and "minimise" aspects of the mitigation hierarchy. Waste incineration, even with energy recovery, is a highly inefficient way to obtain energy. A wide array of studies has demonstrated that waste incineration with energy recovery saves much less GHG emissions than waste prevention and recycling, and for some materials it offers little advantage relative even to landfilling (see here for references: https://bankwatch.org/wp-content/uploads/2019/06/Waste-incineration-6-june-2019.pdf). Incineration of refuse-derived fuel (RDF), waste and other 'alternative' fuels with energy recovery is also less resource-efficient than recycling. It destroys resources that need to be replaced, therefore creating demand for more extraction and manufacturing of new materials, while eliminating the far superior option to reuse and recycle. Incineration entails burning fossil fuels with mixed waste, as they do not burn very well on their own, thus generating air pollution, greenhouse gases, and ash and filter residues that are partly hazardous. Therefore, minimising pollution through the use of filters is only a fourth-best solution compared to preventing, preparing for re-use and recycling of waste. Documents obtained by Transparency Serbia seem to indicate that no less than 29% of Belgrade's waste is food waste. Paper and cardboard make up another 18%, plastics 14% and green garden waste 7%. Almost none of these - which amount to 68% of waste altogether - need to be disposed of and should be prevented, recycled or composted. The response to the ESIA

	provided by the Client via the EBRD in May 2019 with figures for 2016 showed the following share of recyclable or compostable materials: glass 8.5%, paper 7.4%, cardboard 7.9%, metal packaging and other metal 2.8%, metal - Al cans 1.0%, plastic packaging waste 5.6%, other biodegradable waste 30.5% and garden waste 14.8% - a total of 78.5% recyclable or compostable materials.
Proposed answer	**Introduction** Energy Recovery through thermal treatment of waste involves recovering heat, electricity and/or fuel; resulting in a portion of the energy recovery being renewable. Energy Recovery and disposal operations are not on equal footing. Currently there are around 500 Energy Recovery plants operating across Europe, treating more than 90 million tons of waste annually. According to Eurostat, based on all waste volumes, **more than 83 million tons of sorting residues are generated every year (Eurostat, 2019, 2016 data)**. Today, Energy Recovery in EU28 is able to provide around 15 million people with heat annually. We are convinced that material recovery is an essential part of the value chain for sustainability. However, **it is not possible to achieve the Landfill Directive Target of 10% and the 2035 Recycling Target without Energy Recovery. High recycling targets in Europe equally result in larger volumes of residual waste, in particular for the fractions whose processing is complex** (e.g. polymers, multilayer packaging, small electronics, etc.). Energy Recovery is the solution to treat pre-sorted residuals from Sorting and Recycling plants whilst providing low carbon energy in the form of electricity and heat. In the following section, we further explain why Energy Recovery facilities (R1, pre-sorted waste) are not in competition with recycling, contribute to landfill diversion, are necessary and sustainable both at an EU level and more specifically in the case of Serbia and the City of Belgrade. **Why do we need Energy Recovery if we are moving towards more reuse and recycling?** **An integrated approach within the circular economy needs an outlet for residual waste.** **Residual waste consists of the parts of the waste that are of poor quality, including degraded material after several times of recycling, waste that is not suitable for recycling (containing substances of concern such as phthalates, brominated flame retardants, heavy metals; or sanitary waste items that need to be treated in a hygienic way) and therefore must be rejected by the recycling facilities**, polluted waste or simply waste residues after sorting which **is equivalent to 25-30% of the input material**. If there is no environmentally sound treatment for this waste there is a risk also that the production cycle will be contaminated with pollutants showing up in products, on uncontrolled landfills or in open fires causing damage to human health and the environment. Energy Recovery is not mass burning of mixed waste. It recovers and gives value to energy produced from pre-sorted waste. There is a direct link between Energy Recovery and Recycling facilities. Recycling plants need Energy Recovery outlets in order to maintain operation to treat the residual waste which as recycling increases, so will the amount of residual waste. In this case, there is no risk of a "lock-in" effect as long as Energy Recovery supports Recycling.

Energy Recovery does not compete with Recycling. Energy Recovery and Recycling form a dual working relationship that rely on each other.

Recycling needs two outlets:

- Market Demand for recyclables in order to create new products. For instance, it will not be helpful to invest in more recycling facilities if the market demand is not strong, nor stable enough.
- A direct link with Energy Recovery in order to feasibly treat residual waste from sorting and recycling while landfilling is being phased out.

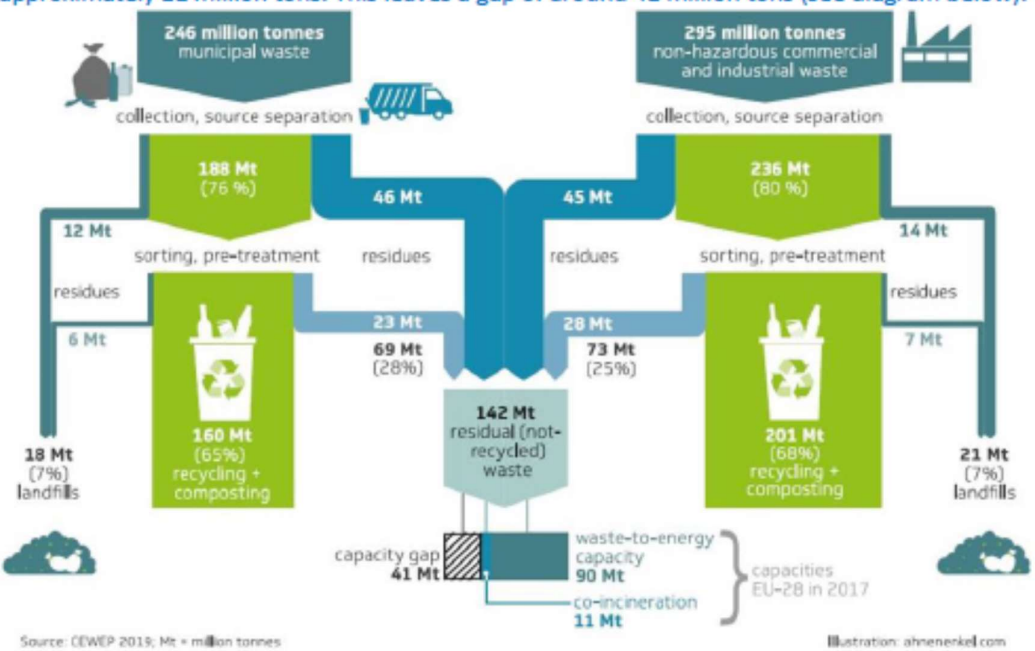
We also observe that European countries which have been successful in drastically cutting the use of landfills have relied on a combination of recycling and Waste to Energy. For example:

- Sweden, Denmark, Finland, Belgium and the Netherlands recycle roughly half of their municipal waste and use the rest to produce energy.
- Germany is the EU champion with a recycling rate of 68%, yet must incinerate the rest to ensure that not more than 1% of its municipal waste reaches landfills.

The reality regarding Energy Recovery capacity in Europe

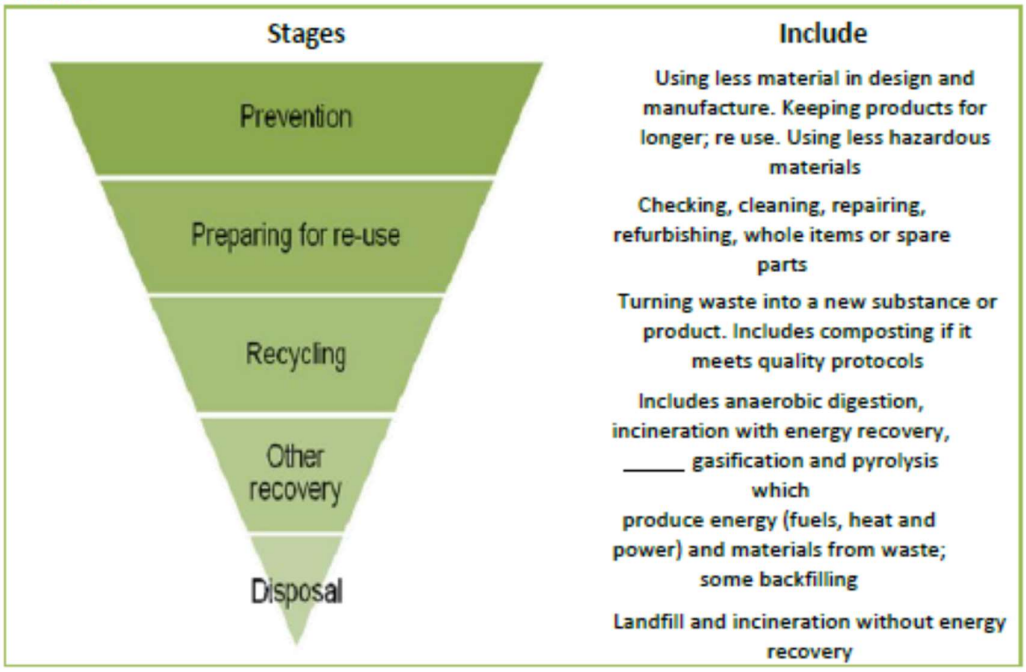
The latest peer-reviewed CEWEP (Confederation of European Waste-to-Energy Plant) calculations show that 142 million tons of residual waste treatment capacity will be needed by 2035 in order to fulfil the currently set EU targets on municipal waste and assuming that ambitious recycling targets will be achieved for commercial and industrial waste.

Current Waste-to-Energy capacity is 90 million tons and the capacity for co-incineration is approximately 11 million tons. This leaves a gap of around 41 million tons (see diagram below).



