



Project
Complaint
Mechanism

COMPLAINT: GrCF - Banja Luka District Heating

REQUEST NUMBER: 2018/07

ELIGIBILITY ASSESSMENT REPORT – August 2018

The Project Complaint Mechanism (PCM) is the 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>

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Unless otherwise indicated capitalised terms used in this report are those as set forth in the PCM Rules of Procedure.

EXECUTIVE SUMMARY

The Project Complaint Mechanism (PCM) received a Complaint in relation to the EBRD's GrCF - Banja Luka District Heating Project (the Project). The Complaint was submitted by two individuals, residents of Banja Luka who requested their identities be kept confidential. The Complainants alleged non-compliance with the Bank's 2014 Environmental and Social Policy (ESP) and requested a Compliance Review be undertaken by the PCM. In particular, the Complainants alleged environmental harm and health impacts due to poor quality of heating boilers and filters used in the Project. Importantly, the Complainants focused their Complaint primarily on allegations of misuse of EBRD loan proceeds. However, the PCM does not have a mandate to consider such allegations.

The PCM Eligibility Assessors have found that the Complaint does not satisfy the eligibility criteria as set out in the PCM Rules of Procedure for a Problem-solving Initiative or for a Compliance Review.

I. BACKGROUND

1. On 6 May 2018 the PCM received a Complaint regarding the EBRD's GrCF - Banja Luka District Heating Project in Bosnia and Herzegovina. The Complaint was submitted by two individuals, residents of Banja Luka, who requested that their identities be kept confidential. A Compliance Review is sought by the Complainants.
2. The PCM Officer registered the Complaint on 17 May 2018 in accordance with paragraphs 11-13 of the PCM Rules of Procedure (PCM RPs). The Complaint was subsequently posted on the PCM Register pursuant to paragraph 20 of the PCM RPs.
3. On 23 May 2018 Mr Victor Thorpe was appointed as Eligibility Assessor to conduct the Eligibility Assessment jointly with the PCM Officer, in accordance with paragraph 22 of the PCM RPs.
4. In summary, the Complainants raised the following concerns in relation to the Project:
 - Harm to the environment and impact on people's health due to poor quality of heating boilers and filters used by the Company in charge of providing heating services in the city of Banja Luka;
 - Allegations that EBRD loan proceeds were not used for the intended purposes;¹
 - Issues around inadequacy of staff retrenchment activities that were not part of the Complaint, but were raised with the PCM in a separate communication.²
5. As stated in the Project Summary Document, the objectives of the EBRD Project are to convert from expensive and polluting heavy fuel oil to a cheaper and less polluting locally available wood biomass; and, to introduce private sector expertise and efficiency in district heating services and to commercialize financial operations through application of cost recovery tariffs.
6. The Project Summary Document further describes that an unsecured loan of EUR 8.347 million was awarded to the City of Banja Luka, "which will be used to finance the Banja Luka City's equity stake in a newly created district heating Company and the initial purchase of biomass". The total Project cost is stated as EUR 18,568,000.00 consisting of capital expenditures (EUR 16.4 million (new biomass boiler plant and connection to the existing district heating network)), working capital (EUR 1.8 million (initial purchase of wood biomass)), and technical cooperation (EUR 0.3 (preparation of the Green City Action Plan)).
7. The transition impact of the Project is described as follows:
 - Green: By preparation of new investments to be identified under the GCAP and through reduction of air pollution and reduction of greenhouse gases emissions.
 - Well-governed: By preparation of comprehensive GCAP, entering into PSC between the City and the Company, introduction of a new tariff system, cost reduction through conversion to cheaper fuel and introduction of private sector participation through majority ownership in the newly created Company.

¹ Complaint 2018/07, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and annexed to this report.

² Complainants communication to the PCM, dated 19 February 2018

II. STEPS TAKEN IN THE ELIGIBILITY ASSESSMENT

8. The Eligibility Assessors have undertaken a general examination of the Complaint, as well as additional information provided by the Complainants, EBRD Management and the Client, to determine if the eligibility criteria set out in the PCM RPs are satisfied.
9. A site visit was not considered necessary for the purposes of this Eligibility Assessment as the Assessors deemed it sufficient and adequate to determine eligibility primarily through a document-based review.
10. PCM has held multiple meetings and written communications with the Complainants, Bank staff and the Client since receipt of the first communication from the Complainants, and then after registration of the Complaint and during Eligibility Assessment (May – July 2018).

