



Independent
Project
Accountability
Mechanism

Compliance Assessment Report

Maritsa East Mines

**EBRD Project Number: KIDS Fund Grant N.54, 48556 and 50221
Case 2021/03**

April 2022

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

List of Abbreviations

AIP	EBRD Access to Information Policy
BEH	Bulgarian Energy Holding
CSO	Civil Society Organisation
E&S	Environmental and Social
EHS	Environmental, health and safety issues
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
ESAP	Environmental and Social Action Plan
ESD	Environment and Sustainability Department of the EBRD
ESDD	Environmental and Social Due Diligence
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
ESP	Environmental and Social Policy
GIP	Good International Practice
GM	Grievance Mechanism
IFI	International Financial Institution
KIDSF	Kozloduy International Decommissioning Support Fund
IPAM	Independent Project Accountability Mechanism
LARF	Land Acquisition and Resettlement Framework
LRP	Livelihood Restoration Plan
MMI	Maritsa East Mines /Mini Maritsa Iztok EAD
NEK	Natsionalna Elektricheska Kompania
NTS	Non-technical Summary
PAP	2019 Project Accountability Policy
PCM	Project Complaint Mechanism
PCM RPs	2014 Project Complaint Mechanism Rules of Procedure
PR	Environmental and Social Policy Performance Requirement
PSD	Project Summary Document
RAP	Resettlement Action Plan
SEP	Stakeholder Engagement Plan
ToR	Terms of Reference

Executive Summary

The Request

On 28 October 2021, six Requesters from Beli Bryag village in Bulgaria who asked for confidentiality, submitted a [Request](#) to IPAM with the support of CEE Bankwatch, a regional civil society organisation, represented by Fidanka Bacheva-McGrath and Za Zemiata, a local civil society organisation, represented by Desislava Stoyanova. The Requesters alleged that the expansion of mining activities at Maritsa East Mines (MMI), particularly the involuntary resettlement of Beli Bryag, has led to loss of land for the community as well as economic damage. They alleged that EBRD has not complied with the Environmental and Social Policy (ESP) through three Projects. Requesters have asked for a Compliance Review.

In October 2017, the Requesters submitted a complaint with similar concerns to the Project Complaint Mechanism (PCM, predecessor of IPAM). At that time the complaint was deemed eligible for Problem Solving and a dispute resolution process was conducted by PCM experts from December 2017 to August 2020. In July 2020, the Problem Solving initiative was terminated without an agreement. (see [Case 2017/09](#) for further information).

The current Request provided new information related to the halting of the resettlement process in August 2020.

The Projects

The Requesters in Case 2021/03 are connecting their concerns to three EBRD projects: [Grant to Maritsa East Mines through the Kozloduy International Decommissioning Support Fund](#) ; [BEH Bond Issue \(48556\)](#), and [BEH Bond 2018 \(50221\)](#). Maritsa East Mines (MMI) is a 100% state-owned company, a subsidiary of the Bulgarian Energy Holding since September 2008.¹ It operates the biggest lignite coal mine in Bulgaria, with a production area of 240 sq. km. The Bulgarian Energy Holding EAD (“BEH”) is a state-owned holding company for a group of firms, including MMI, which are principally engaged in electricity generation, supply and transmission, natural gas transmission, supply and storage and coal mining.²

[Grant to Maritsa East Mines through the Kozloduy International Decommissioning Support Fund:](#)

In December 2013, the Assembly of Contributors of the Kozloduy International Decommissioning Support Fund (KIDSF) approved financing in the form of a non-reimbursable grant for EUR 15.15 million to replace equipment at MMI. The Project aims to increase the security of supply and reduce the energy intensity of mining activities through the replacement of three aged and obsolete bucket-wheel excavators with a more efficient, new, bucket-wheel excavator as well as purchase of a new excavator for the secondary removal of 50 million m³ overburden from the internal dump sites. The final disbursement under the grant was made on 7 June 2021.

[BEH Bond Issue \(48556\)](#): The EBRD has invested EUR 80 million in the five-year senior unsecured bond issuance by BEH of 26 July 2016. The bonds have been traded on the Irish Stock Exchange since 2 August 2016. The operation supports the implementation of key power sector reforms and enables BEH to restructure debt on its balance sheet, improving the long term financial sustainability of the power sector in Bulgaria. The Project was approved for funding on 20 July

¹ [BEH website](#). Accessed 18 March 2022

² [BEH website](#). Accessed 18 March 2022

2016 as a category B project under the EBRD's 2014 Environmental and Social Policy. Due to the nature of and rules for capital market transactions, the Bank was not in a position to undertake detailed or specific environmental and social due diligence in accordance with the Bank's Environmental and Social Policy before the bond issuance. Given this, the Board approved a derogation from the Environmental and Social Policy. The Project was marked as completed on 9 August 2021.

BEH Bond 2018 (50221): The EBRD has invested a total of EUR 100 million in the seven year EUR 550 million senior unsecured bond issuance by BEH on 26 June 2018. The bonds started trading on the Euronext Dublin on 28 June 2018 and were expected to start trading on the Bulgarian Stock Exchange in August 2018. The operation supports the implementation of key power sector reforms and reinforces BEH's balance sheet going forward. The Project was approved for funding on 20 June 2018 as a category B project under the EBRD's 2014 Environmental and Social Policy. Due to the nature of and rules for capital market transactions, the Bank has not been in a position to undertake detailed or specific due diligence in accordance with the Bank's Environmental and Social Policy before the bond issuance. Given this, a derogation from the Bank's Environmental and Social Policy, Performance Requirement 1, was requested and granted by the Board. The Project is currently active.

Conclusions

The Requesters have raised allegations of actual and potential environmental and social harm, which include loss of property, homes and agricultural land; loss of livelihoods and lack of sufficient compensation and health issues. They particularly claimed that the prolonged resettlement process without resolution has caused deteriorating living conditions and the compensation offered by the Client has been insufficient to be considered a full replacement value, as required by the EBRD's policies. In their view, all three EBRD projects have caused them direct and indirect harm, with the KIDSF grant being directly linked to the activities of MMI and the resettlement of their village and the BEH bond projects indirectly linked to MMI and the resettlement activity, through the corporate policies of the parent company of MMI.

At the Compliance Assessment stage IPAM does not perform an exhaustive analysis of all relevant documentation nor engages with all relevant stakeholders, but it does perform a preliminary review to determine if the criteria to move forward with a Compliance Review is met.

In this case, it has reviewed the documentation presented by the Requesters, Management, and the Client. In addition to that, IPAM has reviewed public information and project documentation not available to the public, related to the case. Finally, IPAM engaged with the Parties through virtual calls and through e-mail follow-up questions to consider the different perspectives.

As per the Compliance Assessment provisions outlined in Section 2.6 (b) of the 2019 Project Accountability Policy, **IPAM considers that Case 2021/03 meets the criteria established:**

- i. upon preliminary consideration, it appears that the Projects may have caused, or may be likely to cause, direct or indirect and material harm to the Requesters (or, if different, the relevant Project-affected People); and
- ii. there is an indication that the Bank may not have complied with a provision of the Environmental and Social Policy (including any provision requiring the Bank to monitor Client commitments); or the Project-specific provisions of the Access to Information Policy (AIP), in force at the time of Project approval.

Therefore, **IPAM recommends proceeding with a compliance review within the framework of the proposed terms of reference** in Annex 1.

Next Steps

This Compliance Assessment Report, including the terms of reference for the compliance review presented in Annex 1, will be submitted to the Board and the President for information, shared with all Parties and disclosed in the [IPAM Case Registry](#). As per the Terms of Reference, the Compliance Review will initiate immediately after the disclosure of this Report.

Before disclosure, IPAM has consulted with the Parties on the proposed Terms of Reference, considered all comments and suggestions and adopted those deemed relevant.