Proposed answer (continue)	The CEWEP study based their analysis largely on 2016 Eurostat information for the municipal and non-hazardous commercial and industrial waste production amount for 2035. This clearly considers the possibility of less waste being produced between 2016 and 2035. The residual waste calculation is derived by working backwards from the Landfill and Recycling targets that are referenced in the Waste Package Directives. Currently the EU 28 capacity of Waste-to-Energy (Energy Recovery) incineration and co-incineration is around 101 million tons (*Nota: The capacity of co-incineration in cement kilns include both hazardous and non-hazardous waste / The entire calculation has been peer-reviewed by Prognos, an independent consultancy.*). We have tested the online calculator made available by CEWEP in order to understand the result if residual waste was significantly reduced, the maximum allowed percentage of waste prevention actions was incorporated and a steady population growth based on the Eurostat Baseline assumptions (and not the Eurostat Migration assumptions, for example) was integrated. We also increased the Energy Recovery capacity and the Co-incineration capacity. Using these assumptions, the calculator provided the following results: • 120Mt of residual waste to treat versus the 142Mt that CEWEP estimated in their study • An Energy Recovery capacity gap of 10Mt versus the 41Mt that CEWEP calculated. Prudence was therefore taken in the following: ▪ Volumes at source (increasing or decreasing). ▪ Landfill caps for Municipal but also C&I capped at less than 10% (European Target, Landfill Directive). ▪ Sorting residues being less than 30% for both Municipal and C&I. Even in this downside scenario there is a need for construction of 30 large Energy Recovery facilities in Europe to meet the 10Mt capacity gap. However, the reality is clearly closer to the CEWEP calculation of 41Mt in capacity gap, particularly when taking into account the UK, and Member States in South and Central Europe. **The above same logic also applies to the Belgrade case** In our opinion, there is no conflict between achieving a much higher future recycling rate in Belgrade and the project (the Vinca Project). The Waste to Energy facility has been purposely undersized even compared to the amount of municipal waste produced by Belgrade today. As Belgrade's population increases and achieves higher income levels, waste generation will grow further, possibly by 1.4% per year according to an EBRD / IFC analysis (based on World Bank global waste study "What a Waste 2.0 - A Global Snapshot of Solid Waste Management to 2050 report"). This is illustrated in the simple waste flow model below which assumes an even lower increase in waste generation after 2026. Please note that the EU Directive on waste indicates that "A Member State may postpone the deadlines for attaining the targets referred to (...) by up to five years provided that that Member State: (a) prepared for re-use and recycled less than 20 % or landfilled more than 60 % of its municipal waste generated in 2013 as reported under the Joint Questionnaire of the OECD and

Eurostat". Serbia's recycling rate was (and still is) significantly below the 20% threshold. The Vinca Project is only a component in the broader waste management system of the City as remined below. The waste hierarchy is set out at Article 4 of the revised Waste Framework (Directive 2008/98/EC). The definitions of each of the stages can be found in Article 3 of the Directive



The above hierarchy reflects the overall waste management system in this particular case the Belgrade waste management system. Vinca Project represents only a part of the system and only last two stages are applicable on this Project.

On the other hand, The City of Belgrade has launched tendering to produce a local waste management plan for the period 2021-2030, setting September 16 as the deadline to file bids.

According to a public invitation, the local waste management plan should ensure the establishment of a system to manage inert and non-hazardous waste in a manner that will provide the lowest environmental risks and hazards and create conditions for waste prevention, reuse and recycling, the utilization of beneficial features of waste, disposal if no other suitable solution exists, as well as for raising public awareness of waste management.
The local waste management plan is a basic, strategic document in this area which will define the goals of waste management in accordance with the law on waste management and the national waste management strategy.

The local plan will also include all individual programs required by the law to be developed for the collection of non-hazardous and hazardous household waste, the collection of commercial waste, the reduction of biodegradable and packaging waste in municipal waste, the management of industrial waste, the reuse and recycling of municipal waste components, as well as programs to raise public awareness and responsibilities in waste management. The plan

	will also include data on the types, quantities, and origin of overall waste generated, used or disposed on the territory of the City of Belgrade, the call reads. It therefore still allows the City to achieve high recycling rates in line with the goals defined more broadly in the "Strategy for Waste Management of the Republic of Serbia" (not yet formally approved), which would put the City of Belgrade at par with other European cities. In that regard please note that the City has taken very strong and concrete commitments towards improving recycling performances: ▪ the City reserved a right to exclude source-segregated recyclables from the project's waste envelope as stipulated in clause 26.2 of the PPP Contract. ▪ The City has formally adopted on 25.07.2019 Decision on municipal, Inert and Non-Hazardous Waste Management committing to implement additional means and resources to increase recyclables collection and sorting.

Beo Čista Energija d.o.o.

Simplified Waste Modeling Belgrade

Assumptions:

1. Recycling rate scenario: **2. EU targets met by 2040**

2. EfW MSW (t) capacity p.a.: **340,000**

	Year	Belgrade population (1)	Increase rate of Belgrade population (2)	PPP (constant 2011 international $) (3)	Increase in GDP per Capita (4)	waste produced (Kg/capita) (5)	Change in waste p.c.	Total produced MSW (t)	MSW Collected in 13 munis within scope of PPP (6)	from surrounding wild dumpsites (6)	Recycled MSW	Recycling rate (7) (8)	Gross MSW produced	EfW required MSW	Remains to be landfilled	Inputs for recycling rate scenario (Assumptio: 1. Recycling rate to meet EU recycling rate objective of 65% by 2035	2. Recycling rate to meet EU recycling rate objective with derogation
Actual	2017	1,803,000		14,049													
Actual / Estimated	2018	1,810,438	0.41%	14,709	4.70%	389.6		705,407	553,852	95,122	56,433	8%	648,975	-	648,975		
Forecast	2019	1,817,906	0.41%	15,268	3.80%	396.1	1.7%	720,031	524,104	95,122	100,804	14%	619,226	-	619,226	11%	14%
Forecast	2020	1,825,405	0.41%	15,818	3.60%	402.3	1.6%	734,318	492,352	95,122	146,864	20%	587,454	-	587,454	15%	20%
Forecast	2021	1,829,305	0.21%	16,419	3.80%	408.9	1.6%	748,018	458,411	95,122	194,485	26%	553,534	-	553,534	20%	26%
Forecast	2022	1,833,213	0.21%	17,043	3.80%	415.6	1.6%	761,952	423,005	95,122	243,825	32%	518,127	340,000	178,127	28%	32%
Forecast	2023	1,837,129	0.21%	17,656	3.60%	422.1	1.6%	775,466	385,667	95,122	294,677	38%	480,789	340,000	140,789	35%	38%
Forecast	2024	1,841,054	0.21%	18,292	3.60%	428.7	1.6%	789,195	346,827	95,122	347,246	44%	441,949	340,000	101,949	45%	44%
Forecast	2025	1,844,988	0.21%	18,932	3.50%	435.1	1.5%	802,802	306,279	95,122	401,401	50%	401,401	340,000	61,401	55%	50%
Forecast	2026	1,847,474	0.13%	19,576	3.40%	441.5	1.5%	815,632	304,538	95,122	415,972	51%	399,660	340,000	59,660	56%	51%
Forecast	2027	1,849,964	0.13%	20,222	3.30%	447.7	1.4%	828,292	302,458	95,122	430,712	52%	397,580	340,000	57,580	57%	52%
Forecast	2028	1,852,458	0.13%	20,889	3.30%	454.1	1.4%	841,121	300,205	95,122	445,794	53%	395,327	340,000	55,327	58%	53%
Forecast	2029	1,854,954	0.13%	21,558	3.20%	460.3	1.4%	853,763	297,609	95,122	461,032	54%	392,731	340,000	52,731	59%	54%
Forecast	2030	1,857,455	0.13%	22,247	3.20%	466.5	1.4%	866,565	294,832	95,122	476,611	55%	389,954	340,000	49,954	60%	55%
Forecast	2031	1,860,379	0.16%	22,937	3.10%	472.7	1.3%	879,363	291,798	95,122	492,443	56%	386,920	340,000	46,920	61%	56%
Forecast	2032	1,863,308	0.16%	23,648	3.10%	478.9	1.3%	892,320	288,576	95,122	508,623	57%	383,698	340,000	43,698	62%	57%
Forecast	2033	1,866,242	0.16%	24,358	3.00%	485.0	1.3%	905,063	285,004	95,122	524,936	58%	380,126	340,000	40,126	63%	58%
Forecast	2034	1,869,181	0.16%	25,088	3.00%	491.1	1.3%	917,957	281,240	95,122	541,594	59%	376,362	340,000	36,362	64%	59%
Forecast	2035	1,872,124	0.16%	25,816	2.90%	497.1	1.2%	930,620	277,126	95,122	558,372	60%	372,248	340,000	32,248	65%	60%
Forecast	2036	1,875,071	0.16%	26,564	2.90%	503.1	1.2%	943,427	272,814	95,122	575,490	61%	367,936	340,000	27,936	65%	61%
Forecast	2037	1,878,024	0.16%	27,308	2.80%	509.0	1.2%	955,987	268,153	95,122	592,712	62%	363,275	340,000	23,275	65%	62%
Forecast	2038	1,880,981	0.16%	28,073	2.80%	515.0	1.2%	968,684	263,291	95,122	610,271	63%	358,413	340,000	18,413	65%	63%
Forecast	2039	1,883,942	0.16%	28,831	2.70%	520.8	1.1%	981,119	258,081	95,122	627,916	64%	353,203	340,000	13,203	65%	64%
Forecast	2040	1,886,909	0.16%	29,580	2.60%	526.4	1.1%	993,279	252,525	95,122	645,631	65%	347,648	340,000	7,648	65%	65%

Waste Generation Projection Methodology:

Waste volumes for the City of Belgrade were projected by using the regression formula developed by World Bank in its report "What a Waste 2.0 - A Global Snapshot of Solid Waste Management to 2050" published in October 2018:

Proxy waste generation per capita = 1647.41 − 419.75 ln(GDP per capita*) + 25.43 ln(GDP per capita*)²

* with a purchasing power parity adjustment to 2011 to allow for comparison across countries

The change in proxy waste generation rates developed through the model was used as the growth rate for waste generation for the city of Belgrade. This growth rate was applied to the actual baseline waste generation per capita rate from the data collected in 2018 to adjust actual waste generation rates from the base year:

