



Independent
Project
Accountability
Mechanism

COMPLAINT: Turk Traktor Project (44173)

REQUEST NUMBER: 2015/03

Management Action Plan Closing Report

Monitoring Period: January 2019 – July 2020

15 September 2020

Note: This case was received under the Project Complaint Mechanism (PCM) - the former accountability mechanism of the EBRD - in accordance with the [2014 PCM Rules of Procedure](#) and the Monitoring stage was initially conducted under PCM Rules and Procedures.

Effective 1 July 2020, the Project Complaint Mechanism was replaced with the [Independent Project Accountability Mechanism](#), brought into effect through the [2019 Project Accountability Policy](#). Under the Policy's provisions for case transition, monitoring of the Turk Traktor Management Action Plan from the date above will be undertaken in alignment with the requirements of the [2019 Project Accountability Policy](#).

IPAM is the new independent accountability mechanism of the EBRD. It reviews environmental, social, and Project disclosure-related concerns raised by Project-affected people and civil society organisations. IPAM can address concerns through two avenues: i) Problem-solving, which supports dialogue between Complainants and Clients to resolve environmental, social and public disclosure concerns without attributing blame or fault; or ii) Compliance Reviews, which determine whether the EBRD has complied with its Environmental and Social Policy and Access to Information Policy in relation to the Project.

For more information about IPAM, please contact us at ipam@ebrd.com or visit the [IPAM webpage](#).

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EXECUTIVE SUMMARY

The EBRD [Project Complaint Mechanism](#) (PCM) completed a [Compliance Review](#) of the [Türk Traktör Project \(44173\)](#) in Turkey in January 2017, identifying four instances of non-compliance with the EBRD's 2008 Environmental and Social Policy (ESP). The Compliance Review found EBRD Management:

- non-compliant in its application of the 2008 ESP general requirements and the requirements of PR 1 in relation to both appraisal and due diligence, and routine monitoring, of the Project's compliance with labour and occupational health and safety aspects of PR 2;
- non-compliant in its application of the ESP general requirements in relation to monitoring of the Project's compliance with labour and occupational health and safety aspects of PR 2;
- non-compliant with the general commitments of the 2008 ESP and with PR 10 in relation to routine monitoring with respect to the establishment of an external grievance mechanism; and
- non-compliant with the general commitments of the 2008 ESP and with PR 2 and PR 10

The independent PCM Expert responsible for the Compliance Review made 28 recommendations to Bank Management.¹

Management Action Plan

In response to the findings of non-compliance, the Bank developed a [Management Action Plan \(MAP\)](#) to address the PCM Expert's findings and recommendations, which was approved by the EBRD Board of Directors on 11 April 2017. Bank Management committed to undertake nine Actions:

- **Management Action 1:** Request further information from Türk Traktör and has been in dialogue with them in relation to the overtime policies and procedures to ensure compliance with Turkish legal requirements.
- **Management Action 2:** Request a summary of occupational health and safety performance at the Ankara facility and agreed reporting requirements for future EBRD monitoring.
- **Management Action 3:** Review the complainant's allegations regarding freedom of association with the Client and discuss areas of improvement that may be appropriate, in accordance with good international practice. If the review shows the need for improvement, EBRD will agree with Turk Traktor additional measures, which are allowed by Turkish law and monitor their implementation.
- **Management Action 4**
 - **Management Action 4a:** Review the Client's process for dismissals and clarified legal requirements in Turkish law, under the CBA, and the EBRD requirements on this issue. EBRD is currently in discussion with the Client to seek their agreement to implement additional measures, if not already done so.
 - **Management Action 4b:** Commission an analysis on the differences between Turkish Law and the provisions of the aspects of ILO core conventions. EBRD will

¹ For a list of all recommendations made by the independent PCM Expert responsible for the Compliance Review go to the [Compliance Review Report](#).

discuss the issue with other IFIs and clarify the role of IFIs in situations where there may be gaps between ILO Conventions and national law. In general, where gaps are identified between core ILO Conventions and national law, these will be reflected in the normal EBRD/Country Strategy process and discussion held on the Bank's potential policy dialogue with the country. Projected deadline: end 2017 for the analysis.

