



Project
Complaint
Mechanism

COMPLAINT: Sarajevo Urban Roads Development Project

REQUEST NUMBER: 2018/06

ELIGIBILITY ASSESSMENT REPORT – December 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 has allegedly 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, please 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 address above, 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 (2014).

EXECUTIVE SUMMARY

The PCM received a Complaint in relation to the EBRD's Sarajevo Urban Roads Development Project. The Complaint was submitted by residents of Milana Preloga Street in Sarajevo, Bosnia and Herzegovina. The Complainants assert that they have been impacted by the activities of the EBRD investment in the Sarajevo Urban Roads Development Project, and requested both a Compliance Review and a Problem-solving Initiative be undertaken by the PCM.

The PCM Eligibility Assessors have found that the issues raised in the Complaint were successfully resolved during the Complaint eligibility stage and thus 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 25 April 2018, the PCM received a Complaint¹ regarding the EBRD's Sarajevo Urban Roads Development Project in Bosnia and Herzegovina (the Project). The Complaint was submitted by residents of Milana Preloga Street in Sarajevo (the Complainants). A Compliance Review (CR) and a Problem-solving Initiative (PSI) were sought by the Complainants.
2. The Complainants stated that they had sent communications to the EBRD office in Sarajevo between September - October 2017 and again in March 2018, but received no response.
3. The PCM Officer registered the Complaint on 15 May 2018, in accordance with paragraphs 11-13 of the PCM Rules of Procedure (PCM RP). The Complaint was subsequently posted on the PCM Register, pursuant to paragraph 20 of the PCM RP.
4. On 23 May 2018, Ms. Ana Toskic was appointed as the Complaint's Eligibility Assessor, responsible for conducting the Eligibility Assessment jointly with the PCM Officer (in accordance with paragraph 22 of the PCM RP).
5. The Project Summary Document in respect of the Sarajevo Urban Roads Development Project states:

The EBRD is considering providing a sovereign loan for the benefit of Sarajevo Canton to co-finance the construction of road infrastructure works on sections of the 12th Transversal Road (0.9km) and Southern Longitudinal Road (2.4 km).

This is the first phase, estimated to cost €16.5 million, of a broader capital investment plan for the urban road infrastructure which also includes construction of the 1st Transversal Road (3.8 km). The Project will be implemented through the Sarajevo Canton Roads Directorate.

The main transition impact potential in the proposed Project, when approved by the EBRD's Board of Directors, will derive from assistance provided for the introduction of performance-based management and maintenance road (PMMR) contracts, and from assistance with transformation of the current ministerial department into a separate roads administration (e.g. fund or agency).²

II. STEPS TAKEN IN THE ELIGIBILITY ASSESSMENT

6. After registering the Complaint on 15 May 2018, the Eligibility Assessors undertook a general examination of the Complaint and the relevant supporting documentation provided by the Complainants, the Client and EBRD staff.
7. On 15 May 2018, PCM informed Bank Management about the registration of the Complaint and invited them to provide a written response. A written response was provided by Bank Management on 13 June 2018, annexed to this report (see Annex 2).
8. A few days later after the Complaint registration, the PCM Officer informed the Client (Sarajevo Canton Roads Directorate) about the registration of the Complaint and invited them

¹ Complaint 2018/06, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and annexed to this report (see Annex 1).

² Project Summary Document for Sarajevo Urban Roads Development Project, available at <https://www.ebrd.com/work-with-us/projects/psd/sarajevo-urban-roads-development-project.html>

to provide a written response to the complaint. PCM received no written response from the Client.