Projected waste generation per capita year 2019 = actual waste generation per capita 2018 * (1 + increase in proxy waste generation per capita calculated for 2019)

Projected waste generation per capita year n = projected waste generation per capita year n-1 * (1 + increase in proxy waste generation per capita calculated for year n)

Data sources:

(1) 2017 population in Belgrade: 2017 Belgrade Statistical Year Book	https://zis.beograd.gov.rs/index.php/2013-12-09-10-22-54/85-s-is-ic-i-g-dishnj-b-gr-d-2016.html
(2) Projected population growth in Belgrade: World Urbanization Prospect 2018, United Nations	https://population.un.org/wup/Download/
(3) 2017 GDP per capita in Belgrade: International Comparison Program database, World Bank	https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.KD
(4) Projected GDP per capita growth: EIU forecast, please refer to sheet "EIU forecast" showing relevant extract	EIU forecast'!A1
(5) Projected waste per capita: formula from "What a Waste 2.0 - A Global Snapshot of Solid Waste Management to 2050", World Bank p28	https://openknowledge.worldbank.org/handle/10986/30317
(6) Waste generation 2018: Municipal landfill management company; based on its feedback, 90% waste from wild dumpsites is accounted	2018 waste data'!A1
(7) Recycling rate 2018: Study from Flanders Investment	https://www.flandersinvestmentandtrade.com/export/sites/trade/files/market_studies/Solid%20Waste%20Serbia%20-%20Overview%20-%20DEF.pdf
(8) Projected recycling rate: According to elected scenario	Waste modeling BG'!D3

Issue B relating to: Air pollution - Dioxin and Furan (coverts part of Incomplete environmental and social impact assessments)	
Complaint	Mark B-1---------- **Step 1: Details of the Complaint** The project will also increase air pollution more than is strictly necessary as it is not in line with the latest EU standards for waste incinerators. Mark B-2---------- We also seriously doubt that the Serbian authorities have the capacity or political will to enforce air pollution legislation, based on the experience so far with coal power plants.
	Step 3: Additional information Another "potentially significant adverse environmental and/or social risk relating to third party activities" relates to the Serbian environmental authorities' ability to properly monitor pollution and enforce environmental legislation. Serbia does not have a laboratory that can analyse concentration of the carcinogens, dioxin and furan, which are a direct product of the waste incineration process. The Serbian authorities have shown that they are not able to enforce air pollution legislation regarding coal power plants, as exemplified by Serbia's failure to comply with the Large Combustion Plants Directive (see Energy Community Secretariat: Implementation report 2018: https://www.energy-community.org/implementation/IR2018.html) - an obligation under the Energy Community Treaty - and the fact it hosts 3 of Europe's 10 most polluting coal plants, with coal plants overall causing an estimated 570 deaths in Serbia in 2016.(see 3 The Health and Environment Alliance (HEAL): Chronic coal pollution: EU action on the Western Balkans will improve health and economies across Europe, Brussels, 2019.) The EBRD itself also has painful experience with trying to get Serbia's Elektroprivreda Srbije (EPS) to improve its environmental standards - which again largely depends on the environmental authorities to enforce the law. We have raised this capacity issue with the bank several times regarding the incinerator project but it remains unclear whether the EBRD assessed the capacity of the Serbian authorities to enforce mitigation measures, to what extent mitigation depends on these authorities and how this impacts the chances of successful implementation of the E&S management plans and mitigation measures.
Proposed answer	Mark B-1---------- Energy Recovery is one of the most strictly regulated and transparent industrial sectors. Multiple studies have found no evidence of a negative impact of Energy Recovery on health or the environment. Only a very small fraction of air emissions in Europe comes from Energy Recovery plants. Data collected by the European Pollutant Release and Transfer Register shows that dioxin emissions from Energy Recovery (considered as a marker for incineration of waste in the past) account for less than 0.2% of the total industrial dioxin emissions, not considering road transport. Energy Recovery contribution would be even more negligible if transport was included in these statistics. In addition, Ambient Air Quality should not be confused with Air Emissions at the stack. This is why we have developed and presented within the ESIA report an extensive Air Quality Modelling to assess the real impact of the facilities considering the site topography, daily weather conditions and accounting for all sources of pollutants such as traffic on the site. Each run of the dispersion model took us 5 days of computing.

We have based our model on the current design which meets the current Industrial Emissions Directive (IED) 2010/75/EU emission limits i.e. the current applicable regulation.

At time of ESIA and IDP Basic Design preparation the adopted official BREF for Waste Incineration was from August 2006; and the same version is still valid.

The results of this modelling show that:

- All Serbian Air Quality Standards are respected (incl. SO2 / NO2 / Dust -PM10 / CO / BenZene / Metals such as lead)

- Pollutant Concentrations in Ambient Air are either:
  - significantly below the Serbian Air Quality Standards:
    - SO2 Air Quality =42 times below the Serbian standard
    - Lead Air Quality =33 times below the Serbian standard
  - and/or with a marginal contribution compare to the very high baseline
    - NO2 = 9% additional contribution compare to baseline
    - PM10 = <1% additional contribution compares to baseline

Therefore, complying with New BAT Standards will not change the above conclusions.

Regarding the benzene emission of vehicles, the emission per car will automatically decrease, as new vehicles manufactured by carmakers will benefit from new/better technologies: even if EURO 5 & 6 thresholds will not be introduced at the same pace as in full EU-compliant countries, the mechanical effect of car float renewing will bring less pollutant cars in Belgrade.

Nonetheless, and independently of the current air quality baseline, we are strongly committed to implement all necessary steps to comply with the New BREF regulation as explained in section G-2 below.

Mark B-2----------

Monitoring of the dioxins and furans will be implemented frequently as requested and on the standard procedure of sampling and analyses as set by the relevant EU and Serbian regulations. At the moment, **there are laboratories in Serbia that are accredited for sampling** but not for determination of these compounds' concentrations into the gases. In line with regular practice here and in EU (representatives of cement industry in Serbia that use waste as alternative fuel also perform this practice), samples could be taken here and then sand to some accredited laboratory abroad that will perform analyses and give official report.

This situation is not unusual in many countries:

- The practise within EU Member States to allow to send abroad samples for laboratory analysis is not specific to dioxin measurements but to all periodic measurements and for instance can be found in the French Incineration Ordinance, Article 28:
  "The operator must, in addition, have an organization accredited by the French Accreditation Committee (COFRAC) or a signatory organization carry out the

	multilateral agreement made in the context of the European coordination of accreditation bodies or by an organization approved by the Ministry responsible for the inspection of classified installations, if it exists, two measurements per year of all the parameters measured continuously and semi-continuously. " ▪ It does not indicate that the inspection body must be French or that it must be accredited by a French organization and any competent European body can perform the job. This makes obvious sense in an "open" European market. ▪ In France, it is not unusual for dioxins and furans sampling cartridges to be sent to a laboratory abroad (for example Eurofins Germany) and this approach is perfectly endorsed by the French competent environmental authorities. Also, it does not mean that some laboratories in Serbia will not be accredited in future. Laboratories pass through accreditation process every year and scope of accreditation is not the same every time.

Issue C relating to: Lack of alternatives assessment - General	
Complaint	Mark C-1---------- **Step 3: Additional information** Right from the scoping phase of the EIA on the national level, we have consistently asked why non-incineration alternatives to the project were not considered. They were not described or evaluated in the request for a decision on the scope and content of the EIA study (scoping request), nor in the actual EIA studies. During the scoping process it was mentioned that alternatives had been studied in a document by Fichtner called the Environmental and Social Scoping Study for the Belgrade EfW Project in Serbia, but as the findings were not described in the official documentation in the scoping or EIA processes, we do not consider it relevant. The EBRD's Environmental and Social Policy contains several provisions stipulating the examination of alternatives, each from a slightly different angle. We state below the extracts why we consider these particular provisions to have been breached. PR 1.10 stipulates that: "The ESIA will include an examination of technically and financially feasible alternatives to the source of such impacts, including the non-project alternative, and document the rationale for selecting the particular course of action proposed". We cannot assess which alternatives are technically and financially feasible because none of the EIA documentation or other communication from the bank or client provides the information that would be needed to do this. We believe this undermines the whole idea of "meaningful stakeholder engagement", as it cannot be meaningful if the necessary data is not shared. The non-project alternative was assessed in the EIAs as unacceptable because the existing landfill needs to be rehabilitated. As we have expressed to the EBRD several times, this is an unacceptable manipulation of the situation, in which the incinerator is artificially coupled in a joint project with the incinerator, and then we are told that if we want the landfill rehabilitation we have to take the incinerator too. It should not have been too difficult to assess alternatives which included the landfill rehabilitation but not the incinerator, and included for example a waste prevention programme, door-to-door separate collection and recycling, composting, and landfill only of the stabilised remainder. Mark C-2---------- PR 3.14 states that: "The client's environmental and social assessment process will consider alternatives and implement technically and financially feasible and cost-effective options to avoid or minimise project-related greenhouse gases (GHG) emissions during the design and operation of the project. These options may include, but are not limited to, alternative project locations, techniques or processes, adoption of renewable or low carbon energy sources, sustainable agricultural, forestry and livestock management practices, the reduction of fugitive emissions and the reduction of gas flaring." (Our emphasis). As we stated above, a wide array of studies have demonstrated that waste incineration with energy recovery saves much less GHG emissions than waste prevention and recycling, and for some materials it offers little advantage relative even to landfilling (References at: https://bankwatch.org/wp-content/uploads/2019/06/Waste-incineration-6-june-2019.pdf). Yet the project ESIA presented the project in a very skewed way in relation to greenhouse gases and did not present any alternatives in this respect: "The project will have a positive impact on greenhouse gas emissions, thanks to the electricity and heat production and injection in the Serbian network (with a positive contribution due to the CO2 emission of the actual mix of Serbian electricity production),