- **Management Action 5:** Review the Client's internal and external grievance mechanisms and how records related to the receipt and response to grievances are collected. Based on this, EBRD is currently agreeing reporting requirements with Türk Traktör for the AESR to the Bank. In particular, the Bank will review how workers, their representative organisations and the public are made aware of the grievance mechanisms and the process for raising concerns or comments.
- **Management Action 6:** Assess the current AESR review process and, where necessary, develop internal capacity on timely response to review of AESRs and specific review of OHS statistics and functioning grievance mechanisms. Additional training may also be provided to Bank staff on adequacy of client reporting.
- **Management Action 7:** Update the Labour Assurance Framework and building staff capacity to apply the tools provided therein. This process includes preparation of a new guidance note on Freedom of Association, as well as a Labour Due Diligence and Monitoring toolkit. EBRD Management will also further seek to better ensure adequate labour expertise is employed for external due diligence in identified high-risk sectors or geographies
- **Management Action 8:** Provide guidance on differences between country level obligations and international commitments. As part of the toolkit implementation EBRD ESD specialists will receive refresher training on Performance Requirement 2 and its application during due diligence and monitoring, and using the guidance provided in the Assurance Framework.
- **Management Action 9:** There is no change in the Bank's responsibility with regard to communicating with Clients or in monitoring a project because of a pending PCM case. In the past, the PCM Office instructed Management not to communicate with Complainants during a PCM case without the PCM Office authorisation, so as to avoid any conflict of interest or perceived influence about the complaint. Management defer to the PCM Office with regard to this issue and if requested, will assist the PCM Office to develop formalised guidance on this issue. This should appear to be a PCM Guidance Note, not a Management one, and the PCM Office could decide to undertake a public consultation or disclose it, as they prefer. Management suggest that it is important that the guidance be seen as owned by the PCM, so that Complainants understand that they are telling Management what communication is possible. Management will work with the PCM Office in accordance with deadlines they establish.

This Closing Report in relation to the Turk Traktor Project ("the Project") covers the monitoring period January 2019 to July 2020 as no monitoring reports regarding this case were issued during 2019 by the PCM.

The purpose of this report is to update the EBRD Board of Directors, Relevant Parties and the public on the Bank's implementation of the Board-approved Management Action Plan, in accordance with Paragraph 47 of the PCM Rules of Procedure (RPs).

It presents:

- a) the background and context associated with this PCM case;
- b) the monitoring activities undertaken by PCM during the January 2019 to July 2020 reporting period; and
- c) the findings and conclusions resulting from the Mechanism's monitoring.

The Mechanism has a mandate to monitor the implementation of the Board-approved MAP. This Closing Report reflects the status of MAP implementation to date, whereby all actions with the exception of Actions 4 and 5 have been completed.

On 14 June 2018 the Client repaid the EBRD loan, effectively terminating its relationship with EBRD Management on this Project. The two outstanding actions were not completed by Management before the repayment of the loan and is unable to complete them now. Therefore, IPAM will conclude monitoring this case, noting that upon closing of monitoring, the two actions referred above were not completed.

As a general recommendation, IPAM encourages EBRD Management to fulfil all Actions committed in a Board-approved Management Action Plan within the committed time framework. While IPAM acknowledges the change in the Client relationship following repayment of the loan on 14 June 2018, EBRD Management should have sought to finalise the remaining Management Actions, given the approval of the Management Action Plan by the EBRD Board of Directors on 11 April 2017. Moving forward, IPAM will continue to periodically monitor the status of an EBRD Project during the monitoring period to ensure all the committed Action items are effectively implemented in a timely manner.

SUMMARY OF ACTIONS

| S.No. | ACTIVITY | TIMELINE |
|-------|--|-------------------|
| 1. | Compliance Review completion | 30 January 2019 |
| 2. | Management Action Plan approval | 11 April 2017 |
| 3. | 1st monitoring report period covering May 2017 – May 2018 | 22 May 2018 |
| 4. | 2nd monitoring report period covering June 2018 – December 2018 | 20 December 2018 |
| 5. | Closing report covering January 2019 – July 2020 | 15 September 2020 |

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GLOSSARY

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| AESR | Annual Environmental and Social Report |
| CBA | Collective Bargaining Agreement |
| Client | Türk Traktör ve Ziraat Makinalari A.S |
| Complainant | Birleşik Metal İşçileri Sendikası |
| EBRD | European Bank for Reconstruction and Development |
| EIA | Environmental impact assessment |
| ESAP | Environmental and social action plan |
| ESP | EBRD 2008 Environmental and Social Policy |
| EU | European Union |
| ILO | International Labour Organisation |
| IPAM | Independent Project Accountability Mechanism |
| MAP | Management Action Plan |
| MDB | Multilateral development bank |
| PCM | Project Complaint Mechanism |
| PR | Performance Requirement |
| Turk Traktor | Türk Traktör ve Ziraat Makinalari A.S |

