



Independent
Project
Accountability
Mechanism

Assessment Report

Port of Brcko

EBRD Project Number 47546

Case 2023/07

December 2023

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
Board	the Board of Directors of the European Bank for Reconstruction and Development
Case	the consideration of a Request under the Project Accountability Policy following its registration
CAO	the Chief Accountability Officer of the EBRD, and IPAM head
Case Registry	the registry of Cases created in accordance with Section III, Paragraph 3.1 of the Project Accountability Policy, which can be found on the IPAM Webpage
Compliance	the IPAM function which determines whether EBRD has complied with its Environmental and Social Policy or the Project-specific provisions of its Access to Information Policy in respect of a Project
EBRD (or Bank)	the European Bank for Reconstruction and Development
ESIA	Environmental and Social Impact Assessment
ESP	the EBRD's Environmental and Social Policy in force at the time of Project approval
IPAM	the Independent Project Accountability Mechanism of the EBRD established as per the 2019 Project Accountability Policy
IPAM Head	the EBRD managing director responsible for the running of IPAM, the implementation of the Project Accountability Policy and for making the decisions that are the responsibility of IPAM under said Policy
PAP	the 2019 Project Accountability Policy
Parties	the individuals, entities, and/or organisations with a direct interest in a Case. Parties may include (but are not limited to): the Requesters; their Representatives, if any; the relevant Bank department, team, or unit; the Client; and other Project financiers or other entities responsible for the implementation of a Project
Problem Solving	the IPAM function which supports voluntary dispute resolution engagement between Requesters and Clients to resolve the environmental, social, and public disclosure issues raised in a Request, without attributing blame or fault.
PSD	Project Summary Document
President	the President of the EBRD

Executive Summary

The Request¹

On the 16th May 2023, Mr Samir Muranjikovic, a resident of Brcko District, who lives with his family next to the railway, sent a [Request](#) to the [Independent Project Accountability Mechanism](#) (IPAM) in relation to the Port of Brcko (OP 47546) Project. The Request raises allegations of noise due to the rehabilitation of the Project and its future operation. According to the Requester, this is particularly affecting to his brother who is hypersensitive to noise due to a permanent medical condition. The Requester seeks to have his concerns addressed through Problem Solving.

The Project²

The [Port of Brcko Project](#) (OP ID 47546) is a sovereign loan of up to EUR 10 million to the State of Bosnia and Herzegovina. The facility was on-lent to the District of Brcko, and the funds are used to rehabilitate and upgrade facilities at the Port of Brcko and optimise road and railway access to the Port. The Project was approved on 30 November 2016 as category B under the EBRD's 2014 Environmental and Social Policy.

IPAM Process

The Request was registered by IPAM on 15 August 2023 under [Case 2023/07](#), initiating the Assessment stage that was conducted until November 2023 in accordance with the [2019 Project Accountability Policy \(PAP\)](#). IPAM undertook an in-depth analysis of the Request and reviewed the additional documentation provided by the Parties, held online meetings with the Bank team responsible for the Project, representatives of the Client and the Requester. IPAM also conducted a site visit to Brcko in Bosnia and Herzegovina on 20 September 2023, met in person with the Requester and the Client to explore Parties' willingness and capacity to engage in Problem Solving and visited the Project area relevant to the Request.

Conclusion and Next Steps

Based on the activities undertaken during the Assessment stage, IPAM determined that Case will proceed to Problem Solving, as all relevant Parties (the Requester, the Client, and Bank management) have expressed their willingness to engage in IPAM's Problem Solving function. Given these findings, this Report includes preliminary Terms of Reference for Problem Solving whereby the proposed scope, methods to be used, the timeframe and the type of expertise required are presented.

IPAM wishes to thank the Requester, the Client and Bank management for their time and inputs provided during the Assessment stage. This Assessment Report is circulated to the Parties and disclosed in the virtual case file for [Case 2023/07](#), in both English and Bosnian after its submission to the Board and the President for information. After that, the Case will be transferred to the Problem Solving stage.