	and the major reduction of CO2 emission from the old landfill. The huge continuous improvement in GHG emissions (due to the remediation of the landfill, the shift to more emission controlled process and the generation of heat and power) will lead to more than 11.5 million of CO2 tons spared over the global period 2025-2046, the mean yearly GHG reduction being equivalent to more than 112,670 passenger cars driven per year or 250,800 hectares of forest." As Table E-4. of the ESIA shows, it is the remediation of the existing landfill which would stop the emission of harmful gases, whereas the construction of an incinerator would increase them. Likewise, the comparison should be made not only to Serbia's current electricity generation (which is around 70% coal, so cannot continue and must be reduced in line with the EU's long-term climate and energy policy anyway), but with alternative solutions. For electricity, most new solutions have lower emissions than incineration (e g. wind, solar), while for waste management, prevention, composting and recycling certainly have lower emissions than burning waste, especially when one considers the need to manufacture new materials to replace those burnt. It should also be pointed out that although the ESIA tries to present the incinerator as a sustainable energy source, which might appear to fit the "renewable or low carbon energy sources" description in PR 3.14, this is not an accurate portrayal of the situation. Only the biodegradable fraction of municipal waste can be counted as renewable, according to the EU's Renewable Energy Directive 2018/2001 (Art.2), and the Preamble to the Directive also adds that: "Waste prevention and recycling of waste should be the priority option. Member States should avoid creating support schemes which would be counter to targets on treatment of waste and which would lead to the inefficient use of recyclable waste." Much of the calorific value for waste incineration comes from plastic made from fossil fuels, and auxiliary fuels need to be added to make the waste burn properly. In the case of Belgrade, the auxiliary fuel would be diesel.
Proposed answer	Mark C-1---------- Reminder on Tender and PPP Procurement Process Belgrade, the capital city of Serbia, disposes of the waste generated by its 1.7 million population at a dumpsite located in Vinca about 15km from City centre, near the Danube river. With an annual volume dumped of circa 700,000 tons, no treatment of leachates (which are fully discharged to the Danube river) and landfill gas, frequent fires and landslides, **the Vinca dumpsite ranks amongst the 50 most polluting dumpsites in the world listed in ISWA's Roadmap for Closing Waste Dumpsites.** The closure of the dumpsite and the development of an integrated waste management facility (including a thermal treatment plant) to efficiently recover and dispose of Belgrade's 500,000 tons of municipal solid waste and 200,000 tons of construction and demolition waste have been a long-standing objective of municipal authorities, which were reflected in the City's Local Waste Management Plan 2011-2020. The project is also part of the national agenda to demonstrate Serbia's alignment with EU environmental acquis in the perspective of Serbia's accession to EU. In the context of limited investment capacities, and with the support of IFC (International Finance Corporation) - the World Bank's private sector arm, the City of Belgrade (CoB) initiated a public procurement procedure aimed at selecting a professional private investor and specialized operator under a PPP (Public Private Partnership) contract to

	design, build, finance and operate the necessary waste processing facilities for a term of 25 years including the remediation and aftercare of the Vinca dumpsite. It shall be noted that to implement a sustainable, affordable, long term solution for its waste disposal project using a PPP approach, the City mandated IFC to advise on how to structure and tender the envisaged PPP. IFC, through its own team, and specialized advisors (Fichtner GmbH for engineering work, Hogan Lovells for legal counsel), prepared a legal, technical, financial and economic feasibility assessment. The outcome of this analysis was summarized in the Project Proposal (a document required by the applicable PPP law), which was adopted by the Assembly of the City of Belgrade in July 2015 (decision No. 501-552/15-C). The techno-economic feasibility of the project was later re-confirmed by the due diligence conducted by investors during the tender phase (see further explanations below), and is once again re-assessed through the lenders' appraisal and credit approval process. Therefore, in reality, the process implemented by the City resulted in three levels of feasibility assessment of the project. It shall be noted that during the project preparation, the City developed an environmental and social scoping study, to identify the environmental and social impacts and risks of the project. This report was developed in compliance with national regulations, as well as IFC and EBRD's performance standards, a framework of strict E&S standards globally recognized. The scoping study served to determine the scope of work of the City and of the private partner regarding the E&S impacts of the project. A screening air dispersion calculation was also conducted during the project preparation phase as part of the scoping study. **Reminder on Competitive Dialogues Process** The PPP contract was finally awarded in September 2017 **following a 2-year competitive dialogue and procurement process**. Due to the project's complexity and the lack of PPP track record in Serbia, the CoB and IFC acknowledged that the public procurement procedure had to allow for a co-development of the project documents (in particular the PPP Contract) by the City and pre-selected bidders, in order to determine realistic outputs and a suitable and bankable allocation of risks. Only the structure of the project resulting from this competitive dialogue would be then submitted to the final tender. Following a one-year dialogue, CoB decided to amend some of its initial intentions and resigned from the its requirement that waste should be pre-treated at a 500 ktpa mechanical-biological treatment facility prior to thermal treatment. During the competitive dialogue, bidders raised concerns that the development of both a MBT plant and an EfW facility as initially contemplated in the 2011-2020 Local Waste Management Plan (LWMP) would result in costs exceeding the end users' affordability

level and that the MBT facility was of little benefit considering that the vast majority of its outputs would be either landfilled or incinerated.

Alternatively, after requesting initial pricings, City allowed for a more affordable combination of a mass-burn facility of 340 ktpa, and direct landfilling of municipal waste beyond the EfW capacity. In this configuration, sufficient headroom was left for the future development of a separate collection of recyclables. After requesting initial pricings,
To guarantee the effectiveness of the incineration process, City further requested that a minimum 70% landfill diversion shall be achieved for waste processed at the EfW facility.

The City allowed bidders to plan new engineered landfill cells in an undeveloped area next to the remediated dumpsite for any excess MSW tonnage (estimated to approx. 170,000 tpa, pending development of recycling) as well as treatment residues from the EfW facility (incineration bottom ashes and solidified boiler/fly ashes).

In parallel, the City reserved a right to exclude source-segregated recyclables from the project's waste envelope as stipulated in clause 26.2 of the PPP Contract.

ESIA Content

As mentioned above, the Project has been initiated with the view of providing different alternatives for waste management in Belgrade. Those alternatives have been discussed in the E&S Scoping Report and in the Competitive Dialogue Process with the Bidders.

As a consequence, a summary of the alternatives previously considered and the reasons for their exclusion in the updated concept (*source: Fichtner, April 2017, Environmental and Social Scoping Study for the Belgrade EfW Project in Serbia, Amendment to the E&S Scoping Report*) was provided in Chapter G: ANALYSIS OF ALTERNATIVES of the ESIA Report and disclosed to the Public.

Mark C-2----------

General Considerations

We strongly believe Energy Recovery should be considered as sustainable technology and source of energy.

If we adopt the definition that sustainable energy is the provision of energy such that it meets the needs of the present without compromising the ability of future generations to meet their needs, therefore energy which is replenishable within a human lifetime and causes no long-term damage to the environment.

Considering the nature of the municipal waste and the conclusion provided in this ESIA Report showing that proven technology and solution will implemented with limited impact to the Environment, we maintain our statement that contribute to the scaling up of sustainable energy solutions for Belgrade thanks to the electricity and the heat generated by the Project:

- Energy Recovery preserves the value of this residual waste by turning it into electricity and/or heat thanks to efficient cogeneration under strictly controlled conditions, preventing resource losses, decreasing the need for fossil fuels, increasing energy security and contributing to the reduction of greenhouse gas emissions.

- Moreover, about half of this energy is renewable, as it comes from waste of biological origin, and therefore helps Member States to achieve the targets of the Renewable Energy Directive. The remaining half, although fossil, nonetheless contributes to avoided emissions in comparison to the extraction of fossil fuel.

- An often-forgotten advantage of Energy Recovery plant energy (electricity / steam / hot water) is that besides the fact that it is low carbon energy, it has a constant production/baseload compared to an inconsistent production with solar/wind turbines.

- At the end of the combustion process metals such as iron, aluminium, copper and zinc can be recycled from the bottom ash, this way contributing to recycling targets and saving the GHG emissions (more than 3 million tons of CO2 eq.) that otherwise would have been emitted in the production process. Bottom ash is also largely used as part of road construction (in the form of granules) which also contributes to the avoidance of CO2 eq. emissions.

Once again, we therefore strongly believe that Energy Recovery, when substituting to fossil fuels such as coal, fuel oil or natural gas for energy generation, should be recognized as a sustainable investment.

This is particularly true in South and Central European countries, which are striving to transition to a less carbon intensive economy.

Specific Considerations to the Vinca Project

However, and to be more practical, please note that several specific provisions of the Project constitute "technically and financially feasible and cost-effective options to avoid or minimise project-related greenhouse gases (GHG) emissions during the design and operation of the project".

For instance, and to maximize the "reduction of gas flaring", the following provisions have been foreseen which go way above Good Industry Practise (GIP):

- Biogas well density above GIP:

  The French Agency for the Environment and Energy Management (ADEME) recommends a ratio of 1 to 5 wells per hectare for vertical extraction after filling. The planned density of biogas wells per hectare on both the New Landfill (16.3 wells/ha) and the Existing Landfill body (5.7 wells/ha) is in the upper limit of the value range prescribed by ADEME.

- Heat Recovery from the Landfill Gas Facility (biogas engines)

	Instead of being flared, the landfill biogas will be used on biogas engines generating both electricity and heat. These biogas engines will be installed right at the EfW site in order to facilitate the recovery of heat produced by the engines which will be used for the EfW combustion air pre-heating. ▪ Additional landfill gas consumer On the Leachate Treatment Plant (LTP), the evaporator process treats RO concentrate thermally instead of electrically. In order to allow this configuration, the Existing Landfill biogas network has been extended on purpose to feed this additional landfill gas consumer. This provision will limit both the need for flaring biogas and for electricity distribution network. The simple examples above clearly illustrate that the Project features comply with the requirements of PR 3.14.