IPAM wishes to thank the Parties for their involvement in this stage and will continue engaging with them all during the Compliance Review process.

1. Background

1.1. The Request

On 28 October 2021, six Requesters from Beli Bryag village in Bulgaria who asked for confidentiality submitted a [Request](#) to IPAM with the support of CEE Bankwatch, a regional civil society organisation, represented by Fidanka Bacheva-McGrath, and Za Zemiata, a local civil society organisation, represented by Desislava Stoyanova. The Requesters allege that the expansion of mining activities at Maritsa East Mines (MMI) have led to loss of land for the community as well as economic damage. They allege that EBRD has not complied with the Environmental and Social Policy (ESP) through the three Projects. The activity that has led to the Request predates the Bank's involvement with the three Projects that have been cited as relevant to the alleged harm: (1) KIDSF Grant to Maritsa East Mines, (2) 2016 BEH Bond, and (3) 2018 BEH Bond. In the first Project the Client is MMI, while the Client for the two bond issues is the Bulgarian Energy Holding EAD (BEH), the holding company owning a group of companies, amongst them MMI.

The allegations raised by the Requesters are summarised here:

- Loss of real estate property – dwelling, adjoining land and agricultural land;
- Loss of homes, which for some owners and households are the only ones;
- Damage or demolition to dwellings due to the proximity of the mine;
- Economic losses, livelihood losses and economic displacement due to loss of basic and additional income;
- Loss of extra income due to loss of pastures and yard gardens;
- Health problems for residents due to mine approaching;
- Lack of clear and transparent method for compensation as part of the resettlement; and
- Lack of plan to move the cemetery considered as cultural heritage for the community.

Requesters allege that the EBRD has failed to comply with the requirements of the Environmental and Social Policy, particularly in relation to Performance Requirements 5 (Land Acquisition, Restrictions on Land Use and Involuntary Resettlement) and 8 (Cultural Heritage). Therefore, they are asking for a Compliance Review.

In October 2017, the Requesters submitted a complaint with similar concerns to the Project Complaint Mechanism (PCM, predecessor of IPAM). At that time the complaint was deemed eligible for Problem Solving and a dispute resolution process was conducted by PCM experts from December 2017 to August 2020. In July 2020, the Problem Solving initiative was terminated without an agreement. (See [Case 2017/09](#) for further information).

In the new Request, the Requesters have provided additional information related to the resettlement. Specifically the halting of the process.

1.2. The Projects and their Current Status

The Requesters in Case 2021/03 are connecting their concerns to three EBRD projects: [Grant to Maritsa East Mines through the Kozloduy International Decommissioning Support Fund](#) ; [BEH Bond Issue \(48556\)](#), and [BEH Bond 2018 \(50221\)](#). Maritsa East Mines (MMI) is a 100% state-owned

company, a subsidiary of the BEH since September 2008.³ MMI operates the biggest lignite coal mine in Bulgaria with a production area of 240 sq. km. The company provides raw material for the four thermal power plants in the Maritsa East complex which generate more than 30% of the electricity in Bulgaria. The coal is extracted using the open pit method pursuant to a Concession Agreement established between the Council of Ministers of the Republic of Bulgaria and MMI on 11 August 2005. Under the agreement (which came into force in 2008), a thirty-five-year-long concession was established in favour of MMI for the extraction of coal from the Maritsa Iztok Coalfield deposit.⁴ The Bulgarian Energy Holding (BEH) is a state-owned holding company for a group of firms which are principally engaged in electricity generation, supply and transmission, natural gas transmission, supply and storage and coal mining.⁵

Grant to Maritsa East Mines through the Kozloduy International Decommissioning Support Fund:

In December 2013, the Assembly of Contributors of the KIDSF approved financing for up to EUR 15.15 million in the form of a non-reimbursable grant to replace equipment at MMI. The Project involved the replacement of bucket-wheel excavators at Mines Maritsa East EAD to heighten the performance and reduce the energy intensity of the mining works through the replacement of three aged and obsolete bucket-wheel excavators by one more efficient new bucket-wheel excavator, as well as purchase of a new excavator for the secondary removal of 50 million cubic metres overburden from the internal dump sites. The final disbursement under the grant was made on 7 June 2021.

BEH Bond Issue (48556): The EBRD has invested EUR 80 million in the five year senior unsecured bond issuance by BEH of 26 July 2016. The bonds have been traded on the Irish Stock Exchange since 2 August 2016. The operation was to support the implementation of key power sector reforms and to enable BEH to restructure debt on its balance sheet, improving the long term financial sustainability of the power sector in Bulgaria. The Project was approved for funding on 20 July 2016 as a category B project under the EBRD's 2014 Environmental and Social Policy. Due to the nature of and rules for capital market transactions, the Bank was not in a position to undertake detailed or specific environmental and social due diligence in accordance with the Bank's Environmental and Social Policy before the bond issuance. Given this, the Board approved a derogation from the Environmental and Social Policy. The Project was marked as completed on 9 August 2021.

BEH Bond 2018 (50221): The EBRD has invested a total of EUR 100 million in the seven year EUR 550 million senior unsecured bond issuance by BEH on 26 June 2018. The bonds started trading on the Euronext Dublin on 28 June 2018 and were expected to start trading on the Bulgarian Stock Exchange in August 2018. The operation was to further support the implementation of key power sector reforms and reinforce BEH's balance sheet going forward. The Project was approved for funding on 20 June 2018 as a category B project under the EBRD's 2014 Environmental and Social Policy. Due to the nature of and rules for capital market transactions, the Bank has not been in a position to undertake detailed or specific due diligence in accordance with the Bank's Environmental and Social Policy before the bond issuance. Given this, a derogation from the Bank's Environmental and Social Policy, Performance Requirement 1, was requested and granted by the Board. The Project is currently active.

³ [BEH website](#). Accessed 18 March 2022

⁴ [MMI website](#). Accessed 18 March 2022

⁵ [BEH website](#). Accessed 18 March 2022

1.3. IPAM Processing to Date

1.3.1. Registration of the Request

IPAM received the Request on 28 October 2021. For the three projects cited, the Request met the criteria for registration established in Section 2.2 (b) of the Project Accountability Policy (PAP).

However, as the concerns raised had been previously processed by the PCM, IPAM reviewed the case file for Case 2017/09 to determine whether the exclusion that states that a request cannot be registered if “it relates to matters in respect of which a request has already been processed by IPAM or its predecessors (the Project Complaint Mechanism or the Independent Recourse Mechanism) unless new evidence or circumstances not known at the time of the previous Request are submitted” (para 2.2 (c) iii of the PAP) would apply.

IPAM found that at the time of termination of the Problem Solving, the Requesters were not informed that they could proceed to compliance, which was their right at the time. Additionally, new evidence was provided by the Requesters in their new Request. Namely that the resettlement process had been stopped, firstly by MMI’s decision in 21 August 2020 to postpone the expropriation to 2023 and then as informed in September 2021, to freeze the property purchases due to the financial condition of the company and halting mine expansion plans due to the decrease in demand for coal in Bulgaria.

As none of the exclusions established in the PAP applied, the Request was registered on 1 December 2021 under [Case 2021/03](#).

After informing the Board and the President of the decision, a redacted version of the Request was posted on the [IPAM Case Registry](#) on 1 December 2021.

1.3.2. Assessment

The registration of the Request initiated the Assessment process which is established in paragraph 2.3 of the PAP. In this case an expedited assessment was undertaken by IPAM as Problem Solving had already been undertaken in the earlier processing of Case 2017/09 and the Requesters had clearly expressed their intent of having the Request considered for a Compliance Review.

An Assessment Report was issued and disclosed in the IPAM Case Registry on 20 December 2021 (22 December 2021 for Bulgarian version) that reflected that the case would be considered for a compliance review. Following this, the case was transferred to the Compliance Function on 20 December 2021 to initiate appraisal under Compliance Assessment.

