

**EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT**

**PROJECT COMPLAINT MECHANISM  
COMPLIANCE REVIEW MONITORING REPORT II  
PARAVANI HYDROPOWER PROJECT, REQUEST NUMBER: 2012/01**

**March 2015<sup>1</sup>**

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<sup>1</sup> The report is prepared based on the update on the Management Action Plan received in January 2015.

## **Compliance Review Monitoring Report**

This Compliance Review (CR) Monitoring Report is prepared pursuant to article 44 of the PCM Rules of Procedure (2009<sup>2</sup>) (PCM RPs 2009), whereby the PCM Officer monitors the implementation of the recommendations of a CR Report following a finding of non-compliance.

PCM reviewed a Complaint about the EBRD's Paravani Hydropower (HPP) project in Georgia, completing the CR at the end of 2013. The CR Expert made a finding of non-compliance on three of the six elements of the Complaint, namely the Performance Requirements (PR) 1, 6 and 10 of the EBRD's Environmental and Social Policy 2008 (ESP). The CR<sup>3</sup> Report was posted on the PCM website on 1 January 2014.

The CR Report included recommendations to address the findings of non-compliance, in response to which the Bank's Management prepared a Management Action Plan<sup>4</sup> (MAP), in accordance with article 41 of the PCM RPs 2009. The MAP addressed whether the recommendations were appropriate and put forward a timetable and estimate of the human and financial resources required to implement the recommendations. The Complainant had an opportunity to comment on the MAP, in accordance with article 42 of the PCM RPs 2009, and the Complainant's comments<sup>5</sup>, were also publicly released on 1 January 2014.

PCM monitors the implementation of the recommendations of the CR Report and prepares CR Monitoring Reports at least biannually. This is the second CR Monitoring Report for the Paravani HPP project and is prepared based on the update on the Management Action Plan received from the Bank's Management in January 2015. The next Monitoring Report will be prepared around June 2015.

### **Summary of the Complaint**

PCM received a Complaint from the non-governmental organisation (NGO) Association Green Alternative, Georgia, concerning the Paravani HPP Project on 22 December 2011. The Complaint<sup>6</sup> was registered according to the PCM RPs 2009 on 4 January 2012.

The Eligibility Assessment found the Complaint eligible for a CR and the Eligibility Assessment Report<sup>7</sup> was publicly released and posted on the PCM website on 24 October 2012.

*Ad hoc* PCM Expert Glen Armstrong conducted the CR<sup>8</sup> making a finding of non-compliance in respect of three of the six elements of the Complaint. Two of these elements relate to the issue of biodiversity, in particular PRs 1 (Environmental and Social Appraisal and Management) and 6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources), the third element is in relation to PR 10 (Information Disclosure and Stakeholder Engagement) of the ESP. The CR Report was publicly released and posted on the PCM website on 1 January 2014.

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<sup>2</sup> The Complaint was registered, reviewed and will continue to be processed in accordance with the PCM RPs approved in 2009.

<sup>3</sup> [www.ebrd.com/downloads/integrity/Paravani\\_CRR.pdf](http://www.ebrd.com/downloads/integrity/Paravani_CRR.pdf)

<sup>4</sup> [www.ebrd.com/downloads/integrity/Paravani\\_MAP.pdf](http://www.ebrd.com/downloads/integrity/Paravani_MAP.pdf)

<sup>5</sup> [www.ebrd.com/downloads/integrity/Paravani\\_comments\\_on\\_MAP.pdf](http://www.ebrd.com/downloads/integrity/Paravani_comments_on_MAP.pdf)

<sup>6</sup> [www.ebrd.com/downloads/integrity/paravani\\_complaint\\_22.12.2011.pdf](http://www.ebrd.com/downloads/integrity/paravani_complaint_22.12.2011.pdf)

<sup>7</sup> [www.ebrd.com/downloads/integrity/ear\\_paravani.pdf](http://www.ebrd.com/downloads/integrity/ear_paravani.pdf)

<sup>8</sup> [www.ebrd.com/downloads/integrity/Paravani\\_CRR.pdf](http://www.ebrd.com/downloads/integrity/Paravani_CRR.pdf)

## **CR recommendations**

Pursuant to article 40 of the PCM RPs (2009), the CR Report included 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 account of 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.

### **Update by the EBRD Management and implementation status - summary**

Implementation of six PCM Recommendations was assessed by the PCM Officer for this Monitoring Report.