9. Initial bilateral meetings were held separately with Complainants and Bank staff during May and June, 2018. PCM engaged with Complainants and Bank staff through written communication throughout the Eligibility Assessment stage of the Complaint (i.e., May – November 2018).
10. Through teleconference calls and written communications with Complainants, the PCM sought to:
 - clarify the issues raised in the Complaint;
 - confirm Complainants' expected outcomes of the PCM process; and
 - explain the purpose of each PCM function (i.e., Problem-solving and Compliance Review).
11. 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, via written communications and teleconferences with the Parties.
12. A joint meeting between the Complainants, EBRD staff and the Client was organized at the EBRD office in Sarajevo on 31 May 2018. During that meeting, some initial agreements were made between the Complainants and the Client, namely that:
 - the Roads Directorate would seek the approval/consent of the Novo Sarajevo Municipality, the owner of the parking lot, to restore the parking area;
 - a noise barrier would be installed;
 - the designer of the Project would propose a solution for the request of protective fencing;
 - during the finishing works, an area for the waste containers would be built in the retaining wall close to the area where the waste containers were located before the finishing works started; and
 - all green spaces that had been impacted by the Project would be restored and landscaping would be completed.
13. All participants confirmed the receipt of the minutes and agreements made during the meeting and determined that all works should be completed by the end of July 2018. This meeting marked the establishment of ongoing dialogue between the Parties, with assistance from the EBRD resident office in Sarajevo.
14. PCM sought Complainants' agreement to engage an external mediator, intended to lead a facilitated dialogue process with the Client. The Complainants informed PCM that they did not see the need to involve an external third party in their ongoing dialogue with EBRD staff in Sarajevo and the Client.
15. In August 2018, PCM contacted the Complainants for an update on the status of the agreements made with the Client on 31 May 2018 (as per paragraph 11 above). PCM was informed that although some progress had been made (i.e., the allocation of parking spaces, the arrangement of waste disposal sites, and some works in the recreation park), there were still pending actions that needed to be addressed (i.e., the length of the protective barrier; the blockage of the atomic shelter ventilation; the parking lot markings; the refurbishment of green spaces; and the arrangement of waste disposal sites).

16. Therefore, a second joint meeting involving the Complainants, EBRD staff and the Client was organized at the EBRD office in Sarajevo on 30 October 2018. PCM participated via video conference. The Parties agreed that:

- no further action was needed regarding the noise protective barrier question;
- the Contractor would clean the atomic shelter ventilation;
- the Contractor would mark out available parking spaces and “no parking” markings where necessary;
- the Client would liaise with the local authorities responsible for green spaces to determine greening activities to be undertaken jointly with residents; and
- the residents would resolve their concerns around waste containers directly with the local authorities.

All participants confirmed the receipt of the minutes and agreements made during the meeting and determined that all works should be completed by 15 November 2018.

17. At the 30 October 2018 meeting, both Complainants and the Client re-confirmed that they did not see the need for a third party mediator to be provided by the PCM, as the Parties were able to come to agreements to resolve the issues underlying the Complaint during the two joint meetings held in May and October 2018, and that they were satisfied with the progress made.

III. SUMMARY OF THE RELEVANT PARTIES' VIEWS

Complainants

18. The Complainants identified themselves as residents of Milana Preloga Street, no. 23, 25 and 27 in Sarajevo, Bosnia and Herzegovina.

19. The Complainants raised concerns regarding the EBRD Project, in relation to: dust, noise and vibration effects; and damages to the car parking lot, the waste disposal area and the Recreation Park. Complainants alleged that they had limited access to the car parking lot, the waste disposal area and the Recreation Park due to road reconstruction works. Complainants also raised safety concerns connected with the reconstruction works undertaken on Milana Preloga Street.