Issue D relating to: Lack of alternatives assessment – Resource Efficiency	
Complaint	**Step 3: Additional information** PR 3.6 states: "The environmental and social assessment process will identify opportunities and alternatives for resource efficiency relating to the project in accordance with GIP. In doing so, the client will adopt technically and financially feasible and cost-effective measures for minimising its consumption and improving efficiency in its use of energy, water and other resources and material inputs as well as for recovering and re-utilising waste materials in implementing the project. The key focus will be on activities that are considered the project's core functions, but similar opportunities in the client's other business activities that are not part of the project will also be considered. Where benchmarking data are available, the client's assessment will make a comparison of its operations with GIP to establish the relative level of efficiency." (Our emphasis) The ESIA process could identify opportunities and alternatives for resource efficiency on two levels: a) The project goal (dealing with Belgrade's waste) and which is the most resource efficient way to do it and b) Based on the project itself, how processes can be optimised. The second aspect was examined to some extent in the EIA studies, but it should be pointed out that even this was not done properly as the project's compliance with the parameters from the 2018 Waste Incineration BREF were not examined (see below). But the first aspect is where the really large gains in resource efficiency can be made and should have been the main feature of any analysis on resource efficiency. Yet as explained above, no non-incineration alternatives were examined in the EIAs. The environmental and social impact assessments for the project only attempted to justify the incinerator project that was already decided on. Moreover, the project is not in line with the Belgrade Local Waste Management Plan 2011-2020, which, while far from satisfactory, at least foresees some separation of waste and pre-treatment in a mechanical-biological treatment facility before incineration of refuse-derived fuel. However, the incinerator now planned will burn all kinds of communal waste and no pre-treatment is planned. When we addressed the EBRD about this issue in the comments on the ESIA, the Client answered that "The local plan provides guidance, and individual projects define specific activities and technology". This is not our understanding, as the plan is, to the best of our knowledge, binding. In its reply to our comments on the ESIA, the client also stated that "The primary selection of waste is foreseen, which is realized and organized by the city of Belgrade, is foreseen (sic), so that all users of the service are enabled to perform waste separation for recycling. The City of Belgrade has started installing containers for recyclable waste in the territory of urban municipalities and this process is still ongoing, until all municipalities are covered by this system. In addition, the City of Belgrade has started activities on equipping recycling centers, and it is foreseen that at least one recycling centre will be equipped in each city municipality, where citizens will be able to bring all recyclable waste, including waste, electrical and electronic waste, green waste etc." What this is referring to in reality is an ineffective system of placing a few containers per neighbourhood for certain recyclables. Such a system has for years failed to substantially raise recycling levels in numerous capitals in the EBRD regions, for example in Zagreb, Croatia. It is far easier for people to throw their waste in the nearest bin, resulting in the city having the lowest separate collection rate of all EU capital cities according to a 2015 EU report. This cannot be seen as a system which is going to ensure that Belgrade, and Serbia more widely, meets EU recycling targets.

Proposed answer	**Issues relating to City and PUC insufficient activities** This part of the Complaint strictly relates to insufficient activities of the City of Belgrade and its public company, "PUC Gradska cistoca" by providing services for waste collection, transportation and disposal. Currently city of Belgrade does not have any waste treatment activities in operation while recovery of recyclables is at low level i.e. approx. 3%, and if recycled packaging is added, approx. 7-8%. However, even it is not the part of PPP Project, indirectly the City of Belgrade is obliged by the Serbian waste management strategy and City of Belgrade waste management strategy to realize recycling targets set in Strategies and by doing so allow for delivery of communal waste to Vinca Landfill complex for further thermal treatment and disposal at sanitary landfill waste that is cleared from recyclable components. Accordingly, for the city of Belgrade to cope with this Strategies i.e. to reach recycling target set to 50% from the overall communal waste generation, it is obligatory to expedite improvement of waste collection system by providing two-bin for the collection of the communal waste, one for recyclables and one for other waste and setting of 14 facilities whereas primary waste separation would be established. **Issues relating to interpretation of PR 3.6** We would like here to re-iterate and complement some the statements made in the other draft answers within this document: ▪ Energy Recovery should be considered as sustainable technology and source of energy (see answer to mark C.2 above) ➢ Energy Recovery preserves the value of this residual waste by turning it into electricity and/or heat thanks to efficient cogeneration under strictly controlled conditions, preventing resource losses, decreasing the need for fossil fuels, increasing energy security and contributing to the reduction of greenhouse gas emissions. ➢ Moreover, about half of this energy is renewable, as it comes from waste of biological origin, and therefore helps Member States to achieve the targets of the Renewable Energy Directive. The remaining half, although fossil, nonetheless contributes to avoided emissions in comparison to the extraction of fossil fuel. ➢ An often-forgotten advantage of Energy Recovery plant energy (electricity / steam / hot water) is that besides the fact that it is low carbon energy, it has a constant production/baseload compared to an inconsistent production with solar/wind turbines. ▪ Specific technical measures have been adopted on the Vinca Project "for minimising its consumption and improving efficiency in its use of energy" (see answer to mark C.2 above): ➢ Biogas well density above GIP:

The French Agency for the Environment and Energy Management (ADEME) recommends a ratio of 1 to 5 wells per hectare for vertical extraction after filling. The planned density of biogas wells per hectare on both the New Landfill (16.3 wells/ha) and the Existing Landfill body (5.7 wells/ha) is in the upper limit of the value range prescribed by ADEME.

- Heat Recovery from the Landfill Gas Facility (biogas engines)

  Instead of being flared, the landfill biogas will be used on biogas engines generating both electricity and heat. These biogas engines will be installed right at the EfW site in order to facilitate the recovery of heat produced by the engines which will be used for the EfW combustion air pre-heating.

- Additional landfill gas consumer

  On the Leachate Treatment Plant (LTP), the evaporator process treats RO concentrate thermally instead of electrically.
  In order to allow this configuration, the Existing Landfill biogas network has been extended on purpose to feed this additional landfill gas consumer. This provision will limit both the need for flaring biogas and for electricity distribution network.

- Optimized steam cycle 60 bar / 400°C to achieve maximum steam production and power output (see ESIA section C.4.9)

  In combination with the opportunity to export heat to the DH network and other steam cycle optimization, this allows for the plant EfW Facility to reach extremely high energy efficiency ratio of circa 0.72 in electricity only mode and circa 0.87 in CHP mode (calculation according to the Guidelines on the interpretation of the R1 Energy efficiency formula for Incineration facilities dedicated for the processing of municipal solid waste according to Annex II of Directive 2008/98/EC on waste)

  Such efficiency ratios are way above the R1 = 0.65 threshold that marks the minimum requirement a plant must fulfil to get the recovery status and will place the Vinca facility among the state of the art EfW Plant operated by SUEZ in Europe.

- Specific technical measures have also been adopted on the Vinca Project "for water and other resources" (see ESIA section H.1 1 Design Measures – Surface waters):

  Separate collection and discharge of clean and contaminated waste waters is provided.

  Clean atmospheric (storm) waters are discharged into the Vinča complex internal open-channel system at the landfill site.

  Foul sewage is discharged into the Vinča complex internal sewage network and run to the Wastewater Treatment Plant (WWTP) at the Vinča complex landfill operational platform.

	Contaminated industrial and atmospheric (storm) waters will be treated and recirculated within the plant. Indeed, the EfW Plant is designed to maximize water reuse as describe below. *- Dirty water will be collected in a waste water pit, which is composed of a settling area, a recirculation area, a storage basin, and a neutralisation area. Water will be settled in the settling area, then overflows to the recirculation area, where it is pumped to the bottom ash extractor as cooling water.* *- the leachate from the landfill and wastewater from the EfW facility can also be reused in the APCR stabilization process"* Specific technical measures have also been adopted on the Vinca Project "for recovering and re-utilising waste materials in implementing the project" (see ESIA section C.4.2.3. Capping layers for landfill closure sections H.3 Design Measures – Waste): *"It is to be noted that an additional objective of the proposed solution is to try and maximize the reuse of material generated by excavations made during the formation of new landfill, from 2020 until mid-2046, for the landfill capping layer.."* ... *"Excess ground during excavation works will be reused on site so that there is no excess ground to be evacuated."* Many other examples could be provided and we believe the above clearly demonstrates that the Vinca Project fully complies with the requirements of PR 3.6.

Issue E relating to: Environmental impact assessment process not in line with Serbian law and the EBRD's Policy commitments	
Complaint	**Step 3: Additional information** Mark E-1---------- Section B.15. of the Environmental and Social Policy states that: "EBRD is committed to the principles of transparency, accountability and stakeholder engagement. It will disclose, on an on-going basis, summary information about the Bank's performance on environmental and social issues and will engage in meaningful dialogue with the Bank's stakeholders, in accordance with the EBRD Public Information Policy (PIP). The Bank will promote similar good practices amongst its clients." The ESIA and national-level EIA processes started with the EBRD's ESIA being subject to public consultation from October 2018 for sixty days. We submitted comments within the deadline (December 2018) and waited 5 months for the answers (May 2019) only to realise that the Bank just relayed responses from the Client, which avoided the main question about whether this project is in line with a sustainable waste management future for Belgrade. On 19.07.2019 we sent a response to the bank in which we had analysed all the responses to our comments and identified the outstanding issues. On 20 August we received a letter responding to the bullet points summarising our list of outstanding issues, but not to the list of outstanding issues themselves. On the question of Belgrade's waste management system, the bank merely replied: "We are now satisfied that the project will not prevent Belgrade or Serbia from meeting the target of 65% recycling of municipal solid waste by 2035. The energy from waste plant is fully reflected in Serbia's national waste planning. This planning envisages the introduction of source-separated household waste collection and recycling in 13 regions by 2025 and across the entire country by 2035. The City of Belgrade has reserved a right to exclude source-segregated recyclables from the project's waste envelope." Again, no figures were published regarding current waste flows and future projections, and no details were given about Belgrade's right to exclude recyclables from the project's waste envelope and how this will work in reality. We do not see how "meaningful dialogue" can take place under such conditions of information asymmetry and consider that this type of communication does not meet the EBRD's commitment to transparency. We therefore sent another letter on 3 September and are awaiting a response. In addition, although the ESIA was allegedly updated following our interventions, no updated version of the ESIA has been sent or published to date, and the same mistakes in the EBRD ESIA were repeated in the national-level one more than six months after our comments were submitted. This latter fact again calls into question whether the dialogue with the bank has been "meaningful", as well as causing us to spend needless time submitting similar comments twice. Mark E-2---------- The national level EIA procedure was not carried out according to Serbian law or the EU Environmental Assessment Directive. The period of public availability of the studies (there were two - one for the incinerator and one for the landfill gas facility) appeared to be only 20 days - no clear deadline was given and the timeline could only be inferred from the date of the public hearing meeting, which by Serbian law comes at the end of the commenting period. This 20-day timeline was contrary to Article 6 of the 2011/2014 version of the Environmental Impact Assessment Directive which requires at least 30 days. Although the Ministry did open an additional 10 days for commenting, following complaints received during the public hearing, the addition was done contrary to the Law