- I. The following documents were/are being prepared/updated following the adoption of the new Environmental and Social Policy in 2014:
  - Revised Environmental and Social Procedures – pending review by the Bank’s senior Management.
  - Standard Terms of Reference (ToR) for Environmental and Social Impact Assessments (ESIA) which include detailed description of the scoping process to identify the key environmental and social issues to be fully investigated in the ESIA.
  - A Guidance Note for PR6 of the ESP – currently being finalised with an independent consultant.
  - Standard ToR for ESIA which include a specific task to identify, review and take into consideration any relevant strategic level assessment documentation.
  - As regards the PCM recommendations in the scope of this specific project, new Stakeholder Engagement Plan (SEP) covering the project’s operation period – a working draft in the process of being finalised (as of January 2015).

*The PCM Officer requested/will request from the Management the above listed documents and will review them in preparation of the next Monitoring Report. If no further questions and/or comments arise, these items of the monitoring will be closed.*

- II. The Management states that in 2014, a number of stakeholder engagement activities were carried out by the Client. In particular, the Management points out that the birds and aquatic biodiversity monitoring plans were disclosed on Paravani HPP website, and in July 2014 a presentation was made to representatives of Khertvisi on the results of a flood risk assessment.

*These issues have been raised by the Complainant in the Complaint and in providing update to the PCM in preparation of the previous Monitoring Report. The PCM Officer will continue monitoring the implementation of this recommendation and will seek Complainant’s comments before concluding the next Monitoring Report.*

- III. The Management decided that from January 2015, all new ESIA’s will be in one of the EBRD official working languages: English, Russian, French, or German, in addition to the disclosure by the Client in the relevant local language(s). A guidance note for preparing Stakeholder Engagement Plans (SEPs) was updated to include requirements for translation of ESIA documents into a relevant international language for international stakeholders, as defined in the SEP.

*The PCM commends this introduction. The change not only acknowledges the Expert's recommendation regarding Bank's own assessment of the ESIA by insuring that all ESIA's are available in one of the Bank's working languages and therefore accessible for the Bank's staff responsible for the assessment and oversight, but also addresses the issue of the access of international stakeholders to ESIA's and their meaningful participation in the consultation process.*

The Management's update is presented in the table below, which also includes PCM's comments on the status of implementation.

**Update by the EBRD Management and implementation status**

**PCM Recommendation 1**

**“It is recommended that EBRD issue specific guidance to its specialist E&S staff and to investment staff on the requirements of the Initial Environmental and Social Examination (IESE). This examination must (i) Identify the key E&S issues which must be fully investigated (through appropriate baseline and predictive studies) as part of the ESIA in advance of the board decision to invest in principle, and (ii) Adequately convey these requirements to the project sponsors such that they can be integrated into the project timeline, stakeholders engagement planning and reporting.”**

**Management Response**

Management proposes that these recommendations will be accommodated by amending and clarifying the existing guidance for preparing the Environmental and Social Due Diligence (ESDD) Plans for projects requiring an Environmental and Social Impact Assessment (ESIA), as appropriate. Management notes that the Bank’s ESIA requirements already include a scoping stage to be undertaken at an early stage of the ESIA process to identify, in consultation with key stakeholders, as appropriate, all the potential impacts and issues, which must be investigated as part of the ESIA. For projects which have already been subject to a local environmental assessment and public consultation, the Bank commissions a Gap-analysis of existing documentation against the Bank’s requirements at the initial stages of the ESIA process to identify additional investigations required to meet the Bank’s ESIA requirements and prepare Terms of Reference for the supplementary studies.

Management notes that the IESE is used when insufficient information is available at the time of categorisation to determine the appropriate category and scope of due diligence and, therefore, the Management’s believes the proposal above would be a more appropriate way to implement these recommendations.

**Resources/Timetable**

No additional resources needed. Environmental and Social Procedures and guidance for preparing ESDD Plans for ESIA’s will be revised in 2014, following Board approval of the revised ESP.

**Management’s Progress Report - July 2014**

The revised Environmental and Social Policy was approved by the EBRD Board of Directors on 7 May 2014. Supporting documents, such as procedures and guidance notes are now being planned. E&S Procedures and internal guidance will be prepared before EBRD 2014 ESP becomes operational on 7 November 2014.