20. The Complainants described the alleged harm caused by the EBRD Project as follows:

- *The planned deadline for the completion of the work was September 2017 and the works have not yet been completed. For this reason, it is an extra prolonged time in which we live in extremely bad conditions of dust, noise and vibration.*
- *During the execution of the works the contractor destroyed the access to the parking lot, the waste disposal site and the park area around our facility and still does not undertake anything to change the condition.*
- *There is still no built-in security fence near the road although traffic has been released. The road passes only a few meters from our facility and at the level of the flats located on the ground floor. The absence of a protective fence can jeopardize the flats and tenants that are located there because they may be directly affected by some traffic accidents.*
- *There is no sound barrier built even though it is a four-way roadblock and the traffic takes place at the level of individual flats in our facility.*
- *Adequate day and night rest of tenants have been completely prevented for a very long period because of all these omissions.*

- *In addition to the above mentioned issues, the fact is that the contractor has completely destroyed the park's surface and did not take any measures to bring them into an acceptable state.*³

21. Outcomes sought: The Complainants indicated the following as desired outcomes of the, PCM process:

- *Get an understanding from the EBRD that because of the prolonged working time and inadequate access to the contractor, all tenants of our housing (30 families) live in extremely bad conditions of noise, dust and vibration.*
- *Most of all, we expect the EBRD to be proactively involved in solving this issue and to influence contractors to complete the remediation of space around our facility that is devastated by their actions. This means:*
 - *arranging the access to the parking lot (very long time in the parking lot we enter through a temporary detour that was made on a green surface);*
 - *arranging a place for the disposal of waste disposal containers which is currently unusable (and for a very long period) because it is destroyed by the performer's activity;*
 - *construction of a protective mechanical fence next to the newly built road;*
 - *the installation of an adequate sound barrier between our facility and the newly built road;*
 - *revitalization of parkland areas around the building, which are completely devastated by the performers' actions.*⁴

Bank Management

22. EBRD Management submitted its written response to the PCM in relation to the Complaint on 13 June 2018.⁵

23. In their written response, EBRD Management clarified that the Project was subject to the 2008 Environmental and Social Policy, and explained that the Project objective was to widen and upgrade two congested urban roads in Sarajevo (i.e., the 12th Transversal Road and the Southern Longitudinal Road).

24. According to the Bank's response, the proceeds of the Loan were on lend to Sarajevo Canton, and the implementing agency of the Project is the Roads Directorate, which is a department within the Ministry of Transport of Sarajevo Canton.

25. In their written response to the PCM, Bank Management explained that during the preparation stage of the Project, an addendum to an existing Environmental Impact Assessment was prepared together with an Environmental and Social Action Plan, a Compensation and Resettlement Framework and a Stakeholder Engagement Plan, all of which were disclosed on the Canton and EBRD websites.

26. Furthermore, Bank Management explained that the EBRD and the Client were in contact with the Complainants prior to their submission to the PCM, and that the issues raised with the PCM are similar to the issues the Complainants raised directly with the Bank.

27. Bank Management acknowledged that the Client and/or the Contractor may not have informed the affected community members about the delays to the road renovation works in

³ Complaint.

⁴ Complaint.

⁵ Bank Management response dated 13 June 2018, annexed to this report.

a timely manner, nor made opportunities available to the Complainants to raise grievances directly with the Client and/or the Contractor.

28. Finally, EBRD Management acknowledged that Project monitoring and stakeholder engagement were areas that need closer attention by the Client and the EBRD, until the corrective actions agreed with the Complainants were fully implemented.

IV. DETERMINATION OF ELIGIBILITY

29. The Eligibility Assessors examined the Complaint and all relevant information to determine whether the Complaint met the relevant eligibility criteria under paragraphs 24-29 of the PCM RP. Pursuant to paragraph 24 of the PCM RP, the Eligibility Assessors did not judge the merits of the allegations in the Complaint and did not make a judgement regarding the truthfulness or correctness of the Complaint in making their determination on eligibility.
30. Pursuant to paragraph 28 of the PCM RP, the Eligibility Assessors found that the Complaint was not filed fraudulently or for frivolous purposes, nor was its primary purpose to seek competitive advantage through the disclosure of information or by delaying the Project. The Eligibility Assessors found that the issues raised in the Complaint did not trigger third party obligations.