	on environmental impact assessment's provisions on public announcements and contrary to the timeline set by the Ordinance on the procedure of public review, presentation and public hearing regarding the environmental impact assessment, which sees the public hearing as a final and not an intermediate step of the EIA disclosure. The 2014 amendments of the Directive have been binding for Serbia since 01.01.2019 under the Energy Community Treaty, and irrespective of the fact that Serbia has not yet transposed them, their provisions need to be implemented. Thus, the EIA consultation process did not meet PR 10.24 "In addition, the consultation process must meet any applicable requirements under national environmental impact assessment laws and other relevant laws. ..." At the time of writing, the national-level EIAs have not been approved, so it is as yet unclear whether there will be further violations in the process.
Proposed answer	Mark E-1---------- We would like to point out that we have always used all reasonable endeavours to follow instruction set by the Lenders in regard to the form and content of the ESIA report and the related Public Consultation process. All questions (hundreds actually) raised by NGOs during the ESIA and also the EIA procedure were answered without any exception when relevant to the corresponding procedure. To ensure that the ESIA procedure was following the IFIs Guidelines (not only EBRD but also IFC), several safeguards were foreseen: • Project Sponsors appointed EGIS an internationally recognised and experienced consultant to prepare the ESIA in accordance with IFIs guidelines • In addition to their E&S experts team following the project, Lenders required that an Independent Environmental and Social (IES) Consultant ARUP was appointed to ensure the same compliance for the benefit and re-assurance of the Lenders For instance, it shall be noted that the decision on which NGOs comments should require amendments of the ESIA was not originating from the Project Sponsors but following careful review and instruction from the IES Consultant under the supervision of the Lenders and their E&S expert teams. Mark E-2---------- The entire EIA procedure was conducted according to the Law on environmental impact assessment ("Official Gazette of RS" 135/2004 and 36/2009) which is currently in force. The Article 20 of the above stated Law regulates public consultation, presentation and debate on the EIA Study. Article 20 states the following: "The competent authority shall make the EIA Study available to public and arrange for a public presentation and debate on the Study. Within seven days from the date of receipt of the application for the EIA Study approval, the competent authority shall inform the project developer, the authorities, organizations and the public concerned about the

	time and venue for public consultation, presentation and debate on the EIA Study. Public debate **may not be held sooner than 20 days from the date when the public was informed**. The project developer shall participate in the public presentation and debate on the EIA Study. Since the time and venue for public consultation, presentation and debate on EIA Studies were published in daily newspaper *Politika* on 29th June and on the official website of the Ministry of Environmental Protection a day earlier (28th June) and the public consultation was held on 23rd July, it can be concluded that Law prescribed procedure was fully followed and therefore all requirements fulfilled.

Issue F relating to: Incomplete environmental and social impact assessments	
Complaint	**Step 3: Additional information** Several elements were missing or insufficiently covered by the environmental impact assessments: Mark F-1---------- • As discussed above, baseline data and projections about Belgrade's waste flows were not included in either the EBRD ESIA or the national level studies. Mark F-2---------- • In none of the EIAs was any baseline information given about informal waste collectors who do not live on the Vinca site but who may be affected by the requirement for the city to provide 340,000 tonnes of waste annually to the incinerator. If the volume of waste in Belgrade does not grow as expected in coming years, the authorities may decide to clamp down on informal recycling in order to ensure a supply of waste to fulfill the contract. This impact is not guaranteed but is possible and should have been assessed. Mark F-3---------- • The national level EIAs did not cover the landfill rehabilitation project at all, despite it being claimed by the EBRD to be the most urgent component of the project, and despite the fact that the landfill contains dangerous items like sterilised medical waste and needs to be carefully planned. The EBRD claimed in its letter of 20.08.2019 that "The ESIA disclosed in line with Lender requirements includes information on the existing landfill. This will be re-profiled to improve slope stability, capped and covered, and leachate collection and treatment and biogas collection systems will be installed." However, basic information was not clear in this ESIA, for example it mentioned that approximately 800,000 m3 of waste would be moved and that a dam would be built to stop the waste sliding towards the river Danube, but it did not show how this would be done or whose responsibility it would be. In fact, the most urgent measure, building the dam, has already been carried out by the city of Belgrade, outside of the PPP arrangement. Mark F-4---------- • Crucial data was missing regarding air quality: a) Results of air quality monitoring after 2016; b) More detailed map with the position of the air quality monitoring stations, especially in Belgrade; c) Exact information on how many of these monitoring stations were active and to what extent at the time of the measurements (2016); d) How many of them were active in 2017 and how many are actively collecting data today, on a daily and monthly basis? e) How many of these monitoring stations are collecting data on PM2.5? f) Data from how many of these PM2.5 stations are included in the yearly assessments of air quality? g) In what way are the data from high pollution facilities being collected and how often are they presented to the public? h) Is the system of collecting and publishing the data about air quality being managed in accordance with national and EU laws? The project promoter merely answered that "Data for 2017 were not available at the time of ESIA redaction. The ESIA is not a document auditing the air quality monitoring network of Belgrade and refer to competent public authority data to present a detailed but didactic and relevant baseline". It is unacceptable that data for 2017 was

	not available by 2018 and 2019 when the EIAs were written, as it should be available on a constant basis if it is to be of any use to the public. We also find the Client's answer regarding the monitoring network insufficient as a functional network is absolutely needed to ensure monitoring and mitigation measures around the project. We assert that these deficiencies mean that PR 1.7 and PR 1.8 were not met: "The environmental and social assessment process will be based on recent information, including an accurate description and delineation of the project and the client's associated activities, and social and environmental baseline data at an appropriate level of detail", and "The assessment process will be commensurate with and proportional to the potential impacts and issues of the project and will cover, in an integrated way, all relevant direct and indirect environmental and social impacts and issues of the project, and the relevant stages of the project cycle (e.g. preconstruction, construction, operation, and decommissioning or closure and reinstatement)." Mark F-5---------- There is no assessment of potential impacts on informal waste collectors who do not live at the site but may be affected by a potential clampdown on informal recycling in order to keep waste volumes up. This is also in our opinion a breach of PR 1.9: "The environmental and social assessment process will also identify and characterise, to the extent appropriate, potentially significant environmental and social issues associated with activities or facilities which are not part of the project, but which may be directly or indirectly influenced by the project, exist solely because of the project or could present a risk to the project. These associated activities or facilities may be essential for the viability of the project and may either be under the control of the client or carried out by, or belong to, third parties. Where the client cannot control or influence these activities or facilities, the environmental and social assessment process should identify the corresponding risks they present to the project. Where potentially significant adverse environmental and/or social risks relating to third party activities or facilities are identified, the client should collaborate with those relevant third parties to manage and mitigate these risks." The PR is unfortunately worded in a way that it appears to be more concerned with the risks to the project than the risks to people and the environment, but putting this aside, the PR also states that the client should collaborate with third parties to manage and mitigate these risks. In this case, the relevant third party would be the City of Belgrade. We do not know, because the issue is not explored in the EIAs, whether the client has done so, but given that in its response to our comments from May 2019, the client did not recognise the possibility of this impact occurring as a result of the project, we believe this has not happened.
Proposed answer	General remarks on Marks F-1 to F-5---------- As mentioned above, EGIS (Environmental Consultant for the Project Sponsors) and ARUP (IES Consultant of the Lenders) ensured that the baseline was compliant with good industry practice and IFIs guidelines. For instance, the extent of the proposed ESIA environmental baseline (location / parameters / frequency for soil / ground water / biodiversity and air quality monitoring) was presented to Lenders and their E&S expert as early as January 2018 for their early consideration. Mark F-1----------