**Management’s Progress Report - January 2015**

The revised and updated Environmental and Social Procedures are pending management review and will be finalised in 2Q 2015. Following approval, they will be posted on the EBRD website. Standard Terms of Reference for Environmental and Social Impact Assessment have been prepared, which include detailed description of the scoping process to identify the key E&S issues to be fully investigated in the ESIA. Draft ESIA documents are disclosed by the client and EBRD for public review and comment a minimum of 60 calendar days prior to consideration of the project by the Board of Directors for private sector projects and 120 calendar days prior to Board consideration for public sector projects.

**PCM comments on implementation - March 2015**

**The PCM requested the revised Environmental and Social Procedures and the Standard Terms of Reference for Environmental and Social Impact Assessment from the Management, once finalised. These documents will be reviewed before the next Monitoring Report and, if no further questions and/or comments arise, this item of the monitoring will be closed.**

### **PCM Recommendation 2**

**“PCM recommends that EBRD issue legally derived advice (potentially integrated into the next version of the ESP) on how the relevant EU directives are interpreted for the purposes of undertaking biodiversity assessments under performance requirement 6 of the ESP. Whilst EU legislation of course changes, most of the relevant directives have been in place for many years and the underlying principles have not changed. In any case the ESP has a finite life (say 5 years) and the advice within it could be applicable for that period and then revised according to any changes in EU requirements.”**

### **Management Response**

Management proposes to clarify the role of the Bank in relation to the EU Directives in the next version of the ESP and PR6.

### **Resources/Timetable**

No additional resources needed. ESP and PR 6 will be reviewed and revised as appropriate during the ongoing review of ESP.

### **Management’s Progress Report - July 2014**

The revised Environmental and Social Policy was approved by the EBRD Board of Directors on 7 May 2014. The text on EU requirements and the role of the Bank is found in article 7 and footnote 6 of the ESP. In addition, a guidance note for PR6 will be prepared with the help of independent biodiversity experts. The ToR has been prepared and they address this recommendation and will provide guidance on biodiversity assessment that is to be carried out in accordance with EU Habitat Directive and associated guidance when a project could have a significant impact on the conservation objectives or integrity of a protected area comparable to a Natura 2000 site. The guidance note is expected to be completed by the year end.

### **Management’s Progress Report - January 2015**

A guidance note for the PR6 is currently being finalised with an independent consultant. It will clarify how the relevant EU directives are interpreted for the purposes of undertaking biodiversity assessments under PR 6 and provide guidance on biodiversity assessment that is to be carried out in accordance with EU Habitat Directive and associated guidance when a project could have a significant impact on the conservation objectives or integrity of a protected area comparable to a Natura 2000 site. The GN will be rolled out in the first half of 2015 to Bank staff and our clients. This will be accompanied by internal training for ESD. The final GN will be disclosed on the EBRD website.

### **PCM comments on implementation - March 2015**

**The PCM will request the Guidance Note for PR 6 from the Management. It will be reviewed before the next Monitoring Report and, if no further questions and/or comments arise, this item of the monitoring will be closed.**

### **PCM Recommendation 3**

“PCM recommends that EBRD review this issue [that is, whether certain characteristics of the Paravani project should have triggered a strategic assessment] and prepare guidance on how the strategic context of the project should be assessed at the IESE stage and under what circumstances the ‘exceptional’ requirement for additional strategic studies would be triggered. EBRD should also advise on how existing strategic analysis should be integrated into documents disclosed as part of the project preparation process. Guidance should also be provided on the scope of analysis required within ESIA documentation on the analysis of project alternatives.”

### **Management Response**

Management notes that the current Environmental and Social Policy (ESP) does not place any obligation to EBRD or its clients to undertake strategic assessments. Strategic (environmental) assessments are undertaken of policies, plans or programmes and are, therefore, a tool for national or regional authorities. The Bank may through its policy dialogue with such authorities support preparation of strategic assessments where they support the Environmental and Social Appraisal of the Bank's projects, especially when there is a significant concern for the potential cumulative impacts of a number of similar projects in the same geographical area. The Bank also takes into consideration existing strategic assessments, when available, in its project-specific Environmental and Social Appraisal.

Management notes that Paravani HPP project was part of a strategic hydropower sector review of Georgia led by the World Bank that was completed before the project development started and its findings were taken into consideration in the Bank's due diligence of the project.

Management proposes to clarify in its internal guidance the ways in which strategic assessments are taken into consideration in the Bank's project-specific Environmental and Social Appraisal.

