



Project  
Complaint  
Mechanism

**COMPLAINTS: EPS Restructuring and EPS Kolubara Environmental Improvement Projects**

REQUEST NUMBERS: 2017/03 and 2017/04

**ELIGIBILITY ASSESSMENT REPORT – August 2017**

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](http://www.ebrd.com).

### Contact information

Inquiries should be addressed to:

The Project Complaint Mechanism (PCM)  
European Bank for Reconstruction and Development  
One Exchange Square  
London EC2A 2JN  
Telephone: +44 (0)20 7338 6000  
Fax: +44 (0)20 7338 7633  
Email: [pcm@ebrd.com](mailto:pcm@ebrd.com)

<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>

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	3
I. BACKGROUND .....	4
II. STEPS TAKEN IN THE ELIGIBILITY ASSESSMENT .....	5
III. SUMMARY OF THE RELEVANT PARTIES' VIEWS .....	5
IV. DETERMINATION OF ELIGIBILITY FOR A PROBLEM-SOLVING INITIATIVE.....	7
V. CONCLUSION .....	8
VI. TERMS OF REFERENCE FOR A PROBLEM-SOLVING INITIATIVE .....	9
Annex 1 Complaints .....	11
Annex 2 Management Responses.....	17

*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 two Complaints raising concerns about resettlement processes connected with the EPS Restructuring and EPS Kolubara Environmental Improvement Projects in Serbia. The Complainants have requested that a Problem-solving Initiative (PSI) be undertaken by the PCM.

The Eligibility Assessors have determined that both Complaints are eligible for a PSI in accordance with the PCM Rules of Procedure (PCM RP), specifically paragraphs 24-26 and 28-29. The Complaint:

- has been filed within prescribed timeframes;
- describes the PCM functions requested;
- describes the outcomes sought;
- provides adequate information relating to communications with the Bank and Client;
- raises issues that are appropriate for a PSI and the Eligibility Assessors consider that a PSI is likely to have a positive effect;
- is not disqualified under any criteria set forth in paragraph 28 of the PCM RP.

In accordance with the PCM RP, the PCM has reviewed the Complaints together, given that the substance of the Complaints is reasonably related.

**The PCM Eligibility Assessors find that the two Complaints satisfy the criteria for a Problem-solving Initiative.**

## I. BACKGROUND

1. On 12 June 2017 the PCM received a Complaint connected with the EBRD's EPS Restructuring and EPS Kolubara Environmental Improvement Projects in Serbia.<sup>1</sup> The Complaint was submitted by the Centre for Ecology and Sustainable Development (CEKOR) representing five households in Vreoci which are being resettled due to the expansion of the Kolubara mine. The Complaint requested that a Problem-solving Initiative be undertaken by the PCM.
2. This Complaint was registered by the PCM Officer on 15 June 2017 in accordance with paragraphs 11-13 of the PCM Rules of Procedure (PCM RP), and was subsequently posted in the PCM Register pursuant to paragraph 20 of the PCM RP.
3. On 26 June 2017 Mr Constantin-Adi Gavrilă was appointed as *ad hoc* PCM Expert to conduct the Eligibility Assessment jointly with the PCM Officer, in accordance with paragraph 22 of the PCM RP.
4. On 12 July 2017 the PCM received a second Complaint from another resident of Vreoci, Mr Nebojsa Mitrovic, who is also being resettled due to the expansion of the Kolubara mine.<sup>2</sup> Mr Mitrovic has also expressed that he seeks a Problem-solving Initiative through the PCM.
5. Mr Mitrovic initially raised issues with the PCM in April 2017. On 3 April 2017 the PCM suspended the registration of his Complaint to allow for engagement with Bank staff and/or the Client to try and address his concerns, in accordance with paragraphs 15-17 of the PCM RP.
6. On 25 July 2017, pursuant to a series of communications with Mr Mitrovic, the PCM Officer registered the Complaint in accordance with the PCM RP, having decided that the requirement to make good faith efforts to resolve the issues with the Bank and/or Client has been met. The Complaint was subsequently posted in the PCM Register.
7. Given that the two Complaints raise substantively similar issues and relate to Bank Projects with the same Client, the PCM decided to review the Complaints together in accordance with paragraph 64 of the PCM RP.
8. The EPS Restructuring Project involves up to EUR 200 million sovereign guaranteed loan to Public Enterprise Elektroprivreda Srbije (EPS, or the Client), the state-owned electricity utility of Serbia active in generation, distribution and supply of electricity. The loan proceeds are used to restructure and refinance expensive short to medium-term financial debt which EPS has entered into on an emergency basis with commercial banks in order to alleviate the deteriorating cash situation created by the unprecedented and catastrophic floods in Serbia in 2014. Through this project, the Bank expects to lengthen the tenors and provide terms more consistent with EPS's operations. This Project was approved by the EBRD Board of Directors on 28 Oct 2015, as a category B project under the 2014 Environmental and Social Policy.<sup>3</sup>
9. The EPS Kolubara Environmental Improvement Project involves up to €80 million in a sovereign guaranteed loan to EPS along with a parallel loan of €60 million to be provided by