1.3.3. Compliance Assessment

The Compliance Assessment process has the objective of determining whether a Request is eligible for a compliance review. The determination is based on the case meeting the established criteria to initiate an investigation. Therefore, for Case 2021/03, IPAM initiated its assessment of the Request vis-à-vis the three Projects to determine if:

- i. upon preliminary consideration, it appears that the Project may have caused, or may be likely to cause, direct or indirect and material harm to the Requesters (or, if different, the relevant Project-affected People); and
- ii. there is an indication that the Bank may not have complied with a provision of the Environmental and Social Policy (including any provision requiring the Bank to monitor

Client commitments); or the Project-specific provisions of the Access to Information Policy (AIP), in force at the time of Project approval.

The Compliance Assessment stage has a standard duration of 60 business days from the date of issuance of the Assessment Report. This period may be extended to ensure robust processing or if translation of documents is required. At the end of this stage, a Compliance Assessment Report is prepared containing the findings made by IPAM and its determination on the eligibility of the case from within two alternative outcomes:

- recommend proceeding to a Compliance Review, having determined that the criteria set out in para. 2.6 (b) are met. In this case, the Compliance Assessment Report is submitted for information to the Board and the President with terms of reference for a compliance review.
- recommend closing the case, having determined that the criteria set out in para. 2.6 (b) are not met. In this Case, the Compliance Assessment Report is submitted to the Board for approval on a no objection basis.

The Compliance Assessment was initiated on 21 December 2021 and completed on 22 March 2022. After that, the Parties had the opportunity to comment on the Terms of Reference.

2. EBRD Management Response⁶

On November 2017, Management issued a response in relation to the complaint filed with PCM. This section reflects the content relevant to the current process.

In relation to the grant, Management confirmed that “the Kozloduy International Decommissioning Support Fund (KIDSF), managed by the EBRD, [was] co-financing the purchase of heavy industrial mining equipment for MMI, replacing old Bucket-Wheel Excavators with new energy efficient ones.” Further to that, it stated that “although financed by KIDSF and not directly by the EBRD, the Bank is still committed to ensuring that the Project complies with its Environmental and Social Policy.”

In its response, Management informed that the consultants Green Partners had been contracted by the EBRD to assist MMI in the development of a Resettlement Action Plan (RAP) that would meet the EBRD’s Environmental and Social Policy (2014) and in particular Performance Requirement 5.

At the time, Management informed that a consultation process would include consultation with the Project-affected people on the draft RAP, and that a meeting with members of the Beli Bryag Initiative Committee had taken place on 10 October 2017 and said committee would be providing written feedback by the end of November 2017. Further to that, it was clarified that the utmost care would be taken with those categorised as vulnerable, so that they understood the scope of the RAP and make their views known.

Management also informed at that time that an EBRD delegation had visited Beli Bryag village in June 2017 to understand the concerns of the community and to assist MMI in developing a RAP that is appropriate, provides transparency on the process and potential entitlements and meets EBRD Performance Requirements.

Finally, in its response Management stressed that they would seek to generate consensus on a way forward so that RAP would represent the whole community and align with national law and EBRD Performance Requirements. Furthermore, they confirmed that the RAP would be monitored through its implementation and the Bank would require progress reports.

⁶ EBRD’s Management Response to Case 2019/09, November 2017.

3. Compliance Assessment Findings

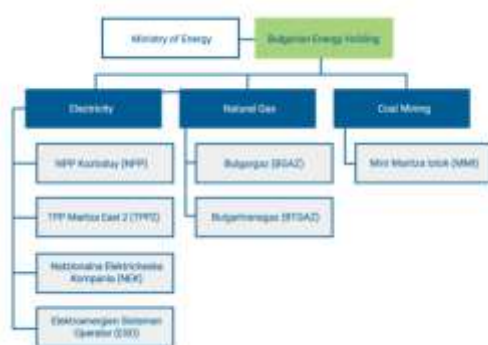
In order to determine whether the case is eligible for a Compliance Review, following the approach established in the PAP, IPAM appraised Case 2021/03 considering the documentation and information collected in earlier stages, as well as the documentation for Case 2017/09 including Management's response at the time, and Project-specific and publicly available information gathered from December 2021 to the date of completion of this Compliance Assessment Report.

As the Compliance Assessment timeframe coincided with a period in which new Covid-19-restrictions were imposed, IPAM decided to engage virtually with the Requesters, MMI and Management and defer a visit to the project site when, and if, a compliance review process would take place. It should be noted that IPAM did not engage with officials from BEH at this stage.

Given that the purpose of this assessment is to determine whether to move forward with a compliance review or not, the findings are only of a preliminary nature and should not be considered as a determination of IPAM of the state of compliance of the Projects vis-à-vis the EBRD Environmental and Social Policy.

The activity that has led to the Request predates the Bank's involvement with the three Projects that have been cited as relevant to the alleged harms: (1) KIDSF Grant to Maritsa East Mines, (2) 2016 BEH Bond, and (3) 2018 BEH Bond. In the first Project the Client is MMI, while the Client for the two bond issues is BEH, the holding company owning a group of companies, amongst them MMI as shown in figure 1.

Fig. 1. BEH Holding Structure



Source: [Bulgarian Energy Holding website](https://www.bulenergyholding.com)

In relation to the EBRD's responsibility, the Requesters allege that the Bank has failed to comply with its Environmental and Social Policy, and has not ensured compliance by MMI and BEH of said policy and particularly in reference to Performance Requirements 5 and 8. The applicable ESPs⁷ for this case are the 2008 ESP for the KIDSF grant and the 2014 ESP for the two bond issues.

⁷ According to the para. 2.6 of the 2019 Project Accountability Policy, compliance of the Bank is checked versus the Environmental and Social policy "in force at the time of Project approval".

Given that the Request refers to three distinctive transactions and two clients, the preliminary findings and determination of eligibility for a compliance review are presented separately so as not to confuse the reader.

3.1. About Mines Maritsa East EAD and the resettlement of Beli Bryag

In 2005, Maritsa East Mines (MMI) signed a 35 years Concession contract, effected in 2008, for coal extraction from the coalfield within Stara Zagora district in Bulgaria. The coal-mining activity covers the territory of a few of the villages situated nearby, affecting in some cases the agricultural lands near the villages only and in other cases affecting the whole village. Therefore, the Bulgarian authorities decided that the residents of this area would have to be resettled.

Local development plans were drafted and approved for the affected settlements. According to them, the village of Beli Bryag, which is situated in front of the wall of the mining works of Troyanovo-North Mine, would be the first one to be affected.

According to MMI, the residents of Beli Bryag had been notified and information had been provided through the local media and notices placed in the centre of the village, at the Mayor Delegate's office.

In 2009, the total number of affected properties in Beli Bryag were: 112 properties with residential structures situated in the built-up area of the village (regulated land area); 100 properties without residential structures situated in the built-up area of the village (regulated land area) and 291 agricultural land plots situated outside the built-up area (regulated land area).

3.2. Regarding the KIDSF Grant to Maritsa East Mines

In March 2012, MMI submitted an application for financial support under the Kozloduy International Decommissioning Fund (KIDSF) for the purchase of new excavating equipment that would replace obsolete excavators at the mine sites.

During the concept review stage, the EBRD project team determined that the operation of lignite mines could potentially have significant adverse environmental and social impacts that needed to be addressed. In line with the Environmental and Social Policy, the Bank's due diligence would have to be assessed against EBRD's Performance Requirements were: i) the Corporate and site level Environmental and Social Management Systems; ii) potential environmental/community legacy issues; iii) occupational health and safety; iv) mine waste management; v) mine water management, including run-off and related impacts to surface/ground water; vi) potential land take associated with current/future mining operations; vii) community health and safety (e.g. mine related traffic); viii) stakeholder engagement, and ix) mine closure planning.