Eligibility for Problem-solving

31. According to paragraph 24(a)(i) of the PCM RP, to be held eligible for a Problem-solving Initiative:
- the Complaint must be filed by individuals located in an impacted area, or who have an economic interest (including social and cultural interests), in an impacted area. The Eligibility Assessors consider this requirement to be satisfied.
 - the Complaint must raise issues covered by a Relevant EBRD Policy. The Complainants did not indicate the provisions of the Environmental and Social Policy/Public Information Policy that they believed to have been breached, but the Eligibility Assessors determined that the issues raised in the Complaint were covered by the EBRD Environmental and Social Policy.
32. 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 considered whether the PCM's involvement could assist in resolving the dispute, or would be likely to have a positive result, taking into account previous or ongoing efforts to resolve the issues of concern.
33. To be found eligible for a Problem-solving Initiative, each party must indicate their willingness to engage in a dialogue process facilitated by the PCM. PCM was in constant communication with the Parties during their direct engagement (May-November 2018) and was informed at the end of November 2018 that: the Parties were satisfied with the outcomes of their engagement; and that they did not see the need for further PCM involvement.
34. Under these circumstances, the Assessors consider that there is no need to initiate a formal Problem-solving Initiative as the issues underlining the Complaint were successfully resolved during the Complaint Eligibility Assessment stage.

Eligibility for a Compliance Review

35. 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.

36. In considering whether the Complaint met the eligibility criteria for a Compliance Review, the Eligibility Assessors concluded the following regarding the conditions set out in paragraph 24(b) of the PCM RP:

- Timeline: The Complaint was filed within the prescribed timeframes.
- The Complainant did not indicate the provisions of the Environmental and Social Policy/Public Information Policy that they believed to have been breached, but the Eligibility Assessors determined that the issues raised in the Complaint were covered by the EBRD Environmental and Social Policy.

37. The Eligibility Assessors considered whether the Complaint related to: (a) actions or inactions that are the responsibility of the Bank; (b) more than a minor technical violation of a Relevant EBRD Policy, unless such technical violation is alleged to have caused harm; (c) a failure of the Bank to monitor Client commitments pursuant to a Relevant EBRD Policy.

38. In consideration of the communication and engagement between the Complainants and the Client with the support of EBRD staff in Sarajevo, and following the positive developments through the agreements made by the Parties, the Eligibility Assessors determined that the issues raised by the Complainants were resolved through direct dialogue.

39. In consideration of the above, the Eligibility Assessors found the Complaint ineligible for a Compliance Review.

V. CONCLUSION

40. 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 RP, as the issues described in the Complaint have been resolved through engagement with Management, the Client and the Complainants with the support of the PCM.

ANNEX 1: COMPLAINT

Complaint Form

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



Project
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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><i>We are addressing you as a citizens and residents of Milana Preloga Street no. 23, 25 and 27, Sarajevo, Bosnia and Herzegovina.</i></p> <p>.....</p>
<p>2. Contact information of the Complainant (Please include address and, if possible, phone number and email address).</p> <p><i>Our contact details you can find in previously sent documents to EBRD Sarajevo office (that we are also sending enclosed in the same email as this Complaint). Also you can contact us on [REDACTED]</i></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>.....</p> <p>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.</p> <p>No <input type="checkbox"/></p>
<p>Is proof of authorisation included with the Complaint?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>4. Are you requesting that this Complaint be kept confidential?</p> <p>Yes <input type="checkbox"/> (if yes, please explain why you are requesting confidentiality)</p> <p>.....</p> <p>.....</p> <p>No <input type="checkbox"/></p>
<p>5. Please provide the name or a description of the EBRD Project at issue.</p> <p><i>In Bosnian - Izgradnja I rekonstrukcija ceste - Južna longitudinala 2. dionica (Sarajevo, Bosnia and Herzegovina). Translation - Construction and reconstruction of the road - Southern longitude, 2nd part.</i></p> <p>.....</p>
<p>6. Please describe the harm that has been caused or might be caused by the Project (please continue on a separate sheet if needed):</p> <p>- The planned deadline for the completion of the work was September 2017. and the works have not yet been completed. For this reason, it is an extra prolonged time in which we live in extremely bad conditions of dust, noise and vibration.</p> <ul style="list-style-type: none">- During the execution of the works the contractor destroyed the access to the parking lot, the waste disposal site and the park area around our facility and still does not undertake anything to change the condition.- There is still no built-in security fence near the road although traffic has been released. The road passes only a few meters from our facility and at the level of the flats located on the ground floor. The absence of a protective fence can jeopardize the flats and tenants that are located there because they may be directly affected by some traffic accidents.- There is no sound barrier built even though it is a four-way roadblock and the traffic takes place at the level of individual flats in our facility.- Adequate day and night rest of tenants have been completely prevented for a very long period because of all these