III. SUMMARY OF THE RELEVANT PARTIES' VIEWS

1. Complainants

11. The Complaint and supporting documents provided by the Complainants describe the alleged harm caused by the EBRD Project as follows:
 - *[...] The loan was not spent for the intended purpose. Rather, it was partly used to plug holes in the budget of the City. Building of Eko Toplana was financed mainly by the funds of the City, and partly by the loan funds.*
 - *Documents presented at a meeting of the Banja Luka City Assembly include statements that woodchips for heating would be procured locally (within the entity of the Republic of Srpska). However, woodchips of questionable quality were imported from Croatia.*
 - *Moreover, poor quality of boilers and filters and inadequate woodchips jeopardise the health of the citizens of Banja Luka, because smoke from the chimney includes particles which are carcinogenic and toxic, and create dust which is visible to the naked eye in a wider area surrounding Eko Toplana (covering a diameter of 2 km). Furthermore, the citizens living in the neighbourhoods around Eko Toplana are complaining of dirt in their balconies, yards and in the cemetery in the immediate vicinity of Eko Toplana. Eko Toplana is polluting the environment and soil in its vicinity (including the river Vrbas).*
 - *Officials of the City of Banja Luka, as well as representatives of Eko Toplana d.o.o. have been turning a deaf ear to the requests and invitations of the media and other stakeholders regarding the entire issue of heating of the City of Banja Luka.³*
12. In addition to the issues raised in the Complaint form submitted to the PCM, the Complainants submitted a separate communication to the PCM in which they raised issues around inadequate staff retrenchment activities involving former employees of the old Eko Toplana Company, which were considered excessive when the new Eko Toplana Company began its operation.
13. During video calls with Complainants and in written communications during the May – July 2018 period, the PCM aimed to clarify the issues raised in the Complaint as well as the Complainants' expected outcomes of the PCM process. The Eligibility Assessors explained in

³ Complaint and supporting documents provided by Complainants.

detail the PCM process, in particular the purposes of the two PCM functions (Problem-solving and Compliance Review). During the multiple interactions the PCM had with the Complainants, it became clear that they were not willing to engage in a facilitated dialogue with the Client to discuss the environmental and social issues underlying their Complaint, but rather they sought an investigation regarding their allegations that EBRD loan proceeds were misused in the context of the Project.

2. Bank Management

14. EBRD Management submitted its written response to the PCM in relation to the Complaint on 19 June 2018.⁴
15. In their written response, EBRD Management clarified that their focus was solely on the allegations related to matters governed by the EBRD's Environmental and Social Policy and the environmental and social related parts of the Public Information Policy (PIP), and not on issues which fall outside the remit of the PCM.
16. According to the Bank's response, the City of Banja Luka undertook a feasibility study which recommended replacing heavy fuel oil boilers with biomass boilers to provide heating services to residents of Banja Luka.
17. In response to Complainants' concerns around the woodchips used for heating not being locally produced, EBRD Management clarified that the Company had agreed to adopt a sustainable biomass fuel procurement policy as a result of the Project's Environmental and Social (E&S) Due Diligence. The agreed plan was to procure woodchips "locally from the FSC-certified supplier public enterprise 'Forests of RS' to ensure that only biomass fuel of legal and sustainable origin is used.". EBRD Management acknowledges that the City (as joint-venture partner) accepted an offer from a German owned and Croatian based company to supply certain quantities of biomass (so far up to 15 per cent). EBRD Management opines that this should not be a reason for complaint as it releases pressure on Republika Srpska forests.
18. In response to Complainants' concerns regarding the poor quality of boilers and their emissions impacts on people's health and the environment, Management highlighted the fact that the heating plant was only operational for one month during March – April 2018 and thus there was insufficient time to conduct full measurements on air emissions. The next air quality monitoring is planned to be undertaken during the next heating period (October 2018 – April 2019).
19. In response to Complainants' concerns that boiler filters were dismantled and were not installed back, EBRD Management stated that they could confirm the filters were installed at the time of their latest visit to the Project site, in June 2018. However, they also pointed out that the filters were at that time dismantled for maintenance during the summer months.
20. Regarding the concerns around lack of engagement from the side of the City administration and the Company, Bank Management explained that the Client's representatives were open for cooperation and that they had frequent contacts with local media.