The Bank commissioned a corporate audit of MMI to assess its capacity to manage environmental and social risks as per the Bank's policy requirements.

The audit identified a number of gaps that were to be addressed by MMI through an Environmental and Social Plan (ESAP) to achieve compliance of the facilities with EBRD's requirements within a timeframe acceptable to the EBRD.

In the ESAP, a series of actions related to land acquisition, involuntary resettlement and economic displacement were included. In particular, as confirmed in the Response by Management, the Client would have to develop a Resettlement Action Plan (RAP) and a Stakeholder Engagement

Plan (SEP) with specific references to the resettlement process and the affected people. The Client was also required to develop a formal Land Acquisition Plan and document the process undertaken to acquire land, develop a monitoring and evaluation process for the RAP and a specific grievance mechanism for resettlement-related complaints.

The grant was approved by the Assembly of Contributors of the Fund on 19 December 2013⁸ and completed disbursements in June 2021.

3.2.1. Regarding the resettlement, economic displacement and land acquisition

The Requesters point out that they have been harmed by MMI and its expansion plans which required the resettlement of several villages including Beli Bryag. They state that harm has been caused to the residents of the village because of the loss of their homes, which for some is the primary household. Additionally, they claim that economic displacement has taken place due to the loss of land dedicated to orchards and agricultural activities. Particularly, “the loss of yard gardens from where fruits and vegetables are harvested; yard space where animals are housed and raised, for example, sheep, horses, donkeys, cows and bees, which give the residents the opportunity to generate and boost their income”. The Request further alleges that given that most residents of the village are retired, the resettlement involves vulnerable people that have complemented their pension with income from agricultural or farming activities.

Management stated in its Response that “although financed by KIDSF and not directly by the EBRD, the Bank is still committed to ensuring that the Project complies with its Environmental and Social Policy”⁹. In its response, Management further informed that the consultants Green Partners had been contracted by the EBRD to assist MMI in the development of a resettlement action plan (RAP) that would meet the EBRD’s Environmental and Social Policy (2014) and in particular Performance Requirement 5.

In October 2016, MMI published the Land Acquisition and Resettlement Framework (LARF) with regard to the necessity of resettlement concerning the residents of the villages of Beli Bryag and Troyanovo. Based on the framework, detailed Resettlement Action Plans (RAPs) were to be developed for each settlement.

In May 2017, the consultancy firm Green Partners Ltd. was engaged by the Bank to provide technical support to MMI in the finalisation of the RAP for the village of Beli Bryag.

According to Management’s response, the draft RAP was presented to the community on 18-20 October 2017, and comments were to be received by end of November 2017.

On 1 June 2018, the MMI Board of Directors approved the RAP for the village of Beli Bryag. According to the documents, the RAP reported that by end of 2017, 55 private properties and 16 municipal properties within the built-up area of the village were still pending resettlement. Out of the 55 private properties, 18 were yard plots without structures built on them, 33 were yard plots with residential buildings and 4 properties are used by the local cooperative. Beside the properties in the built-up area, MMI planned to acquire plots of agricultural land that are in the village’s administrative area. There were 83 privately owned and 41 municipally owned agricultural land

⁸ [Case 2021/03 IPAM Case Registry](#)

⁹ EBRD’s Management Response to Case 2019/09, November 2017.

plots still pending acquisition.¹⁰ Further to this, the RAP stated that out of 116 residents, 65 were categorised as vulnerable.¹¹

According to the RAP, MMI planned to conclude the land acquisition process by the end of 2019 and if there were any outstanding properties, the expropriation process would start so that the entire resettlement process could be concluded by 2023.

However, on 21 August 2020, the MMI's Board of Directors' took a decision to postpone the expropriation until 2023. Furthermore, in September 2021, the inhabitants of Beli Bryag were informed that the voluntary resettlement had been suspended.

The RAP (2018) stated that its main objectives were to minimize negative effects to the residents subject to displacement and resettlement, improve or at a minimum restore their livelihoods and standards of living of displaced persons to pre-Project levels, in order to ensure that no PAP is in a worse off situation; and to establish organisational arrangements and procedures to monitor the implementation of resettlement plan and take corrective actions if necessary.

However, according to the Requesters, this has not happened. They allege that there is no clear and transparent method for compensation that would be fair and equitable to restore housing and lands. Furthermore, they state that they want to recover their housing and partly their lost income from agricultural land, gardens and yards, but despite numerous negotiations MMI has failed to offer compensation in line with EBRD Performance Requirements.

IPAM interviewed Management and officials from MMI, who provided information that the delay is linked to the financial situation of the company and weaker demand for its produce but no estimated timeline for the resumption of the process has been provided to IPAM.

A long time has passed since the resettlement process commenced and the RAP was issued. The Requesters claim that the situation in Beli Bryag has worsened progressively. According to them the village has been abandoned by the municipality and has no health services or grocery shops. They allege that there is no security in the village to stop the raids of people looking for and collecting building materials, scrap metals. The abandoned houses have become a health hazard as well. From their perspective this is a clear violation of their human rights.

Finally, they state that although they are keen to leave, in the current situation the only buyer is the mining company and the price being offered for their properties does not allow them to relocate and restore their livelihoods.

The 2008 ESP provides for a number of actions that the Bank has to undertake when considering funding. Particularly that the "EBRD will seek to ensure through its environmental and social appraisal and monitoring processes that the projects it finances: are socially and environmentally sustainable; respect the rights of affected workers and communities, and are designed and operated in compliance with applicable regulatory requirements and good international practice" (2008 ESP par A.3). For this purpose the ESP requires that "all EBRD-financed projects undergo environmental and social appraisal both to help the EBRD decide if an activity should be financed and, if so, the way in which environmental and social issues should be addressed in planning, financing, and implementation".

The appraisal allows the Bank to determine if the activities to be funded can be implemented in line with the provisions of the ESP. Furthermore, the EBRD "may refrain from financing a proposed

¹⁰ According to information provided in the RAP, the properties still pending purchasing represented 46% of the total. During the period 2009-2017, MMI had acquired 64% of the land on a negotiated basis.

¹¹ [Resettlement Action Plan for village of Beli Bryag](#). 2017. Accessed on 18 March 2022.

project on environmental or social grounds, for example when a proposed project fails to address environmental and social issues in a satisfactory way and cannot be expected to meet the requirements set out in the applicable PRs of this Policy over a time frame considered reasonable by the Bank, or where residual impacts remain unacceptable.”

The Requesters allege that EBRD failed to conduct a required gap analysis, which resulted in a conflict of the Bank’s requirements and corporate rules/national legislation, which in the view of the Requesters prevent the resolution of resettlement issues in line with EBRD requirements. Requesters allege that property valuation methods proposed by them have been rejected by MMI citing national regulations, even though in the Requesters’ view, such methodology is more in line with EBRD requirements.

IPAM found that the Bank commissioned an audit in line with the requirements of the 2008 ESP, which states that “depending on the potential environmental and social risks, the Bank may require that existing facilities be subject to an audit to assess the environmental and social impacts of past and current operations of the existing facilities. The purpose of such audits is to identify past or present concerns, current status of regulatory compliance, management systems and performance as well as potential risks, liabilities and opportunities associated with the project.”

Furthermore, based on those findings as required by Performance Requirement 1, the Bank asked MMI to develop and implement a programme of mitigation and performance improvement measures and actions that address the identified social and environmental issues, impacts and opportunities in the form of an Environmental and Social Action Plan (ESAP).

However, IPAM has not found in its preliminary review any justification for the delays in implementing the ESAP and the resulting Resettlement Action Plan.

The Requesters claim that due to the lack of actions taken by the MMI they are facing “a complete lack of predictability vis-à-vis the resettlement of Beli Bryag”, with residents being forced to live in conditions worsening every year. They point out the lack of resolution of resettlement despite the process lasting since 2005. They complain about no clear timetable for the resettlement process, which has now stalled.

