



Project  
Complaint  
Mechanism

**DARIALI HPP PROJECT**

REQUEST NUMBER: 2014/05

**Compliance Review Monitoring Report I – October 2017**

The Project Complaint Mechanism (PCM) is the independent accountability mechanism of the EBRD. PCM provides an opportunity for an independent review of complaints from one or more individual(s) or organisation(s) concerning an EBRD project, which allegedly has caused, or is likely to cause harm. PCM may address Complaints 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 a dialogue between the Complainant and the Client to resolve the issue(s) underlying a Complaint without attributing blame or fault. Affected parties can request one or both of these functions.

For more information about PCM, contact us or visit [www.ebrd.com](http://www.ebrd.com).

## Contact information

Inquiries should be addressed to:

The Project Complaint Mechanism (PCM)  
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<http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism.html>

## How to submit a complaint to the PCM

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

<http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/submit-a-complaint.html>

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*NOTE: Unless otherwise defined, capitalised terms used in this Compliance Review Monitoring Report refer to terms as defined in the PCM Rules of Procedure.*

## Executive summary

This is the first Compliance Review Monitoring Report of the Project Complaint Mechanism (PCM) regarding the Complaint on the Dariali Hydropower Plant Project in Georgia. Following a review of the Bank's compliance with its 2008 Environmental and Social Policy (ESP), the Compliance Review Expert made two findings of non-compliance in respect of the grounds set out in the Complaint. The Compliance Review determined that the Bank did not fully comply with PR 1.9 and PR 1.5 of the ESP. EBRD Management subsequently prepared a Management Action Plan in response to the recommendations outlined in the Compliance Review Report.<sup>1</sup>

During this first monitoring period, the PCM Officer reviewed the update provided by EBRD Management on implementation of the Management Action Plan as well as related documentation. The PCM Officer also sought the Complainants' comments on implementation of the Management Action Plan.

The PCM Officer takes note of the actions undertaken by Management to fulfil the commitments outlined in the Management Action Plan, and considers all Actions under this Complaint completed.

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<sup>1</sup> The Complaints, Compliance Review Report and Management Action Plan are available on the [PCM Register](#).

## 1. Introduction

This Compliance Review Monitoring Report is prepared pursuant to paragraph 47 of the 2014 Project Complaint Mechanism (PCM) Rules of Procedure pursuant to a determination of non-compliance with a Relevant Policy; the PCM Officer is mandated to monitor the implementation of a Management Action Plan prepared in response to the findings and recommendations<sup>2</sup> contained in a Compliance Review Report. PCM monitors the implementation of Management Action Plans and prepares Monitoring Reports at least biannually or until the PCM Officer determines that monitoring is no longer needed. Monitoring Reports are submitted to the President and Board, and then published in the PCM Register on the EBRD website.

PCM reviewed a Complaint about the EBRD's Dariali Hydropower Plant Project in Georgia, completing the Compliance Review in April 2017. The Compliance Review Expert made two findings of non-compliance in respect of the grounds set out in the Complaint. The Compliance Review determined that the Bank failed to comply with PR 1.9 of the 2008 ESP inasmuch as the Environmental and Social Impact Assessment (ESIA) did not identify or assess the potential environmental and social impacts of independently existing geotechnical risks, including the risk of a landslide caused by an event other than the Project itself. Also, the Compliance Review determined that the Bank did not comply with PR 1.5 of the 2008 ESP because the ESIA did not include up-to-date data regarding Tergi river flow. The Compliance Review Report included recommendations to address the findings of non-compliance, in response to which EBRD Management prepared a Management Action Plan (available on the [PCM Register](#) on the EBRD website).

This is the first Compliance Review Monitoring Report regarding the Dariali Hydropower Plant Project.

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<sup>2</sup> Pursuant to the PCM Rules of Procedure a Compliance Review Report will include recommendations to:

- a. address the findings of non-compliance at the level of EBRD systems or procedures to avoid a recurrence of such or similar occurrences; and/or
- b. address the findings of non-compliance in the scope of implementation of the Project taking into account prior commitments by the Bank or the Client in relation to the Project; and
- c. monitor and report on the implementation of any recommended changes.

## 2. Context

The PCM received a Complaint on 22 November 2014 from “Green Alternative” and “Stepantsminda”, two organizations based in the Republic of Georgia. Each raised concerns regarding the Dariali Hydropower Plant, an EBRD financed project. The Complaint, registered on 8 December 2014 under the 2014 PCM Rules of Procedure, sought a Compliance Review. The Complaint alleged that the Bank failed to comply with the 2008 Environmental and Social Policy in the areas described below:

- Adequacy and quality of the ESIA, site selection, quality of additional studies, assessment of alternatives;
- Risks to Stepantsminda settlement;
- Project location within the boundaries of a national park, off-set selection and illegal construction; and
- Decision-making process, information disclosure and stakeholder engagement.

The PCM conducted an Eligibility Assessment of the Complaint based on the eligibility criteria in the PCM Rules of Procedure. The Eligibility Assessment Report for Compliance Review, released on 28 August 2015, concluded that the Complaint was eligible for a Compliance Review.

In September 2015, Neil Popovic was appointed as PCM Compliance Review Expert. The PCM Compliance Review included a review of public domain project information and EBRD internal documents. Meetings were held with EBRD environmental and social staff and the Complainants.

The PCM Expert found EBRD non-compliant in respect of two of the grounds set out in the Complaint. This Compliance Review determined that the Bank failed to comply with PR 1.9 and PR 1.5 of the 2008 Environmental and Social Policy (ESP). PCM made recommendations relating to EBRD systems and procedures and activities at the project level in relation to the ESP.