Client

21. According to the Project Summary Document, the EBRD Client under the Project is the City of Banja Luka, the economic, financial, political and administrative centre of the Republika

⁴ Bank Management response dated 19 June 2018, annexed to this report.

Sprska, which is one of the two political entities that make up Bosnia and Herzegovina. The City has a population of 199,191 people (based on the results of the 2013 census).

22. The Project Summary Document also provides that: The Company in charge of the implementation of the Project is Eko Toplane, a new majority privately owned district heating company that would build, own and operate a 49 MW biomass boiler plant for district heating in the City Of Banja Luka. The Company will also operate the existing district heating network and two smaller biomass boiler plants owned by the City. The Company is 51 per cent owned by IEE Banja Luka, a private sector sponsor, and the City holds the remaining shares.⁵
23. The Client did not provide an official written response to the Complaint, but in a written email communication and during a conference call held on 12 July 2018, the Client stated that they believe the Project is being implemented in line with EBRD requirements and national standards.
24. During the 12 July conference call the Client also indicated that data was available on emission levels from the plant during its operating months of February – April 2018.
25. The Client also explained that they had been in contact with the Complainants, earlier in the year before they submitted the Complaint to the PCM, and had discussed the same issues raised with the PCM. The Client expressed their interest in engaging with the Complainants in a PCM-facilitated dialogue process.⁶

IV. DETERMINATION OF ELIGIBILITY

26. The Eligibility Assessors have examined the Complaint and all relevant information to determine whether the Complaint meets the relevant eligibility criteria under paragraphs 24-29 of the PCM RPs.
27. Pursuant to paragraph 24 of the PCM RPs, the Eligibility Assessors do not judge the merits of the allegations in the Complaint and do not make a judgement regarding the truthfulness or correctness of the Complaint in making their determination on eligibility.
28. The Eligibility Assessors have taken note of the information in relation to paragraph 25 of the PCM RPs:
 - Function: The Complainants have requested that the PCM undertake a Compliance Review to address the issues raised in the Complaint.
 - Outcomes sought: The Complainants have indicated the outcomes sought as a result of use of the PCM process:

*We are expecting the stated irregularities to be established and an investigation to be initiated.*⁷

During teleconferences held with the Complainants, it was made clear to the PCM that the *investigation* the Complainants referred to was intended to be focused on the allegations around the misuse of EBRD loan proceeds, as described in the Complaint.

⁵ Project Summary Document for GrCF - Banja Luka District Heating Project, available at <https://www.ebrd.com/work-with-us/projects/psd/grcf-banja-luka-district-heating.html>

⁶ Written correspondence from the Client dated 2 June 2018 and conference call held with the Client on 12 July 2018.

⁷ Complaint.

- Correspondence: The Complainants have submitted copies of their correspondence with the Bank and other supporting documents relating to their Complaint.
- Policy: The Complainants have not indicated details of a Relevant EBRD Policy.

29. Pursuant to paragraph 28 of the PCM RPs, the Eligibility Assessors have found that the Complaint was not filed fraudulently or for a frivolous purpose and its primary purpose is not to seek competitive advantage through the disclosure of information or through delaying the Project. The Eligibility Assessors have also found that the issues raised in the Complaint do not trigger third party obligations.

1. Eligibility for a Problem-solving Initiative

30. During early conversations with the PCM, the Complainants received information about both PCM functions (Problem-solving and Compliance Review), and as a result the Eligibility Assessors discussed with them whether a Problem-solving Initiative may be helpful to consider under the circumstances.

31. According to paragraph 24(a)(i) of the PCM RPs, to be held eligible for a Problem-solving Initiative, the Complaint must be filed by an individual or individuals located in an impacted area, or who has or have an economic interest including social and cultural interests, in an impacted area. The Eligibility Assessors consider this requirement to be satisfied.