¹ The Request is available [here](#)

² EBRD's Project Summary Document is available [here](#)

1. Background

1.1. The Request³

On the 16th May 2023, IPAM received a [Request](#) from Mr Samir Muranjikovic, a resident of Brcko District, in Bosnia and Herzegovina, whose family resides in a house adjacent to the railway alignment currently in rehabilitation. The Request raises allegations of noise pollution because of the construction works to rehabilitate the existing railway and its future operation. In addition, the Request indicates that the railway alignment has slightly changed and is now by a few meters closer to the affected family's house. According to the Requester, this is particularly affecting his brother who is hypersensitive to noise due to a permanent medical condition. The Requester seeks to have his concerns addressed through Problem Solving.

1.2. The Project and its Current Status⁴

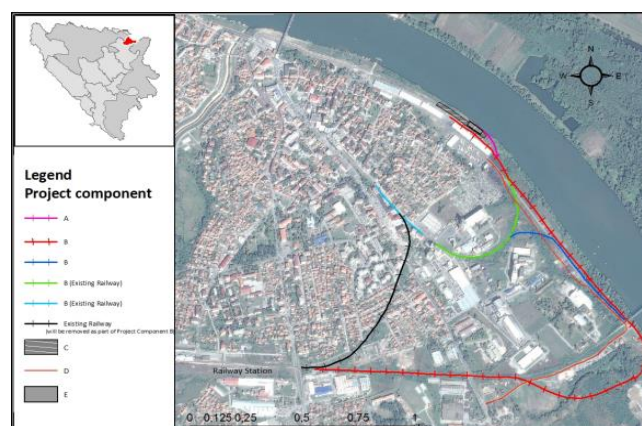
The [Port of Brcko Project](#) (OP ID 47546) is a sovereign loan of up to EUR 10 million to the State of Bosnia and Herzegovina. The facility was on-lent to the District of Brcko, and the funds are used to rehabilitate and upgrade facilities at the Port of Brcko and optimise road and railway access to the Port.

The Project will improve operational efficiency of the Port and will increase the Port's cargo handling capacity, which is currently limited by the difficult rail access and outdated infrastructure. The Project is expected to induce a change in transport mode from road to primarily rail for the Port's traffic, providing a cost-effective and environmentally friendly transport route to local traders of commodities. In addition, the Project is expected to improve the efficiency and safety of rail operations in the city of Brcko, by enabling the relocation of the existing railway line which currently passes through the central urban area.

The rehabilitation of the railway in the vicinity of the Requester's house is it part of the Project's component B which entails the reconstruction of industrial railway track on the line from the Port of Brcko to the Train station Brcko Novo and reconstruction of connections to the industrial zone.

According to the [Project Summary Document](#) potential environmental and social impacts are expected to be temporary and associated mainly with the construction stage. The Project was approved on 30 November 2016 as category B under the EBRD's 2014 Environmental and Social Policy and the loan is currently being repaid.

Figure 1: Overview of Project Components. Source: Non-technical Summary, available [here](#).



³ The Request is available in the case summary at [Case 2023/07](#)

⁴ The information is sourced from the EBRD's Project Summary Document available [here](#) and the Non-technical Summary available [here](#)

1.3. Case Processing to Date

The Request was registered by IPAM on 15 August 2023 as it met the criteria for Registration established in Section 2.2 (b) of the PAP, and none of the exclusions set in Section 2.2 (c) of the PAP applied. The registration of a Request is an administrative step⁵ establishing that the following criteria have been met:

- all mandatory information has been provided;
- issues raised relate to specific obligations of the Bank under the Environmental and Social Policy and/or the project-specific provisions of the Access to Information Policy;
- it relates to a Project that the Bank has approved; and
- the Request submitted is related to an active project or is submitted within 24 months of the date in which the Bank has ceased to have a financial interest in the project.