Please write on a separate sheet wherever needed.

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- omissions.
In addition to the above mentioned issues, the fact is that the contractor has completely destroyed the park's surface and did not take any measures to bring them into an acceptable state.
-

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):

We have repeatedly sent letters to the EBRD office in Sarajevo, in written and electronically. The documents were sent on September 28, 2017, October 27, 2017 and March 29, 2018. To EBRD Sarajevo office and [REDACTED]. So far, from your office we have not been contacted directly once. They did not try to get in touch with us and hear our explanations of the problem and we did not get any direct assistance from them. We are sending you in addition of this email other documents that was earlier sent to EBRD office in Sarajevo.

.....

Please also describe any response you may have received.

.....

.....

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)

We contacted the Cantonal Road Directorate several times, but we never received any direct response nor did they take any action on our queries. Meanwhile (a few months ago), the director of Road Directorate was arrested under corruption charges due to misuse of position in the construction of various roads.

.....

Please also describe any response you may have received.

We received only a few general responses from local authorities that did not have the effect of improving the situation in the field and improving the quality of life of us and our children.

.....

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.

.....

.....

.....

Please write on a separate sheet wherever needed.

Step 3: Additional information

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

<p>9. If you believe the EBRD may have failed to comply with its own policies, please describe which EBRD policies. We believe that EBRD</p> <p><i>We believe that your policies require you to respond to inquiries from citizens whose quality of life is endangered by prolonged work. We also believe that your policies require you to influence the contractor to bring space into a usable state and make all the necessary adaptations of the environment that are devastated by their actions. So far, we have not been contacted from EBRD office in Sarajevo in any way. The contractor did not return the devastated space to an adequate condition that we also believe is against your rules.</i></p> <p><i>Although in our country we often have an instance of deviation from norms in the realization of certain projects, we hope that your rules will not allow such a thing to happen in this case as well. We are aware of the realities of developing or undeveloped countries, but we are also educated and civilized enough to see our rights in this case are jeopardized and how the quality of our lives is impaired. Please do not allow a deviation from the regulations applied in the areas of construction. We expect to EBRD influence the implementation of this project as it would have been done in developed countries.</i></p> <p>.....</p>
<p>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).</p> <p><i>We have addressed the cantonal and municipal institutions, the Cantonal Road Directorate, the Cantonal Government, Department for Planning the Development of Canton Sarajevo, the Inspectorate Office for Inspection Affairs, the mayor's office of the City of Sarajevo, the Mayors of the Municipalities, the Municipal Inspection Services, the City Council, the Office of Ombudsman...</i></p> <p><i>All conversations have not yielded any results to the performer changing the inadequate mode of action.</i></p> <p>.....</p>
<p>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 <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
<p>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 <input checked="" type="checkbox"/> No <input type="checkbox"/></p>
<p>13. What results do you hope to achieve by submitting this Complaint to the PCM?</p> <p><i>With this address we hope to achieve the following:</i></p> <ul style="list-style-type: none"><i>- get understanding from the EBRD that because of the prolonged working time and inadequate access to the contractor, all tenants of our housing (30 families) live in extremely bad conditions of noise, dust and vibration.</i><i>- most of all, we expect the EBRD to proactively involve in solving this issue and to influence contractors to complete the remediation of space around our facility that is devastated by their actions. This means:</i><i>- arranging the access to the parking lot (very long time in the parking lot we enter through a temporary detour that was made on a green surface)</i><i>- arranging a place for the disposal of waste disposal containers which is currently unusable (and for a very long period) because it is destroyed by the performer's activity</i><i>- construction of a protective mechanical fence next to the newly built road</i><i>- the installation of an adequate sound barrier between our facility and the newly built road</i><i>- revitalization of parkland areas around the building, which are completely devastated by the performers' actions</i> <p>.....</p> <p><i>Thanks in advance!</i></p> <p><i>Citizens and residents of Milana Preloga no 23, 25 & 27 Street, Sarajevo, Bosnia & Herzegovina.</i></p>
<p>Date: April 25th, 2018.</p>