---

<sup>1</sup> Complaint Number 2017/03, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and annexed to this report.

<sup>2</sup> Complaint Number 2017/04, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and annexed to this report.

<sup>3</sup> Project Summary Document for EPS Restructuring Project, available at <http://www.ebrd.com/work-with-us/projects/psd/eps-restructuring.html>.

KfW. Through this project, EBRD is funding the purchase of (1) a coal excavator, conveyor and spreader system for Field C of the Kolubara mining basin, (2) a spreader system for the Tamnava West field and (3) a coal management system for the whole of the Kolubara mining operations. The equipment, planned to be purchased, will improve the efficiency of EPS' mining operations at the Kolubara basin and significantly improve the quality and uniformity of the lignite it delivers to its power stations. This Project was approved by the EBRD Board of Directors on 26 Jul 2011, as a category A project under the 2008 Environmental and Social Policy.<sup>4</sup>

## **II. STEPS TAKEN IN THE ELIGIBILITY ASSESSMENT**

10. The Eligibility Assessors have undertaken a general examination of the Complaints, and documents and information provided by the Complainants, EBRD Management and the Client, to determine if the eligibility criteria set out in the PCM RP are satisfied.
11. In-country consultations were undertaken by the PCM Officer and the PCM Expert during July and early August 2017. The Eligibility Assessors held separate meetings with the Complainants and the Client, among other stakeholders.
12. The Complainants confirmed their interest for the PCM to provide a forum for dialogue with EPS.

## **III. SUMMARY OF THE RELEVANT PARTIES' VIEWS**

### **1. Complainants**

13. The Complainants allege shortcomings in the resettlement process connected with the expansion of the Kolubara mine. In summary, the Complainants have asserted that:
  - Complainants have been told they must leave their homes so that the mine can progress. Several of the families were recently asked to sign statements that they would indeed leave their homes. The procedure for forced evictions is underway and there has already been an attempt by the police to forcibly evict at least one of the families (the attempt was unsuccessful because local residents blocked the eviction).
  - Complainants have not been offered adequate compensation to enable them to relocate.
  - Some Complainants would consider partial compensation once the authorities decided to pay for their expropriated assets.
  - Complainants expressed fear that they could be put on street at a short notice if no one takes their cases seriously.
  - Complainants asserted that the information the Bank has received from the Client about temporary accommodation offered to them was not correct. They stated the Client did not keep their promises and they were not offered any temporary shelter.
  - The Complainants raised concerns regarding the consultation process undertaken by the Client.
  - Efforts to use the Client's grievance mechanism were unsuccessful.
14. The Complainants are engaged in court proceedings regarding the resettlement process, in particular regarding compensation.

---

<sup>4</sup> Project Summary Document for EPS Kolubara Environmental Improvement Project, available at <http://www.ebrd.com/work-with-us/projects/psd/eps-kolubara-environmental-improvement.html>

15. Meetings in Vreoci with the directly-impacted households as well as CEKOR were held to:

- Understand the Complainants general experience with EPS's mining activities, including positive impacts as well pending concerns;
- Explore, in general terms, the underlying needs of the Complainants;
- Clarify what the PCM Problem-solving function can and cannot achieve in order to manage expectations;
- Survey Complainants views about whether a PSI might be helpful (or not), and assess interest in pursuing a constructive dialogue; and
- Discuss Complainants' views on terms to be included in any Framework Agreement for a constructive dialogue process.

