



Project
Complaint
Mechanism

Paravani Hydropower Project

REQUEST NUMBER: 2012/01

Compliance Review Monitoring Report V – November 2016

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.

Contact information

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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>

Contents

Executive summary 1

1. Introduction 2

2. Context 3

3. Current monitoring period..... 4

4. PCM observations..... 5

5. Conclusions and next steps 8

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 fifth Compliance Review (CR) Monitoring Report of the Project Complaint Mechanism (PCM) regarding the Complaint on Paravani Hydropower Project. Following a review of the Bank's compliance with its 2008 Environmental and Social Policy, the PCM Compliance Review Expert determined a finding of non-compliance on three of the six elements of the Complaint, namely Performance Requirements (PRs) 1, 6 and 10 of EBRD's 2008 Environmental and Social Policy (ESP). EBRD Management subsequently prepared a Management Action Plan in response to the recommendations outlined in the Compliance Review Report.¹

During this fifth monitoring period, the PCM Officer reviewed the update provided by EBRD Management on implementation of the Management Action Plan as well as related documentation. PCM has met with the ESD team and discussed updates on the report and has also received comments from the Complainant that are integrated in the report below.

The PCM Officer takes note of the actions undertaken by Management to fulfil the commitments outlined in the Management Action Plan, and considers Actions 1, 2, 3, 4 and 5 have been completed. The only open Action is 6 and the next monitoring report is expected to be issued in February-March 2017.

¹ 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 the 2009 PCM Rules of Procedure² whereby, pursuant to a finding of non-compliance, the PCM Officer is mandated to monitor the implementation of the recommendations³ of a Compliance Review Report subject to the timetable and estimate of human and financial resources as set in the Management Action Plan. PCM monitors the implementation of recommendations of Compliance Review Reports, and prepares Monitoring Reports at least biannually or until the PCM Officer determines that the implementation issues are concluded. 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 Paravani HPP Project in Georgia, completing the Compliance Review at the end of 2013. The Compliance Review Expert made a finding of non-compliance on three of the six elements of the Complaint, namely Performance Requirements (PRs) 1, 6 and 10 of EBRD's 2008 Environmental and Social Policy (ESP). 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 fifth Compliance Review Monitoring Report regarding the EBRD's Paravani Hydro Power Project.

² The Complaint was registered, reviewed and will continue to be processed in accordance with the 2009 PCM Rules of Procedure.

³ 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 December 22nd 2011 from Green Alternative, Georgia relating to the EBRD investment in the Paravani Hydropower Plant, Georgia. The Complainant alleged that the Project has failed to comply with the EBRD's 2008 Environmental and Social Policy on a total of six grounds.

Firstly this related to potential impacts on the Paravani River ecosystem downstream of the weir due to the alleged selection of an inappropriate flow regime in the absence of validated baseline data. Secondly it alleged that potential impacts of the transmission line on migratory birds of conservation importance have been inadequately addressed. The third element of the complaint related to whether the potential for flooding in Khertvisi Village had been adequately addressed as part of the ESIA process. With the water from the Paravani River being discharged 1.5km upstream of the natural confluence, river levels would be raised. The fourth element of the complaint alleged that the local population was unreasonably denied access to pastures during project construction. The fifth element of the complaint related to whether alternative renewable energy options should have been more extensively assessed. The sixth element of the complaint related to whether the project ESIA documentation should have been disclosed in English as well as in Georgian.

The PCM commissioned an eligibility assessment of the complaint and based on the eligibility criteria in the rules of procedure the assessors. Susan Wildau jointly with the PCM officer declared the Complaint eligible for a compliance review. In October 2012, Glen Armstrong was appointed as the PCM compliance expert. The PCM review has included a review of public domain project information and EBRD internal documents. A partial translation of the Georgian ESIA was also undertaken. Meetings were held with EBRD environmental and social and investment staff. Meetings were also held with the complainant and the project sponsor and their consultants in Tbilisi and a comprehensive site visit was undertaken during the Compliance Review process.

PCM has therefore found EBRD non-compliant with its Environmental and Social Policy on three of the six elements of the complaint. Two of these elements relate to the issue of biodiversity. PCM has therefore found EBRD non-compliant with Performance Requirements 1, 6 and 10 with respect to the Paravani project. PCM has made recommendations relating to policy and procedural clarifications and improvements that could be made to address underlying weaknesses which have resulted in these specific non-compliances.

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 1 January 2014.

3. Current monitoring period

The PCM Officer reviewed an implementation update on the Management Action Plan regarding the Paravani Hydropower Project for the February 2016-July 2016 which was provided by EBRD Management to the PCM in September 2016. Under the current monitoring period, the Management highlights that the Guidance Note on EBRD Performance Requirement 6, relating to Biodiversity Conservation and Sustainable Management of Living Natural Resources has been publicly disclosed by EBRD. The PCM office has also reviewed the annual aquatic biodiversity monitoring report and other relevant information disclosed by the Client on its website.