### **Resources/Timetable**

No additional resources needed. Internal operational procedures and guidance will be refined in 2014, following Board approval of the revised ESP.

### **Management's Progress Report - July 2014**

Internal guidance will be prepared prior to 7 November 2014.

### **Management's Progress Report - January 2015**

Standard Terms of Reference for Environmental and Social Impact Assessment have been prepared, which include a specific task to identify, review and take into consideration any relevant strategic level assessment documentation.

### **PCM comments on implementation - March 2015**

**The PCM requested the Standard Terms of Reference for Environmental and Social Impact Assessment from the Management. These documents will be reviewed before the next Monitoring Report and, if no further questions and/or comments arise, this item of the monitoring will be closed.**

### **PCM Recommendation 4**

**"PCM recommends that in its review of the ESP EBRD integrate a requirement to this effect [that is, ESIA for "Category A and other projects which may have significant environmental and social impacts" should be "... available in an internationally accessible language"] and consider whether when it believes that such a requirement would be too great a financial burden to place on the project sponsor that it undertakes the translation itself and discloses it as part of its transition role.**

### **Management Response**

Management notes that the provision of an ESIA in English is neither a requirement of the 2008 ESP or the PIP. The ESP/PR10 requires the Bank's clients to prepare a Stakeholder Engagement Plan (SEP) to identify who is affected or interested in a project and how communication will work. The SEP should also determine in what language documents will be prepared and disclosed for public comment.

Management proposes to review the guidance for SEPs to make sure it specifically advises clients to document language choices in accordance with the needs of affected stakeholders. Management proposes to review this recommendation during the Policy review, and include it in the Client Survey and in discussions with civil society.

## Resources/Timetable

No additional resources needed. Guidance for preparing Stakeholder Engagement Plans will be reviewed and amended, as appropriate, in 2014, following Board approval of the revised ESP.

## Management's Progress Report - July 2014

The Bank is currently updating its guidance notes following approval of the new ESP and this issue will be incorporated in both the internal and external guidance on Category A disclosure and Stakeholder Engagement Plans. The revision of the ESP and PIP has led to a commitment of the Bank to release more information on environmental and social issues. After 7 November, the Project Summary Documents of new Category A projects will be updated annually on the EBRD website.

With regards to the project, the Stakeholder Engagement Plan (SEP) that was initially prepared for the Project mainly covered the construction phase. Construction is expected to end this year, with the first commissioning tests being carried during the summer period. GUE has been required to prepare an updated version of the SEP, covering the operation period. The draft version of the revised SEP will be reviewed by ESD. Particular attention will be paid to the appropriate disclosure of specific information of interest for the CSOs and the affected communities. This guidance will be prepared before EBRD 2014 ESP becomes operational on 7 November 2014.

## Management's Progress Report - January 2015

The Management decided that from January 2015, all new ESIA's will be in one of the EBRD official working languages: English, Russian, French, or German, in addition to the disclosure by the Client in the relevant local language(s). A guidance note for preparing Stakeholder Engagement Plans was updated to include requirements for translation of ESIA documents into a relevant international language for international stakeholders, as defined in the SEP.

## PCM comments on implementation - March 2015

**The PCM commends this introduction. The change not only acknowledges the Expert's recommendation regarding Bank's own assessment of the ESIA by insuring that all ESIA's are available in one of the Bank's working languages and therefore accessible for the Bank's staff responsible for the assessment and oversight, but also addresses the issue of the access of international stakeholders to ESIA's and their meaningful participation in the consultation process.**

**The PCM requested the Guidance Note from the management. It will be reviewed before the next Monitoring Report and, if no further questions and/or comments arise, this item of the monitoring will be closed.**

## PCM Recommendation 5

**"This [requiring ESIA's to be in English] would also enable consideration of the documents by EBRD staff not speaking Georgian. Where ESIA documents are prepared in a language which cannot be reviewed by the relevant EBRD staff PCM recommends that EBRD commission an independent consultant to review the documents against EBRD requirements and that EBRD disclose this report."**

## Management Response

Management proposes to review this recommendation for all ESIA's to also be in the Working Language of the Bank during the ESP review and include it in the associated Client Survey. The review of the extent of information to be translated into an EBRD Working Language will take into consideration the ESP commitment that EBRD's social and environmental appraisal will be appropriate to the nature and scale of the project, and commensurate with the level of its environmental and social risks and impacts.