1 Introduction

This is the third and closing report for the Turk Traktor Project (“the Project”) reflecting the implementation status of the two remaining Actions monitored during the period January 2019 to July 2020. Its purpose is to update the EBRD Board of Directors, Relevant Parties and the public on Bank Management’s implementation of the Board-approved [Management Action Plan \(MAP\)](#), established to address PCM findings of Project non-compliance with the 2008 ESP.

This Closing Report provides an overview of:

- a) the background and context of the PCM case;
- b) the monitoring activities undertaken by PCM during the January 2019 – July 2020 monitoring period; and
- c) the monitoring findings and conclusions

2 Background and context

2.1 Complaint Submission and Eligibility Assessment

In September 2015, PCM received a [Complaint](#) from Birleşik-İş Metal İşçileri Sendikası (the United Metalworkers’ Union) on behalf of Project-impacted workers (“the Complainants”) related to the Turk Traktor Project (44173) which received EBRD funding in the form of EUR 75 million long-term loan to Turk Traktor ve Ziraat Makineleri A.S (Turk Traktor) in May 2013 to finance the construction of a tractor assembly plant in Sakarya and investments in R&D, engine and transmission projects in the existing facilities in Ankara.

The Complaint raised a number of concerns about workers’ rights and treatment by Türk Traktör, the EBRD Client, related to occupational health and safety; fair wages, benefits and working conditions; workers’ dismissal, and the Project-level grievance mechanism. The Complaint alleged that the Client consistently denied workers the right to organize collective bargaining.

Ms. Halina Ward was appointed to undertake the Compliance Review as an external PCM Expert.

2.2 Compliance Review Findings

On 21 February 2017, the PCM Expert found the Bank non-compliant with Performance Requirements (PR) 1, 2 and 10 of the 2008 ESP in nine (9) instances, in relation to Project working conditions; freedom of association; dismissal of workers and the Project-level grievance mechanism. More specifically, the Expert found the EBRD to be non-compliant with the ESP in relation to:

- its social appraisal and due diligence of the Project (general commitments; PR 1);
- its approach to routine monitoring of the Project’s compliance with labour and occupational health and safety aspects, and further non-compliance following the receipt of an initial

Complaint from the Complainants and subsequently during the course of the PCM Eligibility Assessment and the CR process (general commitments; PR 2);

- the routine monitoring and establishment of the Project-level grievance mechanism (general commitments; PR10); and
- monitoring following the submission of a PCM Complaint with respect to Project-level grievance mechanisms (general commitments; PR 2; PR 10).

2.3 Compliance Review Recommendations

In response to the findings of non-compliance, the PCM Expert made 28 recommendations to the Bank; thirteen that were procedural/systemic (i.e. general), and fifteen that were project-specific, outlined in the Expert's Compliance Review Report²:

- **13 procedural / systemic recommendations** to improve EBRD internal systems and procedures in relation to working conditions, freedom of association, dismissal of workers, grievance mechanisms, Project appraisal, social due diligence and monitoring; and
- **15 Project-Specific recommendations** made to Bank Management to correct inconsistencies in the Client's policies regarding workers' issues (i.e., related to overtime pay, occupational health and safety, working conditions, freedom of association, dismissals, grievance mechanisms, Project appraisal, due diligence, and monitoring).

2.4 EBRD Management Action Plan

To address the PCM Expert's findings of non-compliance and recommendations, the Bank developed a [Management Action Plan \(MAP\)](#), which was approved by the EBRD Board of Directors on 11 April 2017. Bank Management committed to undertake nine Actions:

- **Management Action 1:** Request further information from Türk Traktör and continue the dialogue with them in relation to the overtime policies and procedures to ensure compliance with Turkish legal requirements.
- **Management Action 2:** Request a summary of occupational health and safety performance at the Ankara facility and agreed reporting requirements for future EBRD monitoring.
- **Management Action 3:** Review the complainant's allegations regarding freedom of association with the Client and discuss areas of improvement that may be appropriate, in accordance with good international practice. If the review shows the need for improvement, EBRD will agree with Turk Traktor additional measures, which are allowed by Turkish law and monitor their implementation.