2. Assessment Stage

Immediately after registration, the Request was transferred to the Assessment Stage as established in para. 2.3 of the 2019 PAP, to:

- develop a clear understanding of the issues raised in the Request;
- discuss the Problem Solving and Compliance functions with the Parties, their scope, and outcomes;
- assess the Parties' willingness to engage in each function;
- consider the updated status of other grievance resolution efforts, if applicable; and
- make a final determination with three alternative outcomes:
 - the Case could proceed to Problem Solving, based on the agreement of the Requester and the Client; or
 - the Case would be transferred to Compliance Assessment if no agreement to pursue Problem Solving is reached and the Requester would have expressly asked for this; or
 - the Case would be closed.

The Assessment stage has a standard duration of 40 business days from the date of the Request Registration which might be extended to ensure robust processing or if translation of documents is required as per the PAP. The Assessment was initiated in the middle of August 2023 and was finalised in November 2023.

In line with the approach established in the PAP (see section 2.3 of the PAP), the IPAM team undertook the following activities during the Assessment stage:

- revision of relevant Project documents;
- virtual meetings with the Bank team responsible for the Project, the Client and the Requester; and
- site visit to Bosnia and Herzegovina.

3. Site Visit

The IPAM team visited the Project site in Brcko on 20 September 2023 and engaged in-person with the Client and the Requester, to get a better understanding of the Project and the issues raised in the Request. The IPAM team also undertook a visit to the Requester's house impacted by the Project.

⁵ Registration of a Request does not involve a judgement on the merits, truthfulness, or correctness of its content. Nor does it have the effect of suspending the Bank's interest in a Project.

IPAM wishes to thank all stakeholders for their willingness to engage with the delegation and their openness to discuss the concerns raised in the Request.

Photographs of the Project Site, source: IPAM



4. Summary of the Parties' Views

This section provides the views of the Requester, the Client and Bank management as captured by IPAM during virtual and in-person meetings. Prior to finalising this Report, to ensure that the information included herein is accurate, IPAM shared with the Parties relevant sections and considered their comments when finalizing it.

4.1. Requester

During the Registration and Assessment stages (from May 2023 to November 2023), the IPAM team communicated frequently with the Requester and reviewed the documentation provided by him. In addition, IPAM met with the Requester and his family at their house in Brcko on 20 September 2023.

During these engagements, the Requester explained that their house is the only residential building situated in an industrial area next to the Port of Brcko. He added that they moved to that place a few years ago as the area was quiet and suitable for his brother who has hypersensitivity to noise due to a permanent medical condition.

According to the Requester, the rehabilitation of the railway has involved continuous construction works for over a year. Given that their house is adjacent to the railway, the noise generated by the works has affected his brother's health and welfare. Furthermore, he fears that given the fact that the railway alignment has changed by a few meters closer to their house, and the expected rail frequency would increase noise levels during operation.

The Requester explained that before approaching IPAM, since 2022 he has tried to find a solution through the Municipality, the Client and/or the Bank's Project team. Finally in June 2023 he managed to meet with the Client where he was presented with a couple of options to mitigate the noise during the operation stage. However, he did not accept them as there was no evidence that they would adequately address the noise issues faced and his family would have to bear maintenance costs.

The Requester acknowledged the importance of the Project to the local community and expressed his hopes in working with the Client under the facilitation of IPAM, to find a suitable solution.

4.2. Client

IPAM engaged with representatives of the Port of Brcko virtually on 6 September 2023, had an in-person meeting on 20 September in their office in Brcko, and a follow up virtual meeting on 17 October 2023. In addition, IPAM exchanged several email communications with the Client during the Assessment stage and reviewed Project documentation.

Regarding the Requester's concerns, the Client indicated that the railway alignment only changed by a few meters and is currently slightly closer to the Requester's house. On the concerns regarding speed, the Client clarified that the trains that will be using the railway would move at a low speed of about 30 km per hour.

Additionally, the Client explained that they were aware that a person with special needs lives in the Requester's house as they have engaged with the Requester before he raised his concerns with IPAM. The Client added that they reviewed his claim and came up with two possible options to mitigate the noise coming from the railway but couldn't get to a mutual agreement with the Requester.