EBRD Management was requested to prepare a Management Action Plan, including a timetable and estimate of the human and financial resources required to implement the recommendations considered appropriate. The Management Action Plan included actions to address the recommendations at the level of EBRD systems and procedures as well as actions to address the recommendations connected with activities at the project level. The Complainants submitted comments on the Management Action Plan. The final Compliance Review Report and Complainants’ comments were submitted for information to the EBRD’s Board of Directors, along with the Management Action Plan which was submitted for acceptance. The Board accepted the Management Action Plan, and the Compliance Review Report, Management Action Plan and Complainants’ comments were publicly released on 7 April 2017.

### **3. Current monitoring period**

The PCM Officer reviewed an implementation update on the Management Action Plan regarding the Dariali Hydropower Plant for the period April - September 2017, which was provided by EBRD Management to the PCM in October 2017. The PCM Officer reviewed several specific documents provided by Management referenced in the implementation update, namely:

- updated Terms of Reference for ESIA's and Environmental and Social Due Diligence (ESDD)
- training materials to train EBRD staff on HPP projects, lessons learned, and scope of ESIA's
- guidance notes on PR 6 related to biodiversity
- documents disclosed by the Client on stakeholders meeting held in April 2017.

The PCM Officer also invited the Complainants to provide their comments regarding Management's implementation of the Management Action Plan, although no written comments were received during this monitoring period.

#### 4. PCM observations

In light of information received to date, and in accordance with the scope of the PCM Officer's monitoring role, the PCM Officer has made the observations regarding the implementation of the Actions of the Management Action Plan (MAP) concerning the Dariali Hydropower Plant.

In the discussion below the Compliance Review recommendations are provided, along with the related action item(s) drawn from the MAP. The PCM's comments are also provided.

In this first Monitoring Report, PCM took note of the actions taken by the Bank's Management including the training activities for the Bank staff on HPP projects, lessons learned, and scope of ESIA's. PCM also considered the updated versions of the ESIA and ESDD terms of reference and the guidance notes on PR 6 related to biodiversity. PCM reviewed the documents disclosed by the Client on the stakeholders meeting held in April 2017. PCM considers all Actions under this Complaint completed.

Action 1	Implementation update
Management agrees that the 2008 ESP text required more clarity, and believe that this has been already incorporated in the 2014 revision to the Environmental and Social Policy.	Action completed prior to MAP approval. ESD [Environment & Sustainability Department] recommends the PCM to close the item.
<p><b>PCM comments:</b> The action item has been completed. PCM considers no further monitoring is required.</p> <p>With regard to the clearer identification in the ESIA of external issues that might affect the project, Management will review the general ESIA terms of reference to elaborate on the need to assess and disclose potential external issues which will foreseeably be of relevance to the ESIA.</p>	<p>Action completed on time: EBRD management held two days of training for EBRD staff on HPP projects, lessons learned, and scope of ESIA's. In parallel, Terms of Reference for ESIA's and ESDD have been reviewed and updated where necessary and EBRD is now launching a TC for training external parties in the expectations for biodiversity assessments in ESIA's. ESD recommends the PCM to close the item.</p>
<p><b>PCM comments:</b> The action item has been completed. PCM considers no further monitoring is required.</p> <p>An information session for EBRD environmental and social staff will be held to discuss updated ESIA materials and to ensure documents contain sufficient information on foreseeable externalities. In addition, the information session will include a discussion on incorporation of relevant information from other EBRD work-stream (such as technical due diligence) into ESIA materials.</p>	<p>Action completed on time. As previous - ESD recommends the PCM to close the item.</p>
<p><b>PCM comments:</b> The action item has been completed. PCM considers no further monitoring is required.</p>	



## Action 2

## Implementation update

Management agrees that the 2008 ESP text required more clarity, and believe that this has been already incorporated in the 2014 revision to the Environmental and Social Policy.

Action completed prior to MAP approval. EBRD ESD recommends the PCM to close the item.

**PCM comments:** The action item has been completed. PCM considers no further monitoring is required.

As part of implementing the 2014 ESP, guidance notes have been prepared on specific biodiversity approaches, including baseline information. A separate [Guidance note on PR 6](#) has been prepared, and these notes are all available on the EBRD website.

Action completed prior to MAP approval. EBRD ESD recommends the PCM to close the item.

**PCM comments:** The action item has been completed. PCM considers no further monitoring is required.

## Action 3

## Implementation update

A public information meeting is scheduled for spring 2017 to coincide with commencement of HPP operations as part of the planned stakeholder engagement activities. Prior to this public consultation additional baseline information collected since the time of ESIA disclosure and a summary of the effectiveness of the mitigation measures will be disclosed. The Client has committed to ongoing disclosure of information relating to environmental flow; fish pass operation; and biodiversity data obtained.

EBRD has continued to closely monitor the implementation of the BAP and the disclosure of information which has now taken place. The [information meeting](#) was held successfully and was well attended, the records of which have been disclosed by the company. Monitoring is ongoing and the results of which will continue to be disclosed. The disclosure of information is an ongoing action item which will be monitored by EBRD. Due to a delay in the grid connection (not related to Dariali HPP activities) volume of water remaining are over and above the environmental flow minimum however, all measures are in place to monitor the EF release when full commissioning is achieved (expected Q1 2018). Action completed prior to MAP approval. ESD recommends the PCM to close the item.

**PCM comments:** The action item has been completed. PCM considers no further monitoring is required.

## **5. Conclusions and next steps**

The PCM Officer takes note of the actions undertaken by Management to fulfil the commitments outlined in the Management Action Plan, and considers all Actions under this Complaint completed and the Complaint closed.