Please write on a separate sheet wherever needed.

ANNEX 2: BANK MANAGEMENT RESPONSE

The complaint requests a Problem Solving Initiative. Management have prepared responses to the complaint below.

Management Response

EBRD signed a loan agreement with Bosnia and Herzegovina (BiH) on 11 October 2011 for the Sarajevo Urban Roads Development (SURD) Project which was subject to the 2008 Environment and Social Policy and Performance Requirements (PRs). The Project consisted of widening and upgrading of two highly congested urban roads – the 12th Transversal Road (including a major interchange) and the Southern Longitudinal Road (including the Hrasno roundabout). The proceeds of the Loan were on lent to Sarajevo Canton. The Roads Directorate (the Client), which is a department within the Ministry of Transport of Sarajevo Canton, acted as the implementing agency. As part of Project preparation, an addendum to an existing national EIA was prepared (ESIA Addenda or ESIAA) by independent consultants that included additional information on environmental and social matters to comply with national, EU EIA Directive requirements and with the Banks Performance Requirements (PRs). It also included mitigation measures for pollution prevention and abatement based on good international practice and an Environmental and Social Action Plan (ESAP). A Compensation and Resettlement Framework was prepared and adopted by the Canton and Resettlement Action Plans for the two streets were also provided. A Stakeholder Engagement Plan was prepared which included a Grievance Mechanism. All these documents were disclosed on the web site of the Canton and on the EBRD web site. Two public hearing sessions were held in presence of EBRD representatives. The road alignments are included in the urban spatial plan, adoption of which was also subject of public consultations.

During Project implementation, many additional consultations and meetings were held with Project-affected people especially with “informal” business owners whose livelihood was affected by the Project due to the change in the road layouts. All issues have been resolved to the mutual satisfaction of the affected person and the Client.

EBRD has received four complaints from the residents of Milana Preloga street entrances No. 23, 25 and 27. (The Complainant) relating to the impacts due to the prolonged period of construction and incomplete works and mitigation measures. The first complaint was received by the Resident Office in Sarajevo on 28 September 2017. The complaint was forwarded to the Client. The Client replied to EBRD, copying the Complainant on 20 October 2017. The response was concise but confirmed that works were to be completed relating to the erection of a noise barrier and guard rails, plus the restoration of the surrounding area including the parking lot. The Complainant reacted to this response by submitting another complaint to the EBRD Resident Office on 26 October 2017 stating that they were dissatisfied with the Client’s response. This complaint was also forwarded to the Client in a meeting but there was no official response. The Complainant submitted a third complaint to the PCM on 18 March 2018 and the fourth one on 26 May 2016.