They also claim that the compensation offered does not ensure the full replacement cost of the properties. In the view of the Requesters, that is caused by multiple factors, including the fact that the calculation method for compensation includes depreciation (due to the fact it compares market prices from villages in a similar situation of depopulation to Beli Bryag); inability to use independent valuers, and figures based on an inactive property market, among others.

According to the Requesters, the methodology used by Client penalises Beli Bryag property owners and their families for damage inflicted on the village by the mine expansion and the protracted resettlement process. Hence, in Requesters’ view, property owners are “once suffering harm from having to live in unacceptable living conditions, and then made to pay for it with up to thirty per cent cut off the value of their properties”.

In general, the Requesters consider that the EBRD has failed to ensure that MMI complies with the relevant provisions of Performance Requirement 5 and in general failed to ensure the observance of their human rights as per PR 5.3.

3.2.2. Regarding cultural heritage

The relocation of the Beli Bryag cemetery is one of the resettlement actions pending. The Requesters claim that despite the numerous attempts of the residents to secure information on

the relocation plans for the village cemetery, there has been no response from MMI and the item has not been included in the RAP. They allege that currently there is no date for the relocation. According to the Requesters, the cemetery is essential part of the spiritual and social life of the village, therefore, constitutes a cultural heritage object that should be considered by the Client.

They claim that despite a press release issued by MMI stating that a plan would be produced by specialists taking into consideration Performance Requirement 8, they have not been informed of any plans.

According to information gathered during the compliance assessment, the cemetery in Beli Bryag village has not been in use for new burials since 17 November 2010 when the Mayor of Radnevo Municipality issued an order to halt them. All burials from that date has been carried in the cemetery of the town of Radnevo or in other settlements, as indicated by the relatives of the deceased. According to the Mayor of the village and an inspection by an expert of MMI, there are about 400 graves in the graveyard of the village that are to be moved.

In its initial review, IPAM has not found any mention of the cemetery in Bank documents, neither in relation the resettlement process nor in relation to safeguarding cultural heritage.

According to 2008 ESP PR8.2., cultural heritage is important as a source of valuable historical and scientific information, as an asset for economic and social development, and as an integral part of a people's cultural identity, practices, and continuity. For the purposes of this PR, the term cultural heritage is defined as a group of resources inherited from the past which people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions. Physical cultural heritage concerns movable or immovable objects, sites, groups of structures, and natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic or other cultural significance (PR5.7).

Furthermore, the PR8 provisions establish obligations of the client to consult with the affected communities and to provide information on the scope, location, duration of a project, and any activities that might involve impacts on cultural heritage.

In IPAM's view, the criteria established by the 2019 PAP to determine whether to move forward with a compliance review in relation to the KIDSF grant have been met.

Furthermore, it is IPAM's consideration that a compliance review would assist to determine if the EBRD has ensured that the Project complies with the 2008 Environmental and Social Policy to warrant funding and ensure that the provisions set in Performance Requirement 5 are observed in relation to the resettlement of the Beli Bryag community so as to improve or, at a minimum, restore the livelihoods and standards of living of the displaced persons.

In addition, IPAM considers that a compliance review will assist in determining the actions that the Bank has taken in relation to the relocation of the cemetery in line with the provisions of Performance Requirement 8.

3.3. Regarding the BEH Bond Issue (48556) and BEH Bond 2018 (50221)

3.3.1. [BEH Bond Issue \(48556\)](#)

Parallel to the implementation of the Grant Project, the BEH Bond Issue (48556) was being prepared to support the commercial liabilities of BEH's key subsidiary Natsionalna Elektricheska Kompania (NEK) as part of a comprehensive reform plan aiming to restore the financial viability of the electricity sector and to promote electricity market liberalisation in Bulgaria.

According to the Project Summary Document (PSD), due to the nature of capital market transactions, the Bank was not in a position to undertake detailed or specific environmental and social due diligence before the issuance of the bond. Therefore, a derogation¹² from the Environmental and Social Policy was requested to the Board at the moment of approval (20 July 2016).

Therefore, as stated in the PSD, a limited ESDD was undertaken before the bond issue, to gain an understanding of how environmental and health and safety (EHS) issues were managed by the Client, as well as to know the Company's strategy to comply with current and future EU legislation. As per the ESDD the Company and its subsidiaries had the institutional capacity to implement the Bank's Performance Requirements and it was making investments to ensure future compliance with EU environmental standards. Based on this limited due diligence, the Bank developed an Environmental and Social Action Plan (ESAP) in consultation with the Company. Finally, this led to EBRD signing a Framework Agreement with BEH to ensure ESAP implementation.

As part of the ESAP, BEH agreed to implement corporate governance structures and environmental and social policies that would apply to its major subsidiaries, in line with the Bank's Performance Requirements.¹³ The implementation of the ESAP would be supervised by the Bank, through monitoring visits to the Company and its subsidiaries.

In relation to resettlement, the ESAP included provisions to “ensure that subsidiaries develop a land acquisition and compensation framework for the purchase of land for new projects (See extract from ESAP below).

¹² A derogation means that the Project is exempt from the requirements of the ESP and from the compliance perspective, cannot be required to comply with those provisions for which Board approval has been granted. As the IPAM mandate is to review compliance with the Environmental and Social Policy, a derogation would mean that the review could not be undertaken on the policy requirements for which derogation had been granted.

¹³ [Project Summary document for BEH Bond issue 48556](#). Accessed 11 March 2022

Table 1. Extract from the ESAP of the 2016 BEH Bond Issue

PR 5 : Land Acquisition, Involuntary Resettlement and Economic Displacement							
No.	Action	Environmental Risk, Liability / Benefit	Responsibility	Action	Timetable Action to be Completed	Target and Evaluation Criteria For Successful Implementation	Comment
5.1	<p>Ensure that subsidiaries develop a land acquisition and compensation framework for the purchase of land for new projects.</p> <p>The objectives of the framework should describe how to:</p> <ul style="list-style-type: none"> ■ avoid or minimise resettlement, economic displacement ■ consider feasible alternative project designs ■ mitigate adverse social and economic impacts from land acquisition ■ provide compensation for loss of assets at replacement cost ■ improve or, at a minimum, restore the livelihood and standards of living 	The framework will outline the National and EU requirements for land acquisition and compensation measure as well as grievance to provide clear guidance to all on procedure and legal rights (inclusive of human rights)	BEH to develop corporate Policy	Subsidiaries to develop action plan to implement and comply.	2017	Framework report developed and published on Company web site in 2017	The framework will include a specific focus associated with the development of transmission, lines as well as mine expansion.

Source: 2016 BEH Bond Issue ESAP

3.3.2. [BEH Bond 2018 \(50221\)](#)

In the case of this project, the funds were intended to refinance the bond issued by BEH in 2013 and to improve the financing structure for BEH.

As in the earlier bond issuance, the nature of and rules for capital market transactions did not allow for the Bank to undertake a detailed due diligence in line with the 2014 Environmental and Social Policy and a derogation from the Bank's Environmental and Social Policy, Performance Requirement 1, was requested and granted by the Board. The PSD further stated that this

derogation is “in line with the similar request for a bond issue with the same Client in 2016 (48556)”¹⁴.

In spite of the limitations, as in the 2016 Bond issuance, “a limited environmental and social due diligence (ESDD) was undertaken by ESD pre-issuance, to gain an understanding of how environmental, health and safety (EHS) issues were managed and of the Company's strategy to comply with current and future EU legislation as well as on compliance with the existing Environmental and Social Action Plan (ESAP)”¹⁵.