² For a list of all recommendations made by the independent PCM Expert responsible for the Compliance Review go to the Compliance Review Report.

- **Management Action 4:**
 - **Management Action 4a:** Review the Client's process for dismissals and clarified legal requirements in Turkish law, under the CBA, and the EBRD requirements on this issue. EBRD is currently in discussion with the Client to seek their agreement to implement additional measures, if not already done so.
 - **Management Action 4b:** Commission an analysis on the differences between Turkish Law and the provisions of the aspects of ILO core conventions. EBRD will discuss the issue with other IFIs and clarify the role of IFIs in situations where there may be gaps between ILO Conventions and national law. In general, where gaps are identified between core ILO Conventions and national law, these will be reflected in the normal EBRD/Country Strategy process and discussion held on the Bank's potential policy dialogue with the country.
- **Management Action 5:** Review the Client's internal and external grievance mechanisms and how records related to the receipt and response to grievances are collected. Based on this, EBRD is currently agreeing reporting requirements with Türk Traktör for the AESR to the Bank. In particular, the Bank will review how workers, their representative organisations and the public are made aware of the grievance mechanisms and the process for raising concerns or comments
- **Management Action 6:** Assess the current AESR review process and, where necessary, develop internal capacity on timely response to review of AESRs and specific review of OHS statistics and functioning grievance mechanisms. Additional training may also be provided to Bank staff on adequacy of client reporting.
- **Management Action 7:** Update the Labour Assurance Framework and building staff capacity to apply the tools provided therein. This process includes preparation of a new guidance note on Freedom of Association, as well as a Labour Due Diligence and Monitoring toolkit. EBRD Management will also further seek to better ensure adequate labour expertise is employed for external due diligence in identified high risk sectors or geographies.
- **Management Action 8:** Provide guidance on differences between country level obligations and international commitments. As part of the toolkit implementation EBRD ESD specialists will receive refresher training on Performance Requirement 2 and its application during due diligence and monitoring, and using the guidance provided in the Assurance Framework.
- **Management Action 9:** There is no change in the Bank's responsibility with regard to communicating with Clients or in monitoring a project because of a pending PCM case. In the past, the PCM Office instructed Management not to communicate with Complainants during a PCM case without the PCM Office authorisation, so as to avoid any conflict of interest or perceived influence about the complaint. Management defer to the PCM Office with regard to this issue and if requested, will assist the PCM Office to develop formalised guidance on this issue. This should appear to be a PCM Guidance Note, not a Management one, and the PCM Office could decide to undertake a public consultation or disclose it, as they prefer. Management suggest that it is important that the guidance be seen as owned by the PCM, so that Complainants understand that they are telling Management what communication is possible. Management will work with the PCM Office in accordance with deadlines they establish.

In response to the PCM Expert's recommendations to undertake additional actions related to workers' dismissals, Management identified that "EBRD is not in a position to request individual worker records and personnel details, which are confidential. Management understands that 19 of the 20 workers dismissed in 2015 have pursued legal cases pending regarding the dismissals. The Bank cannot interfere with Turkish judicial process or take steps – directly or indirectly - that could prejudice the outcome. The judicial process will determine the outcomes for the 20 workers."

3 Monitoring Update

The Mechanism tracks progress on MAP implementation until it is determined that all Actions have been completed as agreed and monitoring is no longer needed, in accordance with the 2014 PCM Rules of Procedure.

This is the third and final monitoring report and follows up on the outstanding actions of the Second Monitoring Report dated December 2018.

3.1 Monitoring Activities undertaken during the period January 2019 – July 2020

The period covered by this report extends from January 2019 to July 2020 monitoring implementation of outstanding activities for Management Actions 4 and 5.

3.2 Monitoring Findings

During the monitoring period, specifically on a meeting held on 11 November 2019 with EBRD Management and the Complainants, the Bank informed PCM and the Complainants that the Client had fully repaid the loan on 14 June 2018 and from that date the Project was deemed complete by the Bank.

Bank Management's progress on the MAP implementation, accompanied by the IPAM's comments, are presented in **Table 1** below.