32. The second condition for eligibility for a Problem-solving Initiative under paragraph 24(a)(ii) of the PCM RPs is that the Complaint raises issues covered by a Relevant EBRD Policy. The Eligibility Assessors consider that the Complainants pointed to some issues covered by the Bank's Environmental and Social Policy.

33. PCM's Problem-solving function has the objective of restoring a dialogue between the Complainant(s) and the Client to resolve the issues underlying a Complaint without attributing blame or fault. In the present case, the Eligibility Assessors have considered whether the PCM's involvement may assist in resolving the present dispute, or is likely to have a positive result taking into account previous or ongoing efforts to resolve the issues of concern.

34. To be found eligible for a Problem-solving Initiative, each party should indicate their willingness to engage in a dialogue process facilitated by the PCM. To date, the Complainants have indicated they are not interested in pursuing a dialogue process with the Client, convened by the PCM.

35. During conference calls held with each party, the Eligibility Assessors explained the purpose of a Problem-solving Initiative and assessed that party's appetite to engage in a facilitated dialogue. While the Client showed interest and willingness to engage in a Problem-solving Initiative led by the PCM, to date, the Complainants have indicated an unwillingness to dialogue with the Client on environmental and social issues of concern.

36. Moreover, the primary issues of concern for the Complainants are related to their allegations of misuse of EBRD loan proceeds. Given the limitations of the PCM's mandate, as well as the lack of willingness on the part of the Complainants to engage in dialogue with the Client on relevant matters, the Eligibility Assessors conclude that a PCM Problem-solving Initiative is unlikely to assist in resolving the dispute or achieve a positive result as set out in the PCM RPs. Accordingly, the Assessors consider the Complaint ineligible for a Problem-solving Initiative.

2. Eligibility for a Compliance Review

37. In line with the PCM RPs, the PCM Compliance Review function seeks to determine whether or not the EBRD has complied with a Relevant EBRD Policy in respect of an approved Project.
38. In considering whether the Complaint meets the eligibility criteria for a Compliance Review, the Eligibility Assessors have concluded the following regarding the conditions set out in paragraph 24(b) of the PCM RPs:
- The Complaint was filed within the prescribed timeframes.
 - While the Complaint superficially references issues that might be said to relate to a Relevant EBRD Policy (i.e. the Environmental and Social Policy), the primary issues of concern raised by the Complainants – those relating to the misuse of EBRD loan proceeds – are not captured in the Environmental and Social Policy.
39. Further, the Eligibility Assessors must consider paragraph 27 of the PCM RPs. Although the Complaint raises some environmental and social issues, during PCM's interactions with the Complainants it was made explicitly clear that their interest was the misuse of EBRD loan funds. Also, the Eligibility Assessors are cognisant that the Complainants' stated preference for the outcome of any PCM process is an investigation into the alleged irregularities of the use of EBRD funds. Such issues are not within the mandate of the PCM.
40. It is PCM's understanding that the EBRD's Office of the Chief Compliance Officer completed a preliminary inquiry regarding the alleged misuse of EBRD funds, as described by the Complainants, and that the outcomes of that inquiry were communicated to the Complainants.
41. In consideration of the above considerations, the Eligibility Assessors have found the Complaint ineligible for a Compliance Review.

V. CONCLUSION

42. The PCM Eligibility Assessors find that the Complaint does not satisfy the eligibility criteria for a Problem-solving Initiative or for a Compliance Review, as described in the PCM RPs.

ANNEXES

Annex 1: Complaint

Annex 2: Bank Management Response

ANNEX 1: COMPLAINT

Complaint Form

In order for the PCM to address your complaint, you must provide the following information:



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Step 1: Details of the Complaint