## **2. Bank Management**

16. In a written response to the first and the second Complaints, EBRD Management indicated support for a Problem-solving Initiative undertaken by the PCM. The Bank clarified that although EBRD has not directly financed the mining activities around Vreoci, EPS is a long-standing EBRD client and the Bank is working with the company to improve its environmental and social performance.

17. Bank Management stated that they have been working with the company and local stakeholders both on improving resettlement practice and stakeholder engagement at the corporate level and on the ground.

18. Management also stated that they have recently assisted EPS in developing a corporate resettlement framework that established principles and procedures that would apply to land acquisition and resettlement activities across the company.

19. The Bank indicated they are also currently funding a major initiative to review and update EPS' approach to stakeholder engagement. One of the aims of that initiative was to enable the company to become more proactive and responsive when dealing with people directly affected by resettlement and land acquisition.

20. The Bank indicated it has been monitoring the on-going land acquisition in Vreoci. Staff from the Environment and Sustainability Department have visited the village several times and took part in meetings with community representatives and local civil society organisations in August 2011 and March 2016.

21. The Bank highlighted their efforts to engage with local and international CSOs active in Serbia, pointing out they have been engaging in extensive discussions with CEKOR, Bankwatch, EPS and some of the affected households on individual resettlement cases, including the households mentioned in the Complaint.

22. EBRD Management believes that a mediated discussion between the households and the company is likely to be the most effective way to resolve the pending issues. The Bank has also indicated its readiness to support PCM for a successful outcome of this initiative.<sup>5</sup>

23. Following receipt of the second Complaint, the Bank endorsed support for a PSI through the PCM.

---

<sup>5</sup> Bank Management Responses dated 23 June 2017 and 3 August 2017 available in annex to this report.

### 3. The Client

24. The PCM Officer informed the Client about the registration of the Complaints and invited them to provide a response.
25. In one of the meetings held with the Client in July 2017 the Client indicated its willingness to participate in problem-solving with the Complainants under the auspices of the PCM.<sup>6</sup> Following receipt of the second Complaint, the Client confirmed its willingness to consider a dialogue process. The Client subsequently participated in meetings with the PCM to provide input to the terms that will be included in any Framework Agreement for a constructive dialogue processes.

### IV. DETERMINATION OF ELIGIBILITY FOR A PROBLEM-SOLVING INITIATIVE

26. The Eligibility Assessors have examined the two Complaints to determine whether the relevant eligibility criteria are met under paragraphs 24-26 and 28 of the PCM RP, and considered the response of Bank Management as well as the expressed views of the Client in accordance with paragraph 29 of the PCM RP.
27. PCM has also sought additional information and documentation from the Complainants and their advisors, Bank staff (in particular, the Banking and Environment and Sustainability Departments) and the Client, and conducted meetings in Serbia in July and early August 2017.
28. Pursuant to paragraph 24 of the PCM RP, the Eligibility Assessors do not judge the merits of the allegations in the two Complaints and do not make a judgement regarding the truthfulness or correctness of the Complaints in making their determination on eligibility.
29. The Eligibility Assessors have determined that the eligibility criteria for a Problem-solving Initiative as set out in paragraph 24(a) of the PCM RP are satisfied:
- The Complainants are individuals impacted by the Client's mining operations;<sup>7</sup> and
  - The Complaints raise issues covered by the EBRD's 2014 Environmental and Social Policy, namely land acquisition-related issues as described in Performance Requirement 5 – "Land Acquisition, Involuntary Resettlement and Economic Displacement".
30. The Eligibility Assessors have also determined that the criteria outlined in paragraph 25 of the PCM RP have been met:
- The Complainants indicated in their Complaint a desire for PCM to undertake a Problem-solving Initiative.
  - In regards to the first Complaint, the outcomes sought pursuant to a PCM process are described as follows:

---

<sup>6</sup> Meeting with the Client in Belgrade on 24 July 2017.

