



Independent
Project
Accountability
Mechanism

Problem Solving Summary

Gradačac Water Supply
EBRD Project Number 45810
Case 2021/02

September 2022

The Independent Project Accountability Mechanism (IPAM) is the European Bank for Reconstruction and Development's (EBRD) accountability mechanism. IPAM independently reviews issues raised by individuals or organisations concerning Bank-financed projects that 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 noncompliance with these policies, while preventing future non-compliance by the Bank.

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


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

LIST OF ABBREVIATIONS

Abbreviation	Long Form
Bank (or EBRD)	the European Bank for Reconstruction and Development
Board	the Board of Directors of the European Bank for Reconstruction and Development
ESP	the EBRD's Environmental and Social Policy in force at the time of Project approval
IPAM	The Independent Project Accountability Mechanism is the independent grievance mechanism of the EBRD established in 2020 as per the 2019 Project Accountability Policy
Parties	the Requesters; their Representatives, the relevant Bank department, team or unit; the Client; and other Project financiers or other entities responsible for the implementation of a Project
PAP	2019 Project Accountability Policy
President	the President of the European Bank for Reconstruction and Development
Komunalac d.o.o. Gradačac (or Client)	a public utility company majority owned by the Gradačac Municipality of Bosnia and Herzegovina

Executive Summary

In August 2021, the EBRD's [Independent Project Accountability Mechanism](#) (IPAM) received a [Request](#) from Mr Musa Suljević, who was also representing a second Requester that asked for confidentiality due to fear of reprisals. The two Requesters are residents of the Gradačac municipality in Bosnia and Herzegovina and allege that the EBRD's [Gradacac Water Supply Project \(45810\)](#) (the Project) which contributes to the renovation of the water distribution system carried out by the public utility company "Komunalac d.o.o. Gradačac" (the Company, or the Client) has caused actual and potential harm on their land and private property. Requesters also claim that the works on the water supply network were undertaken without due authorisation from the landowners and that they were not compensated for the damage caused to their property. In their communication with IPAM, the Requesters expressed an interest in Problem Solving and Compliance.

IPAM registered the Request on 22 October 2021 under [Case 2021/02](#), and following the [Assessment](#), IPAM determined that the concerns raised by Mr Suljević didn't satisfy the criteria for registration of an IPAM Request, as they related to obligations of a third party, rather than to issues that were under the control of the Bank or the Client and the alleged harm that the Project has caused or would be likely to cause in future was not substantiated.

The issues raised by the second Requester proceeded to Problem Solving and the Client expressed that for a successful resolution of the concerns, the Requester would have to participate in person. After being consulted by IPAM, the Requesters agreed to waive his confidentiality requirement.

The Problem Solving was conducted from April to July 2022 facilitated virtually by IPAM.

On 5 July 2022 the Parties reached an agreement and as per Paragraph 2.4 e) of the Project Accountability Policy, the Problem Solving initiative was completed. No monitoring is required as there are no outstanding actions to implement after the signing.

This document provides a high-level summary of the process as the Parties agreed that the agreement would be confidential. A draft version was shared with Parties and their comments were considered by IPAM in finalising it.

The finalised report will be submitted for information to the EBRD Board of Directors and the President. The Case will be closed once the Parties are notified of its disclosure in the virtual case file [Case 2021/02](#) in both English and Bosnian.

1. Background

1.1 The Request

The Request¹ was submitted to IPAM on 26 August 2021 by Musa Suljević, as a Requester and representing a second Requester who required confidentiality as he feared reprisals. The two Requesters are residents of the municipality of Gradacac in Bosnia and Hercegovina claiming that the renovation of the water distribution system carried out by the public utility company Komunalac d.o.o. Gradačac has led to actual and potential harm on their properties.

Mr Musa Suljević, as the owner of an underground network, claimed that excavation works undertaken in 2019 in Josipa Sibera Street in Gradacac, affected his underground network of plastic tubes. Based on his experience, he expressed fear of further damage to the network due to the Project's anticipated excavation works that may overlap with the Bridistel network.

The second Requester, owner of a summer house and an orchard in Zelinja Srednja alleged that in 2020 Komunalac d.o.o. Gradačac undertook excavation works in his land without his authorisation to install water pipes. He further claimed that during the excavation, 15 apple trees were uprooted for which he was not compensated.

In their communication with IPAM, the Requesters expressed an interest in Problem Solving and Compliance.

1.2 The Project and its current status

On 10 December 2014, the Board of Executive Directors of the EBRD approved a sovereign loan to Bosnia and Herzegovina in the amount of up to EUR 6.0 million to finance the [Gradacac Water Supply Project \(45810\)](#). The Project involves expansion of the water supply to rural areas of the Gradacac Municipality; replacement of dilapidated water mains to reduce water losses; reconstruction and expansion of the sewerage network; and reconstruction of the wastewater plant. The Project is implemented by the public utility company Komunalac d.o.o. Gradačac, a shareholding association majority owned by the Gradačac Municipality. The Project objective is to contribute to environmental protection and improvement of the quality of water supply and wastewater services in the Gradačac Municipality.

According to Project documentation, the construction works would result in limited, localised and short-term adverse environmental impacts, which would be mitigated or prevented by adhering to good construction practice. The Project was categorised B as per the 2014 Environmental and Social Policy applicable to the Project. The loan is currently being repaid by the Client.