Documents reviewed by the PCM provided by Management referenced in the implementation update, namely:

- PR6 Guidance note <http://www.ebrd.com/environment/pdf-guidance-note-ebrd-performance-requirement-6.pdf>
- First annual aquatic biodiversity monitoring report disclosed by the Client: <http://www.paravanihpp.ge/reports.html>
- Regular updates disclosed by the Client on its website: <http://www.paravanihpp.ge/index.html>

PCM has also had a meeting with the ESD Specialist assigned to the Paravani HPP Project, who clarified that the objective of Management's response to recommendation 6 in the CR Report was to ensure increased access of environmental and social information related to Paravani HPP to the public. ESD is working with the Client to ensure the disclosure of environmental and social data that is being produced in the context of the Project. According to the Specialist, the Client has understood the need for such disclosure and has acted accordingly – birds mortality monitoring reports and ecological water flow reports are continuing to be publicly disclosed on the Client's website. The Client is also providing regular updates on the Project's website on social matters, and to communicate the social actions they take.

The PCM Officer also invited Complainants to provide their comments regarding Management's implementation of the Management Action Plan. The Complainant has requested that the Bank Management discloses the flooding risk assessment and present it to all interested stakeholders. Besides that, the Complainant has requested that the Bank Management explains what mitigation measures are determined in the project in order to avoid eventual flooding in Khertvisi Village, besides the fact that the locals would be informed by Turkish authorities when such floods occur. Finally, the Complainant urges that the Bank insures the Client to disclose all materials related to the project including environmental flows, monitoring reports of the river ecosystem and following mitigation measures, monitoring reports of bird mortality and flooding risks assessment organizes public hearing meeting and ensures involvement of all interested stakeholders including NGOs.

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 a number of observations regarding implementation of the Management Action Plan (MAP) regarding the Paravani Hydropower Project.

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.

The Compliance Review Expert made a series of recommendations concerning the 2008 Environmental and Social Policy and related procedures. EBRD Management committed to undertaking a number of actions in the MAP to address the recommendations considered appropriate.

MAP actions 1, 3, 4 and 5 were completed in previous update reports, with the exception of Actions 2 and 6. In this fifth MAP update report, with the disclosure by EBRD of the two additional Guidance Notes, PCM considers that Actions 2 do not require further monitoring.

PCM Recommendation 1

Implementation update

"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."

The revised and updated Environmental and Social Procedures were approved on 10 July 2015 and were posted on the EBRD website. Together with the Standard Terms of Reference for Environmental and Social Impact Assessment included in the Assurance Framework, this recommendation has been addressed and Management requested this item be closed.

PCM comments

PCM determined in September 2015 that no further monitoring of this item will be necessary.

PCM Recommendation 2

Implementation update

"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."

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. Two guidance notes on biodiversity were finalised in June 2015 by the MFI Working Group on Biodiversity in which EBRD participated, playing a leading role on the guidance on baseline information. These guidance notes have been posted on the EBRD website.

- Good Practice Guidelines on the Collection of Biodiversity Baseline Data
<http://www.ebrd.com/cs/Satellite?c=Content&cid=1395245538876&pagename=EBRD%2FContent%2FDownloadDocument>
- Good Practices for Biodiversity Inclusive Impact Assessment and Management Planning
<http://www.ebrd.com/cs/Satellite?c=Content&cid=1395245539075&pagename=EBRD%2FContent%2FDownloadDocument>

- [tent%2FDownloadDocument](#)
A guidance note for PR6 was prepared with the help of independent biodiversity experts, piloted, and posted on the EBRD website in 2016. <http://www.ebrd.com/environment/pdf-guidance-note-ebrd-performance-requirement-6.pdf>

Management requested this item be closed.

PCM comments

PCM notes the disclosure of the two guidance notes on biodiversity and the guidance note on PR 6. PCM considers that no further monitoring of this item will be necessary and this action is being closed.

PCM Recommendation 3

Implementation update

“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.”

Standard Terms of Reference for Environmental and Social Impact Assessment were agreed in January 2015, which included a specific task to identify, review and take into consideration any relevant strategic level assessment documentation. Management requested that this item be closed.

PCM comments

PCM determined in September 2015 that no further monitoring of this item would be necessary.

PCM Recommendation 4

Implementation update

“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. This 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.

In January 2015, Management expanded the list of languages of ESIA to include one of the four official EBRD languages: English, Russian, French or German, in addition to the disclosure by the Client in the relevant local language(s). Management requested that this item be closed.

PCM comments

PCM determined in September 2015 that no further monitoring of this item would be necessary.

PCM Recommendation 5

Implementation update

“This [requiring ESIA 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.”

In January 2015, Management expanded the list of languages of ESIA to include one of the four official EBRD 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. Management requested that this item be closed.

PCM comments PCM determined in September 2015 that no further monitoring of this item would be necessary.

PCM Recommendation 6

Implementation update

“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.”

The Bank has worked closely with GUE to improve disclosure and transparency.

- Disclosure of birds monitoring reports and of ecological flow data: <http://www.paravanihpp.com/reports.html>
- Disclosure of regular updates on GUE website: <http://www.paravanihpp.com/gallery.html>

Management requests that this item be closed.

PCM comments

The PCM takes note of the information provided by ESD regarding the on-going efforts of the Client to increase public disclosure of environmental and social information related to the Paravani HPP. In considering the Complainants suggestion for wider disclosure, the PCM will continue to monitor this item for another monitoring cycle to allow for the Bank to consider the Complainant’s request for additional measures to enhance disclosure.

5. Conclusions and next steps

The PCM Officer has determined that Actions 1, 3, 4 and 5 have been completed under previous monitoring reports. In this fifth MAP update report, the Bank Management has reported on efforts undertaken by the bank in relation with Action 2 and is closing Action 2 as well. Action 6 is going to be under monitoring until the next monitoring period in February-March 2017.