**Resources/Timetable**

No additional resources needed. ESIA language requirements will be reviewed and amended as part of the ongoing review of ESP.

**Management's Progress Report - June 2014**

This issue is still being reviewed and a decision will be taken prior to the 2014 policy going into force in November.

**Management's Progress Report - January 2015**

The Management decided that from January 2015, all new ESIA's will be in one of the EBRD official working languages: English, Russian, French, or German, in addition to the disclosure by the Client in the relevant local language(s). A guidance note for preparing Stakeholder Engagement Plans was updated to include requirements for translation of ESIA documents into a relevant international language for international stakeholders, as defined in the SEP.

**PCM comments on implementation - March 2015**

**The PCM commends this introduction. The change will address the issue of Bank's own assessment of the ESIA by insuring that all ESIA's are available in one of the Bank's working languages and therefore accessible for the relevant EBRD staff.**

**The PCM requested the Guidance Note from the management. It will be reviewed before the next Monitoring Report and, if no further questions and/or comments arise, this item of the monitoring will be closed.**

**PCM Recommendation 6**

**"PCM recommends that in addition to effectively monitoring implementation of the Environmental and Social Action Plan EBRD should work with GUE to prepare and disclose a comprehensive annual report which updates the ESIA/ESAP on which consultation can take place and which can inform future HPP developments within Georgia. At a generic level, EBRD should also consider as part of its policy review, how important elements of the environmental and social appraisal which are undertaken after disclosure of the ESIA are made available publicly as they form an important element of third party review of EBRD projects."**

**Management Response**

ESP/PR10 requires GUP to keep the ESIA in the public domain throughout the life of the project, and amend it, from time to time, with additional relevant information. GUP is also required to disclose relevant project performance and information to public periodically as well as maintain a constructive relationship with stakeholders on an ongoing basis through meaningful engagement during project implementation. GUP has identified the information to be released to public and the frequency of such disclosure in the Stakeholder Engagement Plan for the project.

Management proposes that the Bank will discuss with GUE to agree the specific information to be disclosed to address the issues raised by the CSOs and affected communities.

Management notes that the ongoing reviews of ESP and Public Information Policy include reviewing disclosure requirements by clients and by the Bank.

**Resources/Timetable**

No additional resources needed. Current client obligation in the financing agreements, which is being monitored by Bank staff. The Bank staff will review the client's disclosure plans and agree with the client specific information to be disclosed. Disclosure requirements will be reviewed and amended as part of the ongoing review of ESP.

### **Management's Progress Report – July 2014**

The Stakeholder Engagement Plan (SEP) that was initially prepared for the Project mainly covered the construction phase. Construction is expected to end this year, with the first commissioning tests being carried during the summer period. GUE has been required to prepare an updated version of the SEP, covering the operation period. The draft version of the revised SEP will be reviewed by ESD. Particular attention will be paid to the appropriate disclosure of specific information of interest for the CSOs and the affected communities.

The revision of the ESP and PIP has led to a commitment of the Bank to release more information on environmental and social issues. After 7 November, the Project Summary Documents of new Category A projects will be updated annually on the EBRD website.

### **Management's Progress Report - January 2015**

The actions described in the Management Response are being implemented. A new Stakeholder Engagement Plan (SEP) covering the operation period is being finalised (as of January 2015, it is a working draft). In 2014, a number of engagement activities were carried out by GUE, spontaneously or after workshops were held with EBRD on Good International Practices in the hydropower sector. This includes for example (i) Paravani HPP website was revamped and now includes numerous information on the social activities carried out by GUE with and for the local population, (ii) the birds and aquatic biodiversity monitoring plans were disclosed on Paravani HPP website and the subsequent monitoring reports will be disclosed in 2015, (iii) in July 2014, a presentation was made to representatives of Khertvisi on the results of a flood risk assessment that demonstrates the absence of significant additional flood risk generated by the HPP operation (the assessment was carried out after a local NGO had claimed that the HPP would generate flood risks), and (iv) GUE has installed numerous signs at critical locations to warn people about local dangerous areas (for example at the intake).

### **PCM comments on implementation - March 2015**

**The PCM requested the draft Stakeholder Engagement Plan.**

**The PCM will continue monitoring this item. The PCM will seek Complainants' comments, in particular regarding points (ii) and (iii) before concluding the next monitoring report.**