For this Project, the ESAP of the 2016 BEH Bond was updated and BEH agreed to comply with it. Finally, the Bank said, in the PSD, that it would monitor the implementation of the ESAP through visits and engagement with BEH and subsidiaries. As seen from the extract below, actions on subsidiaries like MMI were considered as part of the ESAP for BEH and in a preliminary review, IPAM has found that BEH has submitted annual environmental and social reports that include MMI as one of the subsidiaries and more relevant, information on progress of ESAP actions related to the resettlement of Beli Bryag.

Table 2. Extract from the ESAP of the BEH Bond Issue 2018

PR 5 : Land Acquisition, Involuntary Resettlement and Economic Displacement						
Action	Environmental Risk, Liability / Benefit	Responsibility	Action	Timetable Action to be Completed	Target and Evaluation Criteria For Successful Implementation	Comment
<p>Ensure that subsidiaries develop a land acquisition and compensation framework for the purchase of land for new projects.</p> <p>The objectives of the framework should describe how to:</p> <ul style="list-style-type: none"> ■ avoid or minimise resettlement, economic displacement ■ consider feasible alternative project designs ■ mitigate adverse social and economic impacts from land acquisition ■ provide compensation for loss of assets at replacement cost ■ improve or, at a minimum, restore the livelihood and standards of living 	<p>The framework will outline the National and EU requirements for land acquisition and compensation measure as well as grievance to provide clear guidance to all on procedure and legal rights (inclusive of human rights)</p>	<p>BEH to develop corporate Policy</p>	<p>Subsidiaries to develop action plan to implement and comply.</p>	<p>2017</p>	<p>Framework report developed and published on Company web site in 2017</p>	<p>The framework will include a specific focus associated with the development of transmission, lines as well as mine expansion.</p>

¹⁴ [Project Summary document for BEH Bond issue 50221](#). Accessed 11 March 2022

¹⁵ [Project Summary document for BEH Bond issue 50221](#). Accessed 11 March 2022

Understanding that the BEH Bond issuances do not deal directly with the resettlement of MMI and the Bank established, as conditions to the transactions, that “coal fired and nuclear plants were to be excluded from the receiving EBRD’s proceeds”¹⁶ from the bonds, no exclusion was signalled for MMI.

IPAM considers that the two bond issuances relate indirectly to the alleged harm as MMI is one of the material subsidiaries of BEH, with significant contributions to the holding as highlighted by BEH’s public information¹⁷:

- MMI is the largest open pit lignite coal mine in the country, and sells to four thermal power plants, including TPP Maritsa East 2, all of them located in the Maritsa-East complex
- MMI extracts over 90% of the coal required for the thermal power plan energy production in Bulgaria.
- The electric power generated within the Maritsa-East complex accounts for more than 25% of the total electricity power generation in Bulgaria.
- MMI constituted 8.3% of the revenues of the holding in 2020 according to BEH Annual Reports information¹⁸.

Furthermore, the magnitude, duration and reversibility of the impacts of the resettlement in the Beli Bryag community are of a serious nature that affect the environmental and social sustainability of the Projects.

It is understood by IPAM that given the type of transactions and the indirect link of BEH with the alleged harms, the application of the Environmental and Social Policy provisions and reviewing for compliance purposes differs from that of a direct investment to MMI.

As per the 2014 Policy, the Bank is required, when assessing the Project, to conduct sufficient due diligence to understand any existing problems and liabilities and bring them into compliance with relevant ESP, as well as to conduct monitoring to ensure that the issues have been addressed. In line with this, the Bank may refrain from financing projects on environmental or social grounds, if a project fails to address environmental and social issues in a satisfactory way and cannot be expected to meet the requirements set out in the applicable PRs over a time frame considered reasonable.

In the case of both BEH bond projects, a derogation of certain provisions of the ESP was requested and granted by the Board. According to the documentation submitted to the Board in both cases the rationale for requesting the derogation was the impossibility of undertaking a detailed due diligence due to the nature of and rules for capital market transactions.

IPAM has not found detailed information on the scope of the derogations granted, so it is relying on the information provided in the PSD for the second bond issue which states that “a derogation from the Bank’s Environmental and Social Policy, Performance Requirement 1, was requested and granted by the Board”¹⁹, and further to that, it stated that this derogation “was in line with the similar request for a bond issued with the same Client in 2016 (DTM 48556).”²⁰

¹⁶ [BEH Bond 2018 \(ebrd.com\)](#) Accessed 11 March 2022

¹⁷ [BEH corporate website](#). Accessed 11 March 2022

¹⁸ [BEH corporate presentation](#). Accessed 11 March 2022; [BEH 2020 Consolidated Annual Financial Statements](#). Accessed 11 March 2022

¹⁹ [Project Summary document for BEH Bond issue 2018 50221](#). Accessed 11 March 2022

²⁰ [Project Summary document for BEH Bond issue 2016 48556](#). Accessed 11 March 2022

Therefore, IPAM cannot undertake an investigation to determine the compliance of the two Projects in relation to the provisions of Performance Requirement 1, but it can investigate the compliance of the Projects in relation to the general provisions of the 2014 Environmental and Social Policy (which is the policy that applies to both transactions) and those related to Performance Requirement 5 and 8.

For purposes of the allegations of insufficient due diligence and appraisal, due to the derogation, the Bank had no obligation to comply with the requirements set in PR1. Notwithstanding this, the Bank agreed with BEH on actions of the Holding Company and its subsidiaries so as to ensure environmental and social compliance through an ESAP.

The ESAP includes actions related to Performance Requirement 5 and BEH has issued annual reports related to the implementation of the ESAP, and particularly in relation to the status of the resettlement by MMI.

IPAM recognises that the Request raises numerous issues related to resettlement and rights of the displaced persons, including the breach of their human rights, level and quality of compensation and assistance provided by the MMI. These issues are within the scope of PR5 under both 2008 and 2014 ESP and, there have been clear obligations set to BEH by the Bank in relation to the resettlement activities at a corporate level, in such way that BEH reports have included updates on the process.

IPAM considers the criteria to have been met to move forward with a compliance review in the case of the two bond issues and deems that an in-depth investigation will provide relevant information to determine whether the Bank complied with the provisions of the ESP in relation to the allegations raised by the Requesters. Particularly relevant to these two Projects is the protracted resettlement process that to this date is still pending completion.

4. Conclusion and Next Steps

The Requesters have raised issues of material, actual and potential harm related to the resettlement required by MMI for the expansion of mining activities in the Beli Bryag area. They allege that the EBRD has, first, failed to comply with its Environmental and Social Policy, and second, it has not ensured compliance of MMI and BEH projects with the policy and has not properly guided its client in the implementation of Performance Requirement 5 and 8.

At the Compliance Assessment stage IPAM does not perform an exhaustive analysis of all relevant documentation nor engages with all relevant stakeholders, but it does perform a preliminary review to determine if the criteria to move forward with a Compliance Review is met. In this case, it has reviewed the documentation presented by the Requesters, Management and the Client. In addition to it, IPAM has reviewed public information, Client website and interview minutes related to the allegations raised.

Based on this initial analysis, it is IPAM's consideration that it appears that the Project may have caused, or may be likely to cause, direct or indirect and material harm to the Requesters and the relevant Project-affected People. Further to this, there are indications that the Bank may not have complied with relevant provisions of the Environmental and Social Policy (2008 and 2014) in relation to the allegations raised regarding the three Projects considered.

Therefore, as per the Compliance Assessment provisions outlined in Section 2.6 (b) of the 2019 Project Accountability Policy, IPAM finds **that the Case meets the established criteria in relation to the concerns raised by the Requesters vis-à-vis the three cited Projects**. Based on this, IPAM recommends proceeding with a Compliance Review.

This determination does not represent a decision by IPAM on whether the Bank has complied, or not, with the relevant Environmental and Social Policy, which can only be made after a compliance review takes place.

Next Steps

This Compliance Assessment Report, including the terms of reference for the compliance review presented in Annex 1, will be submitted to the Board and the President for information, shared with all Parties and disclosed in the IPAM [Case Registry](#). As per the Terms of Reference, the Compliance Review will initiate immediately after the disclosure of this Report.