<p>1. Name of the Person(s) or Organisation(s) filing the Complaint (“the Complainant”).</p> <p>██</p> <p>██</p>
<p>2. Contact information of the Complainant (Please include address and, if possible, phone number and email address).</p> <p>██</p> <p>██</p>
<p>3. Is there a representative making this Complaint on behalf of the Complainant?</p> <p>Yes <input type="checkbox"/> (if yes, please provide the Name and Contact information of the Representative):</p> <p>.....</p> <p><i>Please attach proof that the Representative has been authorised by the Complainant to file the Complaint. For example, this can be in the form of a letter signed by the Complainant giving permission to the Representative to make the Complaint on his behalf.</i></p> <p>No <input checked="" type="checkbox"/></p>
<p>Is proof of authorisation included with the Complaint?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p>4. Are you requesting that this Complaint be kept confidential?</p> <p>Yes <input checked="" type="checkbox"/> (if yes, please explain why you are requesting confidentiality)</p> <p>Representatives of Banja Luka city administration, which is the Client of this Project, are people with significant political influence, which poses a large risk.</p> <p>No <input type="checkbox"/></p>
<p>5. Please provide the name or a description of the EBRD Project at issue.</p> <p>In November 2017, EBRD supported building of a heating plant in Banja Luka, Bosnia and</p>

Herzegovina, a 49 MW wood chips-fuelled district heating plant as part of the Green Cities Framework initiative. EBRD provided a loan of about 8.3 million EUR to the City of Banja Luka for acquisition of equity stake (49%) in Eko Toplana d.o.o. (d.o.o. - limited liability company). Eko Toplana d.o.o. is a new woodchips-fuelled heating company which should provide heating for the City, while capacities of the heavy fuel oil-fired Toplana a.d. would be shut down, according to the official statements of City representatives, headed by the Mayor.

6. Please describe the **harm that has been caused or might be caused** by the Project (*please continue on a separate sheet if needed*):

Eko Toplana d.o.o. is a company established with ownership share of 51% by Borko Torbica's privately owned IEE d.o.o. and 49% by the City of Banja Luka. According to estimates, in Eko Toplana d.o.o. should have costed about 16.5 million EUR with specified co-owners' percentage shares in ownership.

Therefore, according to information, the City took a loan of about 8.3 million EUR, at 5.5% interest and a grace period of 3 years from EBRD. The loan was not spent for the intended purpose. Rather, it was partly used to plug holes in the budget of the City. Building of Eko Toplana was financed mainly by the funds of the City, and partly by the loan funds. Throughout, IEE d.o.o. did not invest a single euro. According to information, the total cost of implementation of Eko Toplana d.o.o. is about 3 million EUR, because equipment quality and project implementation mode were not appropriate and satisfactory. Eko Toplana d.o.o. requested and obtained a loan of about 1.5 million EUR from a commercial bank whose internal policy is that maximum loan amount may not exceed 50% of the appraised value of the company. This shows that value of assets of Eko Toplana d.o.o. is about 3 million EUR.

The remaining amount of about 5 million EUR was laundered by ELNOS Group d.o.o., owned by the [REDACTED] through inflated invoices and bogus invoices, and ended up in private pockets in Serbia.

The past heating season 2017/2018 demonstrated that Eko Toplana d.o.o. plant of 49 MW rated capacity effectively cannot generate more than 25 MW. Such small power cannot provide heating for the consumption of 150 MW. Toplana a.d. Banja Luka was operational almost throughout the heating period of the past heating season, and it was demonstrated that the City of Banja Luka could not be heated without the power of heavy fuel oil. Statements by the officials of the City of Banja Luka, headed by the Mayor, that Eko Toplana d.o.o. alone can provide district heating for the City are thereby invalidated.

Additionally, documents presented at a meeting of the Banja Luka City Assembly include statements that woodchips for heating would be procured locally (within the entity of the Republic of Srpska). However, woodchips of questionable quality were imported from Croatia.

Moreover, poor quality of boilers and filters and inadequate woodchips jeopardise the health of the citizens of Banja Luka, because smoke from the chimney includes particles which are carcinogenic and toxic, and create dust which is visible to the naked eye in a wider area surrounding Eko Toplana (covering a diameter of 2 km). Furthermore, the citizens living in the neighbourhoods around Eko Toplana are complaining of dirt in their balconies, yards and in the cemetery in the immediate vicinity of Eko Toplana. Eko Toplana is polluting the environment and soil in its vicinity (including the river Vrbas).

Officials of the City of Banja Luka, as well as representatives of Eko Toplana d.o.o. have been turning a deaf ear to the requests and invitations of the media and other stakeholders regarding the entire issue of heating of the City of Banja Luka.