The Client further explained that under the guidance of the Project team, they are conducting a noise assessment which will inform any noise mitigation measures, as per the requirements of the EBRD's Environmental and Social Policy.

In addition, the Client indicated that they are willing to act as a good neighbour and expressed their commitment to work with the Requester to find joint solutions to the concerns raised. They added that are accepting IPAM's support to facilitate their engagement with the Requester in a Problem Solving initiative.

4.3. EBRD Management

IPAM held virtual meetings with EBRD management on 14 September 2023 and on 13 October 2023. Bank management provided an update on the implementation of the Project and their perspective on the issues raised in the Request. The team also shared Project documents that were reviewed by IPAM.

Bank management explained that the Project is rehabilitating and upgrading facilities at the Port of Brcko and optimising road and railway access to the Port.

Regarding the Request submitted to IPAM, Bank management explained that they were notified by the Client about the concerns raised by the Requester and since then have been working closely with the Client to assess any risks and find sustainable solutions to the concerns raised.

Bank management also explained that they have recommended the Client to undertake a detailed noise assessment within the area of the Requester's house given the proximity of the railway line and the vulnerability of one of the members of the family living in the house. They explained that based on the noise assessment, mitigation measures might be required.

Finally, Bank management expressed their support and commitment to collaborate closely with IPAM during the Problem Solving initiative for a successful resolution of the concerns raised.

5. Assessment Determination

Based on the Assessment activities undertaken in relation to Case 2023/07, IPAM has made the following determinations:

- After an in-depth analysis of the concerns raised, IPAM determined that the Request meets the Registration criteria.
- IPAM considers that a Problem Solving Initiative is feasible and can effectively assist in addressing the Requester's concerns. This is based on the confirmation received by IPAM from the Requester, the Client and the EBRD management of their willingness to engage in a Problem Solving initiative; and the fact that the Client is already working in finding a suitable solution to the concerns raised.

IPAM has offered to the Requester and the Client to serve as a third-party independent facilitator to support the Parties during the negotiations on the proposed technical solution and monitor its implementation, and the Parties have accepted. In this case, the role of IPAM will be to facilitate the flow of information, ensure that communication channels remain open until an agreement is reached and is effectively implemented.

6. Conclusion and Next Steps

Based on the activities undertaken during the Assessment stage, IPAM determined that Case will proceed to Problem Solving, as all relevant Parties (the Requester, the Client, and Bank management) have expressed their willingness to engage in the IPAM Problem Solving. Given these findings, this Report includes preliminary Terms of Reference for Problem Solving whereby the proposed scope, methods, the timeframe, the type of expertise required are presented.

IPAM wishes to thank the Requester, the Client and Bank management for their time and inputs provided during the Assessment stage. This Assessment Report is circulated to the Parties and disclosed in the virtual case file for [Case 2023/07](#), in both English and Bosnian after its submission to the Board and the President for information. After that, the Case will be transferred to the Problem Solving stage.

Annex 1. Terms of Reference for Problem Solving

I. About the IPAM Problem Solving Process

The Project Accountability Policy in section 2.4 establishes general guidance to be observed in IPAM-facilitated Problem Solving initiatives in general:

Guiding Principles for Problem Solving

The Problem Solving initiatives led by IPAM are based on the following guiding principles:

Co-design: the design of Problem Solving processes should be based on the methods, format and preferences of the Parties.

Good Faith: the success of Problem Solving processes requires that all Parties are willing to participate in good faith, effectively seeking to find mutually agreeable solutions.

Rules-based: Problem Solving processes require that the Parties define from the start the ground rules that will guide the process and that they commit to abiding by them.

Voluntary Nature: The Parties have the right to enter, as well as withdraw from a Problem Solving process.

II. Objective

The objective of the Problem Solving is to:

- Facilitate the dialogue between the Requester and EBRD Client (together as Parties) to ensure common understanding and support them find solutions to the concerns raised.
- Formalize the agreements reached and accompany the implementation of these agreements until fully executed.