This document has been shared with the Requesters and Management, who have been consulted on the proposed Terms of Reference. After this consultation, IPAM has adopted those comments and suggestions deemed relevant.

IPAM thanks the Parties for their involvement in this stage and will continue engaging with them all during the Compliance Review process.

Annex 1. Compliance Review Terms of Reference

Introduction

EBRD is committed to promoting sustainable development in all its investments, as a key contributor to economic transition. To ensure that the environmental and social practices of Bank's Projects meet EBRD standards, the Bank requires that Projects comply with its Environmental and Social Policy. In addition, the Bank is required to disclose certain Project information to the public in accordance with its Access to Information Policy, to enhance transparency and accountability, improve discourse with affected stakeholders, and foster good governance.

The 2019 Project Accountability Policy establishes that the purpose of the Independent Project Accountability Mechanism is to facilitate 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.

As per Paragraph 2.7 of the 2019 PAP, the purpose of the Compliance Review is to determine whether the Bank, through its actions or inactions, has failed to comply with the ESP and the AIP, in respect of an approved Project. Where IPAM concludes that the Bank was not in compliance with either Policy, IPAM will recommend remedial changes related to the actions or omissions of the Bank.

The Compliance Review does **not** assess the compliance of performance of the Client: it assesses the compliance of the Bank with the Environmental and Social Policy or the Project-specific provisions of the Access to Information Policy, in respect of a Project.

Accountabilities

The Compliance Review is undertaken by the IPAM team in line with the mandate established in the Project Accountability Policy and guided by the principles of independence, impartiality, transparency, predictability, and equitability. IPAM may engage consultants on technical matters as needed but the responsibility to produce the Compliance Review Report remains with IPAM and any determinations of compliance or non-compliance are to be made by the Chief Accountability Officer based on the Compliance Review findings.

Scope

These Terms of Reference are prepared on the basis of the issues raised in the Request for **Case 2021/03** and apply to any inquiry, action or review process undertaken by IPAM as part of the Compliance Review, with a view toward determining, as per **paragraph 2.7 literal (a) of the 2019 Project Accountability Policy**, whether the Bank, through its actions or inactions, has failed to comply with **the 2008 Environmental and Social Policy** or the Project-specific provisions of **the Access to Information Policy (or its predecessor)**, in respect to **KIDSF Grant N.54** and with **the 2014 Environmental and Social Policy** or the Project-specific provisions of **the Access to Information Policy (or its predecessor)**, in respect to **BEH Bond Issue 2016 (48556)** and **BEH Bond Issue 2018 (50221)**.

The Compliance Review scope is outlined below and although it makes reference to specific PRs, it will also consider (and does not further preclude) potential inter-linkages between the different PRs.

General Provisions:

2008 ESP in relation to the KIDSF grant:

- Did the Bank conduct environmental and social appraisal as a part of the KIDSF grant to decide if an activity should be financed and, if so, the way in which environmental and social issues should be addressed in planning, financing, and implementation, as prescribed in the para. C.14. of the 2008 ESP? Particularly, did the appraisal ascertain whether activities to be supported by EBRD were capable of being implemented in accordance with 2008 ESP and its Performance Requirements (PRs)?
- Did the Bank evaluate whether the Project was able and had the capacity to address environmental and social issues in a satisfactory way and could be expected to meet the requirements set out in the applicable PRs?

2014 ESP in relation to the bonds:

- Taking due consideration of the derogation of PR1, did the Bank conduct environmental and social appraisal, appropriate to the nature and scale of the project, commensurate with the level of environmental and social impacts and issues, as prescribed by para C.29 of 2014 ESP? Did the appraisal assess whether the project is capable of being implemented in accordance with 2014 ESP and its PRs and include the assessment of the potential financial, legal and reputational risks as well as identify potential environmental or social opportunities?
- Was the Client obliged to develop measures at the corporate level (as opposed to the project-specific level) to meet the PRs over a reasonable time period, as outlined in para. C.36 of the 2014 ESP, which applies to general corporate finance, working capital or equity financing for a multi-site company?
- Did the Bank conduct the monitoring of the Projects in line with para. C.43., that is commensurate with the environmental and social impacts and issues associated with the project?

PR1: Assessment and Management of Environmental and Social Impacts and Issues

2008 ESP in relation to the KIDSF grant:

- Did the Bank ensure that the environmental and social assessment process was based on recent information, an accurate description and delineation of the project, and social and environmental assessment and analysis at an appropriate level of detail; satisfying itself that the mitigation hierarchy and GIP had been considered, in addition to meeting national requirements and relevant PRs, in line with PR 1.5 of the 2008 ESP?
- Did the Bank identify and assess any potential future impacts associated with the proposed project, identify potential improvement opportunities, and recommend any measures needed to avoid, or where avoidance is not possible, minimise, and mitigate adverse impacts, as prescribed by the PR 1.10?

- Has the Bank satisfied itself that monitoring requirements will address the environmental and social impacts and issues identified during the environmental and social assessment process, including relevant actions in the ESAP, as prescribed in PR 1.15 of the 2008 ESP?
- Did the Bank satisfy itself that vulnerable groups²¹ had been identified through the process of environmental and social assessment, and included in the ESAP differentiated measures so that adverse impacts do not fall disproportionately on them?
- Did the ESAP include all relevant elements, as prescribed in PR 1.15, including the level of detail and complexity and the priority of the identified measures and actions that reflected the project's risks, impacts and opportunities? Did it include the schedule and person/unit responsible for implementation and monitoring, and an estimate of the associated costs?

PR5: Land Acquisition, Involuntary Resettlement and Economic Displacement

2008 ESP in relation to the KIDSF grant:

- Did the Bank ensure that during the resettlement process, the Project-affected people were appropriately consulted, as per PR 5.12., including being given the opportunity to participate in the negotiation of the compensation packages, eligibility requirements, resettlement assistance, suitability of proposed resettlement sites and the proposed timing?
- Did the Bank satisfy itself that the Client had carried out a detailed census, in line with PR 5.14 to (i) identify persons to be displaced by the project; (ii) determine who would be eligible for compensation and assistance; and (iii) set a cut-off date for eligibility? Further to this, did the census take into account the needs of seasonal resource users who may not be present in the project area during the time of the census?
- Did the Bank ensure that the Client developed a Resettlement Action Plan compliant with PR 5.15 to 5.23 of 2008 ESP, including but not limited to a due regard for any individuals or groups that may be disadvantaged or vulnerable? In particular, did the Bank satisfy itself that the Client took the necessary actions to ensure that vulnerable groups were not to be disadvantaged in the resettlement process, were fully informed and aware of their rights, and able to benefit equally from the resettlement opportunities and benefits?
- Did the Bank satisfy itself that the Client has offered all displaced persons and communities' compensation for loss of assets at full replacement cost and other assistance, with the intention to restore, and potentially improve, their standards of living and/or livelihoods of displaced persons to pre-displacement levels in line with PR 5.30 and PR 5.31? Were the standards for compensation will be transparent and consistent within the project? Was compensation offered to be provided before displacement or imposition of access restrictions?
- Did the Bank satisfy itself that the Client undertook meaningful consultations, in accordance with PR 10, with the locally affected community to identify and agree upon a suitable alternative where loss of public amenities was a result of the Project?

²¹ For the purpose of the 2014 ESP, vulnerable groups refer to people who, by virtue of gender identity, ethnicity, age, disability, economic disadvantage or social status may be more adversely affected by project impacts than others and may be limited in their ability to claim or take advantage of project benefits.