Step 2: Problem-solving Initiative

7. If you are requesting the PCM's help through a **Problem-solving Initiative**, you must have made a genuine effort to contact the EBRD or Project Sponsor (Client) regarding the issues in this complaint.

a. Have you **contacted the EBRD** to try to resolve the harm caused or expected to be caused by the Project?

Yes (If yes, please list when the contact was made, how and with whom):

On 19.02.2018, we sent an e-mail to the recipients pcm@ebrd.com and compliance@ebrd.com.

Document ebrd_district_heating_banja_luka_first_contact.pdf is enclosed with this form.

On 27.02.2018, we sent another e-mail to the same addresses. Document ebrd_district_heating_banja_luka_second_contact.pdf is enclosed with the form

Please also describe any response you may have received.

To our first e-mail, we received a response from [REDACTED] which included the form and an indication that we should send a structured request using this form.

No (please go to question 8)

Please provide a record of this contact with the EBRD, as instructed at the end of this form.

b. Have you **contacted the Project Sponsor** (Client) to try to resolve the harm caused or expected to be caused by the Project?

Yes (if yes, please list when the contact was made, how and with whom)

Please also describe any response you may have received.

No (please go to question 8)

Please provide a record of this contact with the Project Sponsor (Client), as instructed at the end of this form.

8. If you have not contacted the EBRD and/or Project Sponsor (Client) to try to resolve the harm or expected harm, please explain why.

Because City representatives do not wish to speak with the stakeholders within this problem.

Step 3: Additional information

Although not required, it would be helpful to the PCM if you could also include the following information:

9. If you believe the EBRD may have failed to comply with its own policies, please describe which EBRD policies.

10. Please describe any other complaints you may have made to try to address the issue(s) at question (for example, court cases or complaints to other bodies).

Crime reports have been filed with the Court in Banja Luka, Bosnia and Herzegovina, regarding various irregularities connected with this, largely thoughtless, endeavour of the Banja Luka city administration.

11. Are you seeking a Compliance Review where the PCM would determine whether the EBRD has failed to comply with a Relevant EBRD Policy in respect of an approved Project?

Yes No

12. Are you seeking a Problem-solving Initiative which has the objective of restoring a dialogue between you and the Project Sponsor (Client) to resolve the issue(s) underlying your Complaint without attributing blame or fault? Yes No

13. What results do you hope to achieve by submitting this Complaint to the PCM?

We are expecting the stated irregularities to be established and an investigation to be initiated.

Date: 06.05.2018

ANNEX 2: BANK MANAGEMENT RESPONSE

Bosnia and Herzegovina: GrCF Banja Luka District Heating Project (Op ID 49407)

The Complaint is seeking a Compliance Review where the PCM would determine whether the EBRD has failed to comply with a Relevant EBRD Policy in respect of an approved Project. Management have prepared responses to the complaint below.

This Management Response focuses solely on the allegations relating to matters governed by the EBRD's Environmental and Social Policy (ESP) and the E&S related parts of the Public Information Policy (PIP) and not on issues which fall outside the remit of the PCM.

Background information

As a result of the Feasibility Study, a decision was made by the City to replace heavy fuel oil (HFO) boilers with biomass boilers. Independent consultants were hired to carry out technical, environmental and social, and legal due diligence for the newly proposed structure: a new 49 MW District Heating (DH) plant, 51 per cent owned by a private investor. The new biomass boiler plant for district heating in the City of Banja Luka involves operation of 10 boilers. The loan agreement in the amount of EUR 8.3 million was signed on 13 November 2018. Most of the EBRD loan (i.e. EUR 7.5 million) was used by the City to finance its 49 per cent of equity stake in the new DH Company-Eko Toplana d.o.o. Banja Luka. A small portion (EUR 0.8 million) was one lent to the new DH Company as a shareholder's loan for initial purchase of biomass.

EBRD's PCM received a complaint dated 6 May 2018 and the Operations Team took steps to investigate and resolve the issues raised directly with the complainants. However, during the process of problem-solving, PCM registered an additional complaint with similar allegations.

