



Independent
Project
Accountability
Mechanism

REQUEST: UPTF - MARIUPOL TROLLEYBUS PROJECT NO. 49557

CASE NUMBER: 2020/05

ASSESSMENT REPORT – November 2020

16 NOVEMBER 2020

The Independent Project Accountability Mechanism (IPAM) is the accountability mechanism of the EBRD. It receives and reviews concerns raised by Project-affected people and civil society organisations about Bank-financed Projects, which are believed to have caused harm. IPAM may address Requests through two functions: Compliance Review, which seeks to determine whether or not the EBRD has complied with its Environmental and Social Policy and/or the Project-specific provisions of the Public Information Policy; and Problem-Solving, which has the objective of restoring dialogue between the Requesters and the Client to resolve the issue(s) underlying a Request without attributing blame or fault. Affected Parties can request one or both of these functions.

For more information about IPAM, contact us or visit <https://www.ebrd.com/project-finance/ipam.html>


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How can IPAM address my concerns?

Requests about the environmental, social and transparency performance of the EBRD can be submitted by email, telephone or in writing at the above address, or via the online form at:

 <https://www.ebrd.com/project-finance/independent-project-accountability-mechanism/how-ipam-works.html>

EXECUTIVE SUMMARY

The [Independent Project Accountability Mechanism](#) (IPAM) processed a [Request](#) received on 17 April 2020 with reference to UPTF - Mariupol Trolleybus Project (49557) - a subproject of [Ukraine Public Transport Framework](#) (47901) in Ukraine (“**Project**”). The Requester asserts that EBRD has failed to comply with its Environmental and Social Policy, specifically alleging actual and potential harm related to the procurement and operation of the trolleybuses acquired for the city of Mariupol that endanger the life and health of passengers and drivers under ESP PR 4: Health and Safety.

The Project is part of [Ukraine Public Transport Framework](#) (47901) consisting of municipal-guaranteed loans to public transport companies in Ukraine to facilitate critical improvements in public transport infrastructure in Odessa, Chernihiv, Chernivtsi and several other cities across Ukraine, with prime focus on transport renewal and associated efficiency gains. It consists of a senior loan of EUR 13 million to the Communal Enterprise "Mariupolske Tramvaino-Trolleybusne Upravlinnya" - a municipal public transport operator wholly owned by the City of Mariupol. The proceeds of the loan aim to address key challenges in public transport infrastructure development in the city of Mariupol, relating to improving access to clean urban transport, and improving capacity and efficiency of public transport services. This is done through supporting the Company's Priority Investment Programme in renewing its aged fleet by financing the acquisition of: (i) new low-floor trolleybuses (including spare parts), (ii) O&M vehicles and machinery, as well as (iii) rehabilitation of trolleybus catenary network and (iv) depot modernisation. As part of the Project, new low-floor trolleybuses were acquired in 2019.

The Request was registered on 30 September 2020 with confidential treatment of Requester's identity. During the assessment stage (01 October 2020 to 26 November 2020) in accordance with the [2019 Project Accountability Policy \(PAP\)](#), the IPAM team conducted an in-depth analysis to better understand the issues raised in the Request and sought to engage with all parties to establish whether the Case proceeds to Problem Solving; or is transferred to a Compliance Assessment; or be closed.

Based on the Assessment findings, the lack of response from the Requester on its interest in proceeding further with either of the IPAM functions after repeated attempts from IPAM and pursuant to para. 2.3.c.(ii) of the Policy, it is determined that the Request will be closed.

As per the PAP, this Assessment Report shall be submitted to the Board for approval to close the Case on a no objection basis. The Report will be made available to the Requester, Bank Management and the Client and will be published on the [IPAM Case Registry](#) in English and Ukrainian.

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

Acronyms/List of Definitions

Client/Company/MTTU	Mariupolske Tramvaino-Trolleybusne Upravlinnya, a municipal public transport operator wholly owned by the City of Mariupol, Ukraine
CSO	Civil Society Organization
EBRD	European Bank for Reconstruction and Development
ESAP	Environmental and Social Action Plan
ESIA	Environmental and Social Impact Assessment
ESP	Environmental and Social Policy
IPAM	Independent Project Accountability Mechanism
PAP/Policy	2019 Project Accountability Policy that governs IPAM functioning
PCM	Project Complaint Mechanism
PR	Performance requirement as stipulated in the Environmental and Social Policy
Project	UPTF - Mariupol Trolleybus Project (49557), which is a subproject developed under Ukraine Public Transport Framework (47901) in Ukraine

I. BACKGROUND

1. THE PROJECT AND ITS CURRENT STATUS

On 14 October 2015 the EBRD Board approved [Ukraine Public Transport Framework](#) (47901) consisting of municipal-guaranteed loans to public transport companies in Ukraine to facilitate critical improvements in public transport infrastructure in Odessa, Chernihiv, Chernivtsi and several other cities across Ukraine, with prime focus on transport renewal and associated efficiency gains. UPTF - Mariupol Trolleybus Project (49557) ("**Project**") was developed as a subproject of the said [Ukraine Public Transport Framework](#) and was approved by the EBRD Board on 15 June 2018 to address key challenges in public transport infrastructure development in the city of Mariupol, relating to improving access to clean urban transport, and improving capacity and efficiency of public transport services. The Project consists of a senior loan of EUR 13 million to the Communal Enterprise "Mariupolske Tramvaino-Trolleybusne Upravlinnya" ("**MTTU**" or "**Company**"), a municipal public transport operator wholly owned by the City of Mariupol. The proceeds of the loan aim to support the Company's Priority Investment Programme in renewing its aged fleet by financing the acquisition of: (i) new low-floor trolleybuses (including spare parts), (ii) O&M vehicles and machinery, as well as (iii) rehabilitation of trolleybus catenary network and (iv) depot modernisation. As part of the Project, new low-floor trolleybuses were acquired in 2019.