Given the complexity of land ownership of the well field sites and water supplies, the Bank established as one of the conditions for loan effectiveness, that independent experts would be hired to prepare a report on land acquisition and expropriation. The report set out land acquisition and compensation principles and procedures, institutional arrangements and responsibilities, and compensations and entitlements for Project Affected People in line with the requirements of EBRD's Performance Requirements 5 of the 2014 Environmental and Social Policy.

¹ The Request and supporting documentation are available at: <https://www.ebrd.com/work-with-us/projects/ipam/2021/02.html>

1.3 Case Processing: registration and assessment

As per the [2019 Project Accountability Policy](#), IPAM registered the Request on 22 October 2021 under [Case 2021/02](#), initiating the Assessment stage which was extended to the end of February 2022.

The [Assessment Report](#) documented that the concerns raised by Mr Suljević didn't satisfy the criteria for registration set in the PAP, as they related solely to obligations of a third party, rather than to issues that were under the control of the Bank or the Client and the alleged harm that the Project had caused or would be likely to cause in future was not substantiated.

In relation to the second Requester, the Case proceeded to Problem Solving as IPAM confirmed that all relevant Parties (the Requester, Client and Bank management) were willing to engage in the IPAM Problem Solving to resolve the concerns connected with the EBRD Project, and IPAM considered that there was a strong feasibility of achieving a positive outcome.

As the Client expressed that for a successful resolution of the concerns, the Requester would have to participate directly in the initiative and would have to present visual evidence of the alleged impacts as well as land ownership documentation, IPAM had to confirm that the Requester was amenable to waiving his confidentiality requirement.

2. The Problem Solving Initiative

During the early engagement, IPAM listened to each of the Parties' concerns regarding the process and confirmed their willingness to engage. The Problem Solving initiative started in April 2022 and was facilitated directly by the IPAM Problem Solving Lead, as it was decided that there was no need to hire an external local facilitator given the clearly defined scope and procedure.

Given that the municipality had an established procedure to address this type of claims, it was agreed that the PS initiative would align with it.



Orchard in Zelinja Srednja, BiH

In April 2022 IPAM engaged virtually with each of the Parties to clarify the administrative process established at the Project level that would be followed in reviewing the Requester's claim. The Requester was informed of the expected milestones of the process and timeframe, the possible outcomes, and the list of documents he would need to submit to initiate the claim.

A fact finding mission took place in Zelinja Srednja in May 2022. During the site inspection, it was determined that several apple trees had been uprooted during the excavation works. The assigned court expert assessed the damage to determine compensation.

As part of the procedure, there was a court hearing where it was determined that the Requester was eligible for compensation for impacts caused on his land. The one-off monetary compensation for damages awarded was accepted by the Requester.

Furthermore, the process foresaw the need to establish right of easement for future excavation for repairs and installation of water supply pipes. The Requester agreed to allow access to the Municipality to undertake network maintenance and repairs.

During the proceedings, it was also clarified that the land purpose was agricultural, and therefore the Requester could not build any construction on it.

All through this process, IPAM monitored progress virtually and maintained the Requester informed of the status of his claim. In parallel, IPAM engaged with Bank management to ensure that the Client's decision on the Requester's claim abided by the requirements of the Environmental and Social Policy.

On 5 July 2022, the Requester and the Client reached an Agreement. Parties shared with IPAM a copy of the signed Agreement but requested confidentiality of its terms.

3. Lessons learned for IPAM Problem Solving

3.1 For Management

Although the municipality has an established procedure for claiming compensation, which the Requester could have accessed on his own, IPAM found that he was not aware of this, nor that the EBRD Environmental and Social Policy provisions applied to this Project. As such, the role of IPAM was instrumental in making the Requester aware of his rights and ensuring that the claim was reviewed not only under the local normative requirements but also as per the requirements set under the EBRD's Environmental and Social Policy.

IPAM recommends that Bank management requests the Client to provide full information to potentially affected persons on their right to compensation and the procedure to file a claim.

3.2 For IPAM

Every case managed by IPAM is an opportunity to learn and improve. In the current case, one of the reasons for its successful resolution is the fact that IPAM had the opportunity to engage during the Assessment with both Parties in situ, explain to them in-person the purpose of the IPAM process and particularly of Problem Solving, and get to know the local procedure.

In this process, the issues were clear from the start and there were local tools to address them adequately, therefore there was no need to engage in a facilitated dialogue to identify solutions. The role of IPAM was to accompany the process and ensure that each Party complied with the actions required and the estimated timeframe for a resolution.

The Requester had a representative during Registration and Assessment due to fears of retaliation. As the Case progressed to Problem Solving, the Requester felt that the participation of IPAM would ensure a respectful and impartial treatment of his claim, so he waived his initial requirement for confidentiality. It should be underscored that given the nature of the claim, it was not feasible to address the issues without revealing the identity.

The Client was willing to engage with the Requester respectfully and process the claim expeditiously.

Finally, IPAM wishes to recognise the support role of Bank management and their accompaniment of the Client through the process.

4. Conclusion and Next Steps

On 5 July 2022 the Parties reached an agreement and as per Paragraph 2.4 e) of the Project Accountability Policy, the Problem Solving initiative was completed. No monitoring is required as there are no outstanding actions to implement after the signing.

This document provides a high-level summary of the process as the Parties agreed that the agreement would be confidential. A draft version was shared with Parties and their comments were considered by IPAM in finalising it.

The finalised report will be submitted for information to the EBRD Board of Directors and the President. The Case will be closed once the Parties are notified of its disclosure in the virtual case file [Case 2021/02](#) in both English and Bosnian.