We have carefully reviewed the statements in all these complaints (the content is more or less similar in all of them) and our observations are as follows:

Step 1 – Details of Complaint - Section 6 - Harm that has been caused

Statement 1: The planned deadline for the completion of the work was September 2017 and the works have not yet been completed. For this reason, it is an extra prolonged time in which we live in extremely bad conditions of dust, noise and vibration

Response: It is not unusual that there are delays with implementation of these types of works. The reasons for delays were: changes to the detailed design of the nearby roundabout in

response to local stakeholder concerns and; delays caused by unexpected underground installations that were unearthed during the excavation works due to poor cadastre mapping and data. The Client was however responsible for implementing appropriate mitigation measures such as dust and noise controls under local permit requirements and in line with the EIA and ESAP requirements.

Statement 2: During the execution of the works the contractor destroyed the access to the parking lot, the waste disposal site and the park area around our facility and still does not undertake anything to change the condition.

Response: True. Widening of the road from 2-lane to 4-lane required expropriation of part of the public parking space including the old entrance to the parking lot and the location where garbage containers were placed, both used by the Complainants. Temporary access to the rest of the parking lot was made using gravel. The Supervision Engineer stated that the contractor intended to pave it recently but the residents did not allow it. They stopped the works because they did not like the location of the access and were afraid that it would become a permanent solution. The new access will be paved soon (in a week or two) and in accordance with the wishes of the Complainant provided in a drawing in their last (the fourth) complaint.

Statement 3: There is still no built-in security fence near the road although traffic has been released. The road passes only a few meters from our facility and at the level of the flats located on the ground floor. The absence of a protective fence can jeopardize the flats and tenants that are located there because they may be directly affected by some traffic accidents.

Response: True. Traffic was flowing almost all the time during the construction (as there was no alternative road to fully divert the traffic during the construction). The Works are not yet completed although the carriageways are paved. Security fencing was not anticipated in the detailed design because there are other safety measures applied (speed limit, elevation of sidewalk over the carriageway and elevation of the retaining wall over the side walk, with sound barriers mounted on the retaining wall). However, the Client has agreed to install a security fence (or guard rails) at the explicit request of the Complainant. This was confirmed and minuted at the recent meeting held in EBRD Resident Office.

Statement 4: There is no sound barrier built even though it is a four-way roadblock and the traffic takes place at the level of individual flats in our facility.

Response: True. Sound barriers have been ordered and should be delivered at the construction site by end of June 2018 for installation by the end of July 2018. Normally sound barriers are installed last (to reduce the risk of damaging the expensive transparent boards).

Statement 5: Adequate day and night rest of tenants have been completely prevented for a very long period because of all these omissions

Response: The Client claims that in order to mitigate this adverse impact no works were carried out during night in line with permit requirements. The Complainant subsequently clarified that the noise and vibration during the night was not due to the construction works themselves but came from the traffic passing over the unpaved section of the road. This is no longer a problem as the road was paved during the second half of May 2018.

Statement 6: In addition to the above mentioned issues, the fact is that the contractor has completely destroyed the park's surface and did not take any measures to bring them into an acceptable state

Response: Works have not yet been finalised and landscaping is scheduled to be completed at the end of the works (i.e. bringing the surrounding area into the previous state). The tenants kept using the part of the parking lot that was outside the construction site fence.

Step 2 Problem Solving – Section 7 Problem-solving initiative

Statement 1: We have repeatedly sent letters to the EBRD office in Sarajevo, in written and electronically. The documents were sent on September 28, 2017, October 27, 2017 and March 29, 2018. To EBRD Sarajevo office and [REDACTED]. So far, from your office we have not been contacted directly once. They did not try to get in touch with us and hear our explanations of the problem and we did not have any direct assistance from them. We are sending you in addition of this email other documents that were earlier sent to EBRD office in Sarajevo.

Response: The EBRD Office in Sarajevo has sought to respond quickly to issues raised by the Complainant through formal and informal engagement with the Complainant and the Client. Letters received by the EBRD RO have been forwarded to the Client for action. The Client has responded and confirmed that all the requests will be met.