	The complainant statement is to our understanding not correct as the ESIA **section C.2.2. THE CITY OF BELGRADE – Baseline assumptions / Waste Generations** clearly refer in a transparent manner to the Fichtner study on the matter and present a summary of the findings of this study. **Mark F-2**---------- Baseline regarding waste pickers not living but working on Vinca Landfill site is provided under ESIA D2.10. Waste pickers may be subject to The City of Belgrade local waste management plan for the period 2021-2030, since the local plan will include all individual programs required by the law to be developed for the collection of non-hazardous and hazardous household waste, the collection of commercial waste, the reduction of biodegradable and packaging waste in municipal waste, the management of industrial waste, the reuse and recycling of municipal waste components, as well as programs to raise public awareness and responsibilities in waste management. Only 18 families where identified by the City of Belgrade during ESIA, RAP and SEP preparation to have their settlements in the vicinity of Vinca landfill site. All other waste pickers (surveys included in ESIA, RAP and SEP) were identified to be employed by certain private companies performing their recycling business activities and not living at Vinca Landfill site. Please note that - population of Collectors of secondary raw materials (waste pickers) are presented in section D.2.10. VULNERABLE GROUPS ALONG THE PROJECT AREA of the ESIA report - while the related SOCIAL RISKS AND IMPACTS are presented in section E.2.1.3 and E.2.1.4, - and the MITIGATION MEASURES in section F.2 where the Livelihood Restoration Action Plan prepared by the City is referred to. **Mark F-3**---------- In Serbia, landfill remediation is performed in accordance with the ordinance and regulation which defines this type of activity. However, these projects are not on the list of projects for which an environmental impact assessment study is being prepared. In that regard, **the rehabilitation and reclamation project of the existing landfill was drafted in accordance with legal regulations and was approved by the Ministry of Environment in July 2019.** On the other hand, projects for the construction of a new landfill with associated facilities and EfW plants, in accordance with the Law on Planning and Construction and the Law on EIA, are among the projects for which it is necessary to enter into the procedure for obtaining consent for environmental impact assessment studies. The scope of the study is defined by the site conditions, the technical documentation prepared at the conceptual design level (IDP) and the volume of future building permits,

	in accordance with the Law on Planning and Construction and the Law on Environmental Impact Assessment. The Law on Planning and Construction permits projects to be implemented in phases. Accordingly, and following instruction from the Ministry of Environment, in order to obtain the conditions and consent of the holders of public authorizations, two environmental impact assessment studies were developed, as well as the Remediation and Remediation Project of the existing landfill body. In accordance with the legislation, public inspection and presentation of the Environmental Impact Assessment Study of the energy plant and new landfills with accompanying contents were made. The study presents technical solutions and appropriate safeguards in terms of reducing potential emissions from the complex in question. However, it shall be noted that the ESIA report presents the Vinca Project in its entirety including EfW, New Landfill, LTP facilities and Exiting Landfill Rehabilitation works. Therefore, despite the specificities of the Serbian laws on EIA / Planning and Construction, the Public has not been deprived from a study assessing the environmental and social impact of the complete Vinca Project. Mark F-4---------- We believe that in addition to the desktop study compiled in the ESIA report, the complementary baseline surveys on air quality monitoring carried out by EGIS on the wider area of the Vinča complex in early 2018 were fit for purpose in terms of locations (including anticipated sensitive receptors) / parameters number / period / frequency being monitored (as mentioned above the air quality monitoring program had been submitted to the prior consideration of IFIs and their E&S experts) As explained in the ESIA report see section D.1.3.1 Air: "The monitoring protocol combines continuous monitoring (for good time-resolution results) and passive monitoring (to spatially extend the monitoring), performed at the same period. A study of the result of this monitoring campaign led to a second monitoring campaign done by continuous monitoring of a limited set of pollutants on 3 new sampling points in order to complete the survey and have a good representation of the airshed." Mark F-5---------- It shall be noted that the PPP Contract and the Project features do not require any form of pre-treatment prior being accepted since the EfW and landfill facilities can accommodate Municipal Residual Waste (other than control of Prohibited Waste) as they are currently delivered by the City PUC. For the avoidance of doubt, the Project Sponsors are also not requiring any change in the waste collection patterns prior the waste being delivered on site. On that basis, it cannot be claimed that the Vinca Project will impact unformal waste picker population.

	On the contrary, as mentioned previously, the City reserved a right to exclude source-segregated recyclables from the project's waste envelope as stipulated in clause 26.2 of the PPP Contract. Therefore, it is the future change in the collection methods by the City to increase its recycling performance (as praised by the complainant on other PRs complaints) that will most affect the Belgrade existing informal waste picker population at large. The assessment of the impact of this potentially vulnerable populations will only relevant as part of the development of the recycling facilities and new collection methods by the City of Belgrade Nonetheless, the provision of the protective provisions of the RAP concerning waste pickers population impacted by the Vinca Project are reminded under section E.2.4 of the ESIA report where it is stated: "The City of Belgrade has recognized the importance of including the impact of both the physical and economical resettlement, as well as consequences that will probably appear due to the implementation of the project. To solve impacts of forced displacement, the Resettlement Plan has been prepared and defined in compliance with available circumstances, an optimal offer to the project-affected community related to their resettlement and compensation, fully in compliance with requirements of the national Serbian legislation and the best practice as well as IFC Performance Standard 5 and EBRD BP 5." As Mitigation regarding employment of waste pickers, the RAP states: "For all other individuals, who do not reside on the waste dump and are not entitled to resettlement, assistance with employment will be provided primarily through the responsible National Employment Agency branch office, in the place of their registered permanent residence (or registered temporary residence, if they wish). These individuals will be instructed to register with the NEA, if they are not already. At the same time, assistance with accessing employment and self-employment within available programmes and projects of non-government and other organisations (e.g. 2016 EU IPA Programme of Support for Roma Inclusion – empowering local communities for the inclusion of Roma) will be organised in cooperation between local self-governments and relevant organisations implementing the projects (in this case, the Standing Conference of Cities and Municipalities). Jobs available during the construction phase of the Project, at the waste dump Vinča, or later, during the operations phase of the new landfill, as well as jobs in other locations where PECS operates (e.g. in locations of future recycling centres), will be offered to all waste pickers who are entitled to assistance under this Resettlement Plan, regardless of their registered residence. Offers of these jobs and contacts with the waste pickers will be organised by the Secretariat for Social Protection, in cooperation with PECS."

Issue G relating to: Non-compliance with EU pollution control standards	
Complaint	**Step 3: Additional information** Mark G-2---------- The incinerator project is not in line with the new EU Waste Incineration BREF standards (approved on 17th June 2019). We argue that this is contrary to PR 3.9: "Clients will structure the projects to meet relevant EU substantive environmental standards, where these can be applied at the project level. Certain projects that, due to their nature and scale, would be subject to the EU Industrial Emissions Directive will be required to meet EU Best Available Techniques (BAT) and related emission and discharge standards, regardless of location." Although the Belgrade incineration facility would receive its integrated permit well after the publication of the new BREF in the Official Journal of the EU, neither the ESIA published by the EBRD nor the EIA published by the Serbian authorities consider the new BREF to be a requirement. Mark G-1---------- PR 3.8 states that: "The client's environmental and social assessment process will determine the appropriate pollution prevention and control methods, technologies and practices ("techniques") to be applied to the project. The assessment will take into consideration the characteristics of the facilities and operations that are part of the project, the project's geographical location and local ambient environmental conditions. The assessment process will identify technically and financially feasible and cost-effective pollution prevention and control techniques that are best suited to avoid or minimise adverse impacts on human health and the environment. The techniques applied to the project will favour the prevention or avoidance of risks and impacts over minimisation and reduction, in line with the mitigation hierarchy approach and consistent with GIP and will be appropriate to the nature and scale of the project's adverse impacts and issues." As explained above, the EBRD did not ensure that the client prioritised avoidance of risks and impacts, but rather concentrated on mitigating impacts of an already pre-decided project. But even this was not done to an extent which would properly reflect the precautionary principle, and although the 2017 BREF was briefly mentioned in the national level EIA for the plant, the compliance comparison carried out in the EIA was with the provisions of the 2006 BREF, not the newer one. The EBRD is providing contradictory information on the issue. In an answer of 16.10.2018, the EBRD stated only that "EBRD's Environmental and Social Policy requires that projects comply with applicable EU standards adopted at the time of project appraisal." Considering that appraisal of this project has so far taken at least a year and a half, it is not clear what point in the appraisal is the relevant cut-off date. It should be emphasised that no-one can say they have not seen the new BREF coming - its creation was stipulated by the 2010 Industrial Emissions Directive, and successive drafts of the document have been published, meaning that even when not adopted, it was reasonably clear what provisions it would contain, especially as these are based on expert assessment of real-life plant technologies, not political negotiations. Parallel to the process of the ESIA and the national EIA public disclosure, in a letter dated 20.08.2019, the EBRD on one hand states that as the BREF was only recently approved, it was not possible to take it into account during the EIA process, but at the same time states "Nevertheless, the broad requirements of the new BREF have been anticipated in the project design and the project will be able to meet these requirements with some adjustments to the project's design and operation. The exact nature of these adjustments is currently being assessed by the project company and the expectation is that they will be fully adopted at or

	around the time the project becomes operational at the end of 2022." So the exact nature of these adjustments is going to be assessed by the Client, not by the relevant EBRD body, and this process will take place outside of the ESIA procedure. Mark G-2---------- Whether or not the PCM finds that the letter of PR 3.9 on Best Available Techniques should have meant the application of the 2019 BREF and not the 2006 one, we emphasise the second Objective of PR3: "To adopt the mitigation hierarchy approach to addressing adverse impacts on human health and the environment arising from the resource use and pollution released from the project." While we argue above that impacts should have been avoided by examining other waste management options, at the very least they could have been minimised by insisting on the application of the current Best Available Techniques - not only in a legal sense, but in the sense of what technologies are actually available that can best protect human health. We are sure that no investor in an EU country would at this moment invest in a plant that is not in line with the new BREF, and the EBRD's failure to insist on this in Belgrade gives the impression of double standards.
Proposed answer	Mark G-1---------- General considerations It is our understanding that the complainant makes intentionally a confusion between: ▪ the mitigation hierarchy approach to be applied to the Project as a whole and, ▪ the "techniques" meaning "the appropriate pollution prevention and control methods, technologies and practices" "applied to the project" which should "favour the prevention or avoidance of risks and impacts over minimisation and reduction" otherwise this would mean that only Project as whole having zero health and environmental impacts (i.e. preventing and avoiding absolutely any risks) can only comply with PR3.8 which obviously and reasonably cannot be the case On the first account relating to lack of alternative assessment, and even if it does not apply to PR3.8, please refer to our answer related to "mark C-1" above. On the second relevant account which relates to the techniques considered for the Project, we would like to strongly state that the Project complies with the provisions of EBRD PR 3.8 and that the Project Sponsors Suez-Itochu-Marguerite are fully committed to comply with the mitigation hierarchy. The Project Sponsors have structured the Project and its organisation accordingly by: ▪ adopting a set of Employers requirements (ERs) that is aligned with best industry practises in particular for the Energy from Waste (EfW) facility. The SUEZ EfW ERs have been audited by Local Waste Management Authorities, Lenders and their technical advisors on many projects awarded and built over the recent years in Europe. - In particular, the ERs are aligned with the French ED946 reference guideline released by INRS (National Research and Safety Institute (INRS) and covering specifically the "Design of waste incineration plant - Recommendations for project owners to prevent risks to the safety and health of operating and maintenance personnel"

- ERs are also aligned with the requirements set in the CHUBB Insurance Guidance Document for property damage prevention for Energy from Waste plants. (Issue 5.0 dated 14/12/2017) which is reference document for this type of facilities

- Finally, the ERs have been improved by SUEZ Technical Team by incorporating an extensive return of experience accumulated by the company over the years operating 55 EfW Facilities in Europe.