With regards to the issues raised, the Bank has carefully reviewed the allegations presented in the complaint as related to ESP and PIP, and Management observations are as follows:

Statement 1: Documents presented at a meeting of the Banja Luka City Assembly include statements that woodchips for heating would be procured locally (within the entity of the Republic of Srpska). However, woodchips of questionable quality were imported from Croatia.

Response: One of the prime issues under the Project's E&S due diligence was to ensure that wood biomass used for the project is from sustainable sources. Based on the E&S due diligence conclusions, the Company will adopt and implement a sustainable biomass fuel procurement policy, and the biomass material is planned to be procured locally from the FSC-certified supplier Public Enterprise 'Forests of RS' to ensure that only biomass fuel of legal and sustainable origin is used. The biomass fuel supplied will contain a significant proportion of wood chips from sawmills and biomass waste materials from wood processing industry.

This is one of the obligations that the City undertook to provide as a JV partner (minimum quantities of biomass) as it would have to be transported from remote parts of Republika Srpska. Accordingly an offer from German owned and Croatian based company to supply certain quantities of biomass (so far up to 15%) and from the nearby forestry company from the Federation of Bosnia and Herzegovina should not be a reason for complaint. On the contrary, it releases the pressure on Republika Srpska forests. As for the quality, it should be easy to check because the certificate of origin of biomass is a compulsory part of the supporting documentation for each delivery.

Statement 2: Poor quality of boilers and filters and inadequate woodchips jeopardise the health of the citizens of Banja Luka, because smoke from the chimney includes particles which are carcinogenic and toxic, and create dust which is visible to the naked eye in a wider area surrounding Eko Toplana (covering a diameter of 2 km). Furthermore, the citizens living in the neighbourhoods around Eko Toplana are complaining of dirt in their balconies, yards and in the

cemetery in the immediate vicinity of Eko Toplana. Eko Toplana is polluting the environment and soil in its vicinity (including the river Vrbas).

Response: Independent environmental and social due diligence (ESDD) was carried out for the project in October 2017. It included an analysis of environmental and social impacts from the construction and operation of the biomass heating plant, assessment of the environmental protection measures and monitoring programme defined in the Environmental Permit (EP) issued by the Competent Authority (CA) in Republika Srpska (RS) and their adequacy in terms of EU environmental legislation. The ESDD also included a review of the technical characteristics of the plant and its ability to meet national and EU environmental standards for air emissions, in line with MCP and IE Directives for the boilers under 50 MW thermal capacity. The conclusion of the due diligence was that once in operation, the plant would meet both national and EU standards in terms of emissions limit values, including air emissions.

It is important to note that the plant has worked at full capacity (all 10 boilers) for only one month (March – April 2018, until the end of the heating season) and there was insufficient time to carry out fine-tuning of the SCADA system and to carry out all measurements.

The next air quality monitoring period is October 2018 – April 2019 according to the monitoring programme set out in the EP, or additionally, as prescribed by national inspection authorities.

Measurements of dust emissions are yet to be carried out. However, the project envisaged the installation of bag filters that purify the flue gases at minimum values, more precisely 5 mg/Nm³ (NB: Emission limit values for new solid biomass -based MCPs with thermal output between 20-50 MW are set at 20 mg/Nm³ under the EU MCP Directive). The Bank's monitoring visit in June 2018 has confirmed that the bag filters have indeed been installed, and over the summer time they have been dismantled for cleaning.

Statement 3: *Officials of the City of Banja Luka, as well as representatives of Eko Toplana d.o.o. have been turning a deaf ear to the requests and invitations of the media and other stakeholders regarding the entire issue of heating of the City of Banja Luka... City representatives do not wish to speak with the stakeholders within this problem.*

Response: The Client operates a grievance mechanism for stakeholders. Grievance mechanism is part of the Stakeholder Engagement Plan (SEP) prepared in line with EBRD's standard requirements for stakeholder engagement, and the SEP document is still available on the web site of the City. The City and the Company claim that they are open for cooperation and that they have frequent contacts with media representatives. Both the City and the Eko Toplana have professional public relation officers available to that effect.

Conclusion:

The project has been structured to meet both EU and local legislation requirements, and the Management is confident that when the plant is fully operational, that the design parameters will be met. The complainant has provided no evidence of the contrary.