Statement 2: We contacted the Cantonal Road Directorate several times, but we never received any direct response nor did they take any action on our queries. Meanwhile (a few months ago), the director of Road Directorate was arrested under corruption charges due to misuse of position in the construction of various roads. We received only a few general responses from local authorities that did not have the effect of improving the situation in the field and improving the quality of life of us and our children.

Response: The Client claims that they did not receive a formal complaint or other correspondence relating to complaints from the residents.

Step 3 Additional Information - Section 13 – What results do you hope to achieve by submitting this Complaint to the PCM

Statement 1: get understanding from the EBRD that because of the prolonged working time and inadequate access to the contractor, all tenants of our housing (30 families) live in extremely bad conditions of noise, dust and vibration

Response: We do understand that the residents suffered from prolonged noise, dust and vibration due to the extended construction period. The Supervising Engineer claims that the Contractor undertook all prescribed measures in the ESIA to mitigate the dust (watering the site), the noise and vibration (no work during the night, restrictions on construction traffic and use of noisy equipment) however unfortunately it is impossible to eliminate them completely. The delays to the works were not caused by the Contractor or the Client but the neighbours across the street who insisted on direct access to the nearby roundabout. This required a change in detailed design and update of the construction permit, which takes time.

Statement 2: most of all, we expect the EBRD to proactively involve in solving this issue and to influence contractors to complete the remediation of space around our facility that is devastated by their actions. This means:

- *arranging the access to the parking lot (very long time in the parking lot we enter through a temporary detour that was made on a green surface);*
- *arranging a place for the disposal of waste disposal containers which is currently unusable (and for a very long period) because it is destroyed by the performer's activity;*
- *construction of a protective mechanical fence next to the newly built road;*
- *the installation of an adequate sound barrier between our facility and the newly built road;*

- *revitalization of parkland areas around the building, which are completely devastated by the performers' actions.*

Response: The EBRD Resident Office has taken a pro-active role in assisting the Client to solve all problems on the 2.5 km long stretch of the southern longitudinal road from the Vrbanja Bridge to this building in Milana Preloga Street. All the problems that were raised will be resolved as stated by the Cantonal Roads Directorate.

Following the receipt of the last complaint dated 26 March 2018, EBRD's [REDACTED] hosted a meeting on 31 May 2018 with the Complainant, the Client and the Supervision Engineer. The actions agreed included the following:

- The Roads Directorate will seek the approval/consent of Novo Sarajevo Municipality, as the owner of the parking lot, to restore the parking area (nota bene – obtained in the meantime).
- A noise barrier will be installed.
- The designer will propose a solution for the request for protective fencing.
- During the finishing works, an area for the waste containers will be built in the retaining wall, i.e. as close to the old location as possible.
- All green spaces that have been impacted by the Project will be restored and landscaping completed.

All participants confirmed the receipt of the minutes and that they reflected the agreements achieved. All works are scheduled to be completed by the end of July 2018.

Conclusion:

Based on the information presented above, it appears that the Client and their contractors may not have kept the affected local community informed of Project delays and shared details of how and with whom to raise a grievance. The Complainants have not made use of the Clients grievance mechanism to address their concerns; however the Management believe that Bank has sought a resolution to the issues raised through facilitating dialogue between the Parties and a commitment to a series of defined actions by the Client.

Management note that the ESIAA and ESAP agreed for provide details of mitigation measures to be applied during the construction phase of the Project that are in line with good practice and were subject to monitoring by the Supervising Engineer. The Supervision Engineer claims that mitigation measures were applied in accordance with ESAP, however monitoring of these requirements, over a protracted period, may have resulted in less focus on these issues. EBRD has carried out site monitoring visits in the past (mainly focusing on the land acquisition needs of the Project) and had not identified any material issues of non-compliance. However it is recognised by Management that monitoring and stakeholder engagement are areas that need closer management by the Client and the EBRD, until the corrective actions agreed with the Complainants are fully implemented.