2014 ESP in relation to the bonds:

- Did the Bank satisfy itself that, on a corporate level and material subsidiary level, the Client aligned its internal procedures with the provisions of PR 5.17, regarding the offering the compensation for loss of assets at full replacement cost and other assistance in order to restore, and potentially improve, their standards of living and/or livelihoods of displaced persons to pre-displacement levels?
- Did the Bank satisfy itself that, on a corporate level and material subsidiary level, the Client aligned its internal procedures with the provisions of PR 5.22, regarding the development of a Resettlement and/or Livelihood Restoration Framework that would outline the general principles, procedures and entitlement framework consistent with this PR?
- Did the Bank satisfy itself that, on a corporate level and material subsidiary level, the Client developed provisions for consultation with Project-affected people where a project involves the loss of public amenities?

PR8: Cultural Heritage

2008 ESP in relation to the KIDSF grant:

- Has the Bank ensured that the Client has developed appropriate measures for minimising and mitigating adverse impacts on the cultural heritage, particularly as regards the consultation with the Project-affected people?

2014 ESP in relation to the bonds:

- Did the Bank satisfy itself that, on a corporate level and material subsidiary level, the Client developed internal procedures in line with the provisions of the PR 8 as they relate to assessment, mitigation measures, consultations and mitigation measures, particularly as outlined in PR 8.6, PR 8.13, and PR 8.15?

Compliance Review Methodology

The compliance review will include the following activities:

- a. a review of relevant project files (project documents, studies, minutes, emails, and other files as considered relevant by IPAM);
- b. the conduct of a site visit to Bulgaria
- c. scheduling of interviews, with:
 - EBRD Management and project teams
 - Consultants involved in the Project.
 - Requesters and other Project Affected People
 - the Clients (both MMI and BEH).
 - Officials from the relevant governmental agencies; and
 - Any other Third Parties considered relevant by IPAM.
- d. the engagement of consultants or technical experts, as appropriate, to provide technical inputs as required by IPAM, and
- e. any other review or investigatory methods that IPAM considers appropriate in carrying out its work.

Expertise

IPAM may require hiring experts to assist in some of the technical aspects of the compliance review. However at this point the expertise required has not been identified. Additionally, it will engage translation and interpretation services to ensure that the processing of the Case allows Project-Affected-People to participate effectively and relevant Case documentation is accessible to them.

Time Frame

The Compliance Review will commence as soon as possible following the posting of the Compliance Assessment Report containing these Terms of Reference in the IPAM Case Registry on the EBRD website. Every effort will be made to ensure that the Compliance Review is conducted as expeditiously as circumstances permit, and it is intended that the **Draft Compliance Review Report will be ready within 140 Business days of the start of the investigation.**

Please note that once the Draft Compliance Review Report is ready, IPAM will share it in a confidential fashion with Requesters, Management and the Client to get their views and comments prior to finalising the report.

When IPAM finalises the Compliance Review Report, there are two alternative outcomes:

Option 1. If the Bank has been found in compliance, no further actions are required. The Compliance Review Report is sent to the Board for information and is disclosed in the IPAM case registry and the case is closed.

Option 2. If The Bank has been found **not in compliance**, a series of steps are to take place before the Compliance Review Report is sent to the Board and is disclosed to the public. This process takes around 6 months from the date of finalisation of the Compliance Review Report and includes the following steps:

- a. In this situation, the Compliance Review Report will include recommendations at the project and systemic level
- b. Bank Management will be asked to draft a Management Action Plan.
- c. The Draft Management Action Plan is sent to the Requesters for Comments.
- d. Management reviews the Requesters' comments and adjusts the Plan if deemed relevant.
- e. IPAM sends to the Board the Compliance Review Report and the draft Management Action Plan - at this stage the Board is asked to review the Plan and approve it or send it back to Management.
- f. Once the Management Action Plan is approved, IPAM discloses the Compliance Review Report, the Management Action Plan and starts the Monitoring Stage.

Time Extensions

If IPAM requires an extension of this timeframe, Parties will be promptly notified and the case registry updated to reflect the new deadlines.

Please note that if Requesters or Management require an extension, they should inform IPAM along with the proposed extended deadline. IPAM will seek to accommodate those requests and inform all Parties of its decision in a promptly fashion.

A preliminary schedule of the main milestones to be delivered is presented in the table below.

Tentative Schedule

Activity	Estimated Timeframe ¹
<p>Conducting compliance review and preparation of Draft Compliance Review Report</p> <p>Desk review</p> <p>Identification and compilation of relevant documents and studies. (may involve translation to English), as well as identification of interviewees</p> <p>Identification of relevant stakeholders for interviewing</p> <p>Consultations and interviews (virtual or in person as appropriate, and in compliance with social distancing measures)</p> <p>Site visit (dates subject to confirmation)</p>	<p>Early May – October 2022</p> <p>July – August 2022 (tentative)</p>
<p>Draft Compliance Review Report</p> <p>IPAM will circulate the draft report to Requesters, Management and Client.</p>	<p>Tentative date for completion of the Draft Report is October 2022. Once circulated Parties will have 10 business days to provide written comments on the Draft Compliance Review Report.</p>
<p>If IPAM finds the Bank to be non-compliant, the Compliance Report will include recommendations to address the findings of non-compliance; as well as a Management Action Plan Monitoring to be initiated following the preparation and approval of the Management Action Plan</p>	
<p>Development of Management Action Plan</p> <p>Management shall prepare a Management Action Plan in response to the findings of non-compliance. It may also prepare a Management Response addressing the findings of the Compliance Review Report, if it deems appropriate.</p>	<p>Submission of Draft Management Action Plan to IPAM –</p> <p>30 business days from the date of receipt of the draft Compliance Review Report</p>
<p>Circulation of Draft Management Action Plan to Requesters for comments on the draft MAP.</p>	<p>Submission of Requesters comments to IPAM</p> <p>20 business days from the date of IPAM circulation.</p>
<p>Finalisation of Compliance Review Report</p> <p>IPAM will finalise the Compliance Review Report once it has considered the Requesters' comments on the draft Management Action Plan</p>	<p>Circulation of Final Compliance Review Report and Requesters' comments on MAP to Management</p> <p>10 business days from the date of receipt of comments</p>

Activity	Estimated Timeframe ¹
<p>Finalisation of the Management Action Plan</p> <p>If IPAM finds the Bank to be complaint</p> <p>IPAM finalises the Compliance Review Report based on comments from Parties and submits it to the Board and the President for information, discloses the document in the case registry and closes the case.</p> <p>Submission of the Compliance Review documents to the EBRD Board of Directors</p> <p>IPAM will submit the final Compliance Review Report, the Management Action Plan, and Requesters' Comments. The Management Action Plan is submitted to the Board for decision while the other documents relating to the finding of non-compliance will be submitted to the Board for information</p>	<p>Final Management Action Plan</p> <p>15 business days from date receipt of both the final Compliance Review Report and Requesters' comments</p> <p>Public disclosure immediately after the finalisation of the Compliance Review Report.</p> <p>Board decision on MAP – subject to Board scheduling</p> <p>Public disclosure of Compliance Review Package including approved Management Action Plan – after approval of MAP</p>

1 Estimated deadlines for each activity and/or deliverable are calculated according to the Policy provided timeframes. .

The proposed timelines may be revised due to external factors beyond the control of IPAM. Should this be the case, IPAM will notify the Parties and register in the Public Registry the revised timelines.

Access to Information

In order to ensure timely completion of this compliance review, IPAM shall require from Bank Management full, unrestricted access to relevant Bank staff and files. All relevant Parties are encouraged to comply with requests from IPAM for obtaining access to sites, submission of written materials, provision of information and attendance at meetings. Any situations where the actions or lack of action by any Party hinders or delays the conduct of the Compliance Review may be referenced in the Compliance Review Report.

Access to, use and disclosure of any information gathered by IPAM during the Compliance Review process shall be subject to the Bank's Access to Information Policy and any other applicable requirements to maintain sensitive commercial and/or other information confidential. IPAM will 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.