2. THE REQUEST

On 17 April 2020, a [Request](#) was received by PCM related to UPTF - Mariupol Trolleybus Project (49557). The Request alleges harms or potential harm of the Project-procured trolleybuses on passengers and drivers endangering their life and health under ESP PR 4: Health and Safety. In particular, it includes concerns that the new trolleybuses' low-voltage cable wiring hang down in the passengers' compartment, lighting occasionally goes out, trolleybuses' roofs leak with water partially flooding the low-voltage wiring in the special compartments of the trolleybus interiors and thus - endangering the life and health of passengers and drivers.

The Requester has asked for confidentiality for fear of retaliation.

3. REGISTRATION OF THE REQUEST

On 01 June 2020, PCM suspended the Request under para. 15 of the [PCM Rules of Procedure 2014](#) to allow EBRD Management and the Requester to engage in an attempt to address the issues raised by the Requester. Following this, EBRD Management informed IPAM that the concerns raised in the Request regarding the procured trolleybuses were all fixed pursuant to additional repair undertaken by the respective producer and that currently none of the alleged malfunctioning and defects are present.

As IPAM was unable to contact the Requester by the end of the suspension period to know if the concerns raised had been addressed, the Request was registered on 30 September 2020 once the screening process conducted by IPAM confirmed that the Request met the Registration criteria

established under para. 2.2.b of the [2019 Project Accountability Policy](#)¹. Registration of a request represents an administrative step, acknowledging that the request meets the registration criteria, namely that:

- i. All mandatory information had been provided;
- ii. The Request raises issues related to specific obligations of the Bank under the Environmental and Social Policy;
- iii. The Request relates to a Project that has been approved and the Request was submitted within 24 months of the date that the Bank ceases to have a financial interest in the Project;
- iv. None of the exclusions that prevent registration are met;
- v. The Request does not duplicate or interfere with or be impeded by other processes.

Registration of a request does not involve a judgement of the merits, truthfulness or correctness of the content of the request. Once registration has taken place, the Assessment process initiates.

4. IPAM ASSESSMENT

As established in par. 2.3 of the 2019 PAP, the Assessment Stage purpose is to:

- develop a clear understanding of the issues raised in the Request;
- discuss the Problem Solving and Compliance Review functions with the Parties, their scope and possible outcomes with the Parties;
- assess the Parties' willingness to engage in each function, while taking Requesters' preference among functions into account;
- consider the updated status of other grievance resolution efforts, if applicable; and
- make a final determination with three alternatives open to IPAM:
 - a. the Case will proceed to Problem Solving, based on the agreement of the Requesters and the Client; or
 - b. the Case will be transferred to Compliance Assessment, if no agreement to pursue Problem Solving is reached and Requesters have expressly asked for this; or
 - c. the Case will be closed.

The Assessment stage has a duration of 40 business days from the date of registration (i.e. from 30 September 2020 till 26 November 2020) and as a result of it IPAM issues the Assessment Report describing the outcome of the assessment made. If IPAM determines that the Case is to be closed, the Assessment Report is submitted to the Board for their consideration under the non-objection procedure.

Once a decision has been made, the Report is made available to Requesters, Bank Management and the Client and is publicly disclosed on the [IPAM Case Registry](#).

¹ As per Section V on Transitional Provisions of the 2019 PAP, this Policy applies, among other situations, to any Request submitted before it became effective but whereby registration decisions had not been made.

II. ASSESSMENT PROCESS

Upon case registration and further to para. 2.3. of the [2019 Project Accountability Policy](#), IPAM undertook an appraisal of the Request and reviewed all the documents and information provided by EBRD staff. The appraisal methodology sought to engage further with the Requester to develop a clear understanding of the issues presented in the Request and to ensure sufficient clarity around the scope and potential outcome of IPAM Problem Solving and Compliance Review functions. To the date of issuance of this report, IPAM has failed to establish contact with the Requester which hinders IPAM capacity to proceed the processing of this case.

III. ASSESSMENT DETERMINATION

As per para. 2.3 of the [2019 Project Accountability Policy](#), the Mechanism determines that it is not feasible to proceed to either a Problem Solving or a Compliance Review process as no contact has been established with the Requester from the moment of Registration and recommends to the Board to approve the closing the Case on a no objection basis.

IV. CONCLUSIONS AND NEXT STEPS

Based on the Assessment findings and pursuant to para. 2.3.c.(ii) of the [2019 Project Accountability Policy](#), IPAM recommends to the Board approving the closing of the Request under a non-objection basis.

If the IPAM recommendations is approved and as per the 2019 PAP, the closing of the case will take place. Before that, this Assessment Report shall be sent to the Requester, Bank Management and the Client, and published on the IPAM Case Registry in English and Ukrainian.