For the purpose of the Problem Solving, these Terms of Reference apply to all actions undertaken as part of the EBRD financed components of the Port of Brcko Project (OP ID 47546). Activities carried out under this Problem Solving Terms of Reference may be subject to modification, provided that the IPAM Head expressly agrees to the change(s), and so long as such changes do not prejudice the interests of any Party.

III. Approach

IPAM serves as a third party impartial facilitator that provides guidance and seeks to promote trust building between the Parties and ensure that the engagement is equitable and accessible. In order to achieve the objective of finding mutually acceptable resolution to the issues presented in the Request, IPAM will:

- i. take into account all circumstances of the Case (including the nature of the issues raised, their urgency, and the reasonable likelihood of success), with a view to identifying the most appropriate approach to Problem Solving. Approaches will be chosen in consultation with the Parties, and may include: information gathering and sharing, shuttled diplomacy, joint fact-finding or supported negotiation;
- ii. engage an external consultant to support and facilitate the dialogue process in accordance with the Procurement Rules and Paragraph 3.1 i) of PAP, if deemed necessary by IPAM; and
- iii. not support agreements that would be contrary to EBRD policies or in breach of any applicable law.

IV. Termination.

The Problem Solving process may be terminated at any time:

- by IPAM, if in IPAM's view, following consultation with the Parties, the Problem Solving is no longer likely to lead to a positive outcome, and/or if the Problem Solving process has ceased to constitute an efficient use of resources, in which case IPAM will notify all Parties in writing; or
- by any Party; Problem Solving is a voluntary process, and Requesters and Clients may withdraw from it at any time.

V. Scope of the initiative

The scope of the initiative is limited to the issues raised in the Request in relation to the Port of Brcko Project (OP ID 47546) and further elaborated in the Assessment Report. In particular, the Parties have expressed preliminarily their agreement that IPAM would serve as a third-party independent facilitator to assist them in identifying solution to the concerns raised, reach Agreement, and assist during the period of implementation of the proposed solution. In addition, IPAM's role would be to facilitate the flow of information and ensure common understanding to ensure a successful outcome.

VI. Proposed Methodology

As per the Assessment findings, and subject to confirmation as the initiative advances, the methods utilised in this Case would include:

- Information gathering and sharing in culturally appropriate formats
- Fact finding on the issues raised in the Request
- Shuttled diplomacy
- Facilitated bilateral and joint discussions with Parties
- Supported negotiation

VII. Resources Required

Independent External Facilitator

In line with the provisions of the 2019 PAP, the Problem Solving process will be led by IPAM's Problem Solving Lead with the possibility of identifying a local external facilitator to assist the Parties in their engagement. The intensity of the engagement will be dependent on the noise assessment results and the position of the Parties regarding mitigation measures.

The facilitator will engage with Parties as a neutral 'third party', in an independent and impartial manner and should have no conflicting interests in relation with the Project or any of the Parties involved in Problem Solving. It is not the role of the facilitator to decide whether Parties' actions, opinions or perceptions are right or wrong or to arbitrate in favour of one of the Parties.

Sensory Perception Expert

During the Problem Solving process IPAM is intending to contract a Sensory Perception Expert to provide guidance on noise levels relevant to the IPAM Case and review the proposed mitigation measures to ensure they are fit for purpose.

Interpretation and translation

Interpretation and translation services will be required during the initiative to facilitate IPAM's communication with local Parties.

Site Visits

Site visits by the external facilitator and the IPAM team will be required during the process. Any travel will require prior approval by the IPAM Head.

VIII. Problem Solving Timeframe

A preliminary schedule of the main milestones and deliverables is presented below and may vary depending on the availability of Parties and other external factors beyond the control of IPAM.

Proposed Milestones and timeline

Activity	Tentative timeline
Requester to share information and documents supporting the claims raised	October 2023
Noise assessment is made available by the Client	Mid-January 2024
IPAM to commission an expert's opinion regarding noise tolerance levels for sensitive receptors	February 2024
Client working on feasible noise mitigation options that are fit for purpose and financially viable	February 2024
Joint meeting of Parties to review proposed options	March 2024