3.3 Table 1: Management Implementation Progress

| Management Action Plan Commitment approved by EBRD Board of Directors | EBRD Management Implementation Update | Status of Management Action Plan Commitment | IPAM Feedback |
|---|---|---|--|
| <p>Action 4 – Dismissals</p> <p>EBRD has reviewed the Client’s process for dismissals and clarified legal requirements in Turkish law, under the CBA, and the EBRD requirements on this issue. EBRD is currently in discussion with the Client to seek their agreement to implement additional measures, if not already done so. Projected Deadline: mid 2017.</p> <p>The Bank is commissioning an analysis on the differences between Turkish Law and the provisions of the aspects of ILO core Conventions. EBRD will discuss the issue with other IFIs and clarify the role of IFIs in situations where there may be gaps between ILO Conventions and national law. In general, where gaps are identified between core ILO Conventions and national law, these will be reflected in the normal EBRD/Country Strategy process and discussion held on the Bank’s potential policy dialogue with the country. Projected deadline: end 2017 for the analysis.</p> <p>Following the conclusion of the judicial hearings relating to the dismissals, EBRD will commission an independent review of the process against the provisions of the ILO Conventions and EBRD’s requirements.</p> <p>This will be completed in Q4 2017.</p> | <p>As reported in the Second Monitoring Report, EBRD engaged ILO Turkey to discuss the gaps in legislations and practices in Turkey on Freedom of Association and Collective Bargaining against ILO standards. It was understood that ILO Turkey has been implementing a “social dialogue” project funded by EU, which includes a detailed gap analysis between Turkish Legislation and practices against ILO standards. Instead of duplicating efforts, ILO agreed to share the findings with EBRD and other IFIs and disclose the results through a workshop. The Study was completed in January 2019 and publicly disclosed on the ILO website: Analysis of Legislative Gaps and Recommended Amendments for Better Compliance with ILO and EU Standards on Social Dialogue, Freedom of Association and Right to Collective Bargaining.</p> | <p>Incomplete with no further action</p> | <p>The Mechanism took note of the progress made on this action item during the current monitoring period. Mechanism reviewed the gap analysis in respect of Turkish law and ILO standards and updates from management on how the findings of the gap analysis will be reflected into the EBRD’s own policies.</p> <p>The Mechanism noted that EBRD Management did not commission an independent review of the workers’ dismissals against the provisions of the ILO Conventions and EBRD’s requirements.</p> |

| Management Action Plan Commitment approved by EBRD Board of Directors | EBRD Management Implementation Update | Status of Management Action Plan Commitment | IPAM Feedback |
|--|--|--|--|
| <p>Action 5 – Grievance Mechanisms</p> <p>EBRD has reviewed the Client’s internal and external grievance mechanisms and how records related to the receipt and response to grievances are collected. Based on this, EBRD is currently agreeing reporting requirements with Türk Traktör for the AESR to the Bank. In particular, the Bank will review how workers, their representative organisations and the public are made aware of the grievance mechanisms and the process for raising concerns or comments.</p> <p>Projected Deadline: mid 2017</p> | <p>Management reported to the Mechanism on their lack of monitoring relationship with Turk Traktor and the constraints to provide more recent supporting documentation with regards to the functioning of the Client’s grievance mechanisms.</p> | <p>Incomplete with no further action.</p> | <p>The Mechanism took note of the loan being fully repaid by Turk Traktor and understands that Management no longer has a relationship with the Client and cannot complete the action.</p> <p>Therefore, the Mechanism will close its monitoring of this action noting that no supporting information was received from Management to confirm the effectiveness of the Client grievance mechanism.</p> |

3.4 Conclusions

During this monitoring period, Management informed the Mechanism and the Complainants that on 14 June 2018 Turk Traktor had repaid the EBRD loan, effectively terminating its client relationship with EBRD Management on this Project. The two outstanding actions were not completed by Management before the repayment of the loan and is unable to complete them now. Therefore, IPAM will conclude monitoring this case, noting that upon closing of monitoring, two actions were not completed.

As a general recommendation, IPAM encourages EBRD Management to fulfil all Actions committed in a Board-approved Management Action Plan within the committed time framework. While IPAM acknowledges the change in the Client relationship following repayment of the loan on 14 June 2018, EBRD Management should have sought to finalise the remaining Management Actions, given the approval of the Management Action Plan by the EBRD Board of Directors on 11 April 2017. Moving forward, IPAM will continue to periodically monitor the status of an EBRD Project during the monitoring period to ensure all the committed Action items are effectively implemented in a timely manner.