- appointing experienced EPC Contractors for the works:

The Sponsors have selected CNIM Groupe ("CNIM"), one of the world's most reputable EPC contractors in the field of energy-from-waste facilities on an exclusive basis for the Project, considering CNIM's experience in developing similar references in Europe and in developing countries. Active on the market since 1964, CNIM has built 160 WtE plants across the World with single-line capacity ranging from 2.5 to 50 t/h (20,000 to 375,000 t/y).

The Vinca Project will therefore also benefit of the state-of-the-art technologies and unique return of experience offered by the CNIM company in health and environmental risk management

- appointing a dedicated and experienced Project Management Team (Owner's Engineer) having the responsibilities that:

  - ERs and Good Industry Practices are implemented for design, engineering, procurement, construction and commissioning activities and in particular to issues relating to health and environmental risk management

  - the mitigation hierarchy approach is followed by key participants to the Project

We consider the Project Sponsors have therefore allocated the necessary resources and means to comply with mitigation hierarchy meaning adhere to the following general principles that shall govern the organization of prevention:

- **To avoid risks** is to remove the danger or exposure to danger.
- **To assess risks** means appreciating exposure to danger and the importance of risk in order to prioritize preventive actions to be taken.
- **To Fight risks** at source means integrating prevention as early as possible, especially when designing workplaces, equipment or operating methods.
- **To adapt work to humans** in order to reduce the effects of work on health.
- **To consider the evolution of the technique**, it is to adapt the prevention to the technical and organizational evolutions.
- **To replace what is dangerous with the less dangerous** is avoiding the use of hazardous processes or products when the same result can be achieved with a less hazardous method.
- **To plan prevention** by integrating technical, organization and working conditions, social relations and environment.
- **Prioritize collective protection measures** and use personal protective equipment only in addition to collective protection if it proves to be insufficient.
- **Giving appropriate instructions to employees** means training and informing employees so that they know the risks and the prevention measures.

Practical considerations for the Vinca Project

Please note that "techniques" applied to the project will favour the prevention or avoidance of risks and impacts over minimisation and reduction. A simple word search on the ESIA report using the word prevent will immediately show many occurrences of such provisions in the proposed design. Some examples are given below taken randomly not necessarily representing the most important prevention measures but just to illustrate that prevention measures are embedded everywhere in the "techniques" used on the project:

- **Industrial Risk Prevention - EfW Emergency Diesel generator** (see ESIA section C.4.9.)

  Diesel generator of preliminary rated power 2000 kVA, will be provided for supply of critical consumers and ensure safe and controlled manner shut-down of the plant in event of voltage outage on the 10 kV switchgear.

  In the event of supply loss or voltage loss on 10 kV switchgear, this diesel generator, which is also connected to this switchgear, will be started automatically, providing continual supply of the self-consumption.

- **Water Pollution Prevention - IBA Leachate Management** (see ESIA section E.1.3.1)
  "Runoff water within the zone of atmospheric slag (IBA) and IBA leachate will be collected by the network of closed collectors installed under the roads gravitating towards IBA lagoon. Oily runoff waters within the area of incinerator bottom ash (IBA) will be collected by industrial drainage network (network that collects dirty process water, which will be reused). A geomembrane will be placed below the concrete under the IBA **to prevent** seepage into the groundwater."

- **Water Pollution Prevention - Existing Landfill capping layer** (see ESIA E.1.3.1)
  "The installation of the cover planned within the framework of the rehabilitation/confinement project of the landfill will allow in the long term **to prevent** the infiltration of rain and thus the production of leachate."

- **Water Pollution Prevention - Existing Landfill capping layer** (see ESIA E.1.3.1)
  "Runoff water within the zone of atmospheric slag (IBA) and IBA leachate will be collected by the network of closed collectors installed under the roads gravitating towards IBA lagoon. Oily runoff waters within the area of incinerator bottom ash (IBA) will be collected by industrial drainage network (network that collects dirty process water, which will be reused). A geomembrane will be placed below the concrete under the IBA **to prevent** seepage into the groundwater."

- **Air Pollution Prevention – Dust Management** (see ESIA E.1.3.13.)
  "Solid waste from flue gas treatment, code 19 01 07*, APCR containing dangerous substances, code 19 01 13*, and boiler dust containing dangerous substances, code 19 01 15*, will be stored in silos specially designed for that purpose, preventing release of APCR (dust material) into air prior solidification and chemical stabilization process. Stabilized material will be in solid form **preventing** release to air and the process will bind heavy metals, preventing penetration of substances into the soil and aquatic environment."

- **Air Pollution Prevention – NOx Reduction System** (see ESIA H.4.)
  "Primary technique for **prevention** of PCDD/F :
  - Mixing of waste thanks to bunker storage capacity and waste crane capacity.
  - Control of combustion with combustion air system by stages (see point 40 above)
  - Design of boiler to avoid deposit and fouling in specifically temperature range 450 – 200°C
  - Efficient boiler cleaning system ("soot blower system")

... but the best is to read carefully the ESIA report.

The simple examples above clearly illustrate that the Vinca Project features comply with the requirements of PR 3.8.

Mark G-2----------

As further elaborated below, we confirm that the Project complies with EBRD PR 3.9 since the Project has been structured both **contractually** and technically to comply with the future BAT Conclusions:

Contractual aspects:

- **PPP Schedule 2 Output Specifications** clearly requires that the Project complies with the BREF as stated in:
  - Section 1.11. limb (e)
    "Applied Regulations and Standards
    In delivering the Works and the Services, the Contractor shall comply with:
    ...
    (e) EU BREFs shall be used for the determination of Best Available Technique (BAT); all of these as applicable at the date of application for any Consent"

  - Having in mind that Consent under the PPP Contract provisions is a defined term as follow:
    "Consents means all permissions, consents, approvals, certificates, permits, licenses and authorisations of a Relevant Authority required for the performance of any of the Contractor's obligations under this Contract,..."
    This definition is therefore inclusive of the Integrated Permit which instruction will take place at a time when the NEW BREF and the BAT Conclusions will be legally enforceable at EU level.

- **PPP Contract main body:**

  The modifications required to comply with the PPP Schedule 2 Output Specifications above mentioned provisions shall fall under the following **Change in Law** categories:

  - "**Specific Change in Law**" which is a PPP Contract defined term. See limb (b) of the said definition:

    "Specific Change in Law means:
    ... b) any Change in Law which specifically refers to emissions from industrial, energy from waste and/or thermal treatment facilities;"

- "**Qualifying Change in Law**" which is another PPP Contract defined term. See limb (b) of the said definition:

"Qualifying Change in Law means:
... (b) a Specific Change in Law which comes into effect on or after the Effective Date;"

It is to be noted that the definitions above are not redundant.

Specific Change in Law describes the change in law whilst the other definitions set out the associated protection/relief enjoyed by the Contractor in the event a Specific Change in Law occurs including CAPEX and OPEX.

Financial consequences of a Qualifying Change in Law are addressed under PPP clause **40.5 Adjustment to Services Payment:**

"Subject to Clause 40.4 (Financing), any compensation payable under this Clause 40 (Change in Law) shall be paid by the City by way of an adjustment to or reduction in the Interim Services Payment and/or Services Payment, which shall be determined and made in accordance with Schedule 19 (Revision of Base Case),"

- Contract on **Credit Terms Agreement (CTA):**

  More importantly and directly relating to the conditions set by EBRD and IFC in financing the Vinca Project, **SCHEDULE 9 ENVIRONMENTAL AND SOCIAL ACTION PLAN of the CTA** sets specific requirements in line with EBRD guidelines and in anticipation of the forthcoming change in regulation at EU level:

  See below Extract of ESAP Action 3.6
  " • Review the requirements of the latest EU BREF document for waste incineration once it is finalized (final draft as of December 2018). Develop and implement a plan to ensure the project will operate in compliance with the revised BREF.
  • Plan to be developed within six months of the adoption of the revised BREF and implemented by the end of 2022."

  It shall be noted that the above actions have been added in the latest binding version of the ESAP CTA and to our understanding do not appear as clearly in the ESAP published as on EBRD website during the Public Disclosure period.

Technical aspects:

As mentioned in the answers already circulated to address NGOs concerns during the ESIA process and in the revised version of the ESIA Report:

"The current design meets the current Industrial Emissions Directive (IED) 2010/75/EU emission limits. At time of ESIA preparation the adopted official BREF for Waste Incineration was from August 2006; and the same version is still valid. All installations that fall under Industrial Emissions Directive 2010/75/EU should comply with current officially adopted BREF document of the European Commission. Therefore, in the EISA a comparison with emission limit values from Waste Incineration BREF 2006 was presented. If in the following period, including after construction of the EfW, other emission limit values/BREF will be in force, the project will take

	necessary steps to comply with such new requirements as the Government of Serbia may decide to transpose and enforce into the Serbian regulation. **The planned energy from waste facility incorporates technological solutions and design choices that have been made in order to allow the necessary adaptations to comply with the next possible new BREF requirements as it may be transposed by the Government of Serbia within the limits set into the new BAT conclusions adopted at EU level."** It shall be noted that with the support of our EPC Contractor for the EfW (CNIM) a pre-assessment of the NEW BREF design and operational impact has been performed which shows that: • Most of the new BAT-AELs (BAT - Associated Emission Levels) ranges can be met by simply by increasing the reagents consumption thanks to safe design margin already embedded in the current Employer's Requirements (ERs) • Remaining Emissions Levels are met by design modification reasonably implementable technically / permitting and construction wise: - Urea injection System - Residues transport system - Mercury continuous monitoring