<sup>7</sup> In accordance with paragraph 1 of the PCM RPs: "One or more individual(s) located in an Impacted Area, or who has or have an economic interest, including social and cultural interests, in an Impacted Area, may submit a Complaint seeking a Problem-solving Initiative."



*We want those families to resettle as soon as possible from 50 meters from open pit to secure location, to have provided quality temporary shelter and to receive fair price for their homes, so they could find a place for their permanent relocation.*<sup>8</sup>

- And in regards to the second Complaint:

*We want a fair and unbiased expert to estimate the situation and report to EBRD and EPS so their wrongdoings and inhumane deeds could be fixed and reverted. Firstly of all, we don't want to be kicked out with our 5 children, we don't want our sheep herd to die, we want first to be paid in full, prepare conditions and transport our sheep herd, and move away in peace.*<sup>9</sup>

- Complainants have submitted copies of their correspondence with the Bank and the Client and other relevant documents related to the Complaint.<sup>10</sup>

31. Pursuant to paragraph 26 of the PCM RP, the Eligibility Assessors must also consider whether a PSI may assist in resolving the dispute, or is likely to have a positive result. The Eligibility Assessors consider that a PSI may assist in resolving the issues raised by the residents impacted by the mining activities of EPS and is likely to have a positive result. Several factors inform this conclusion:

- The Relevant Parties have sufficient incentives to reach an agreement;
- The Complainants, residents impacted by the mining activities of EPS, EBRD and the Client, are willing to participate in meetings or other forums related to a PSI;
- The Relevant Parties share some common interests such as resettlement from the Kolubara mining operations area in a timely manner;
- While a number of the concerns raised by the Complainants are the subject matter of ongoing court proceedings, a PSI will not interfere with such proceedings. Further, the potential for a constructive dialogue to resolve some of the outstanding concerns in an expedited timeline is of paramount importance in this situation given the imminent progress of the mine.

32. Pursuant to paragraph 28 of the PCM RP, the Eligibility Assessors have found that the two Complaints were not filed fraudulently or for a frivolous purpose, and that their primary purpose is not to seek competitive advantage through the disclosure of information or through delaying the Project. Further, the Complaints have not been addressed by the mechanism of another co-financing institution, and they do not relate to the obligations of a third party.

## V. CONCLUSION

33. On the basis of the information set out above, the Eligibility Assessors have found that the first and second Complaints satisfy the eligibility criteria for a Problem-solving Initiative. Although the Complaints have been reviewed together for the purposes of eligibility determination and to facilitate site visits, they will each be subject to a defined process as determined by the parties.

---

<sup>8</sup> Refer to the 1<sup>st</sup> Complaint in annex to this report.

<sup>9</sup> Refer to the 2<sup>nd</sup> Complaint in annex to this report.

<sup>10</sup> Refer to the 1<sup>st</sup> and 2<sup>nd</sup> Complaints in annex to this report.

## TERMS OF REFERENCE FOR A PROBLEM-SOLVING INITIATIVE

### Complaints on EPS Restructuring and EPS Kolubara Environmental Improvement Projects Requests: 2017/03 and 2017/04

#### Application

1. These Terms of Reference apply to any activity or action undertaken as part of the Problem-solving Initiative (PSI), which includes the promotion of a facilitated dialogue among the parties to discuss the issues raised in the Complaint, without attributing blame or fault.<sup>11</sup>
2. Activities carried out as part of the PSI and subject to these Terms of Reference are subject to modifications which the Problem-solving Expert and the PCM Officer may, at any time, expressly agree upon, except modification that may prejudice the interests of any Relevant Party or is inconsistent with accepted dispute-resolution practice.<sup>12</sup>

#### Problem-solving Expert

3. The Problem-solving Expert shall conduct the PSI in a neutral, independent and impartial manner and will be guided by principles of objectivity and fairness giving consideration to the needs, concerns and interests of the Relevant Parties.

#### Time Frame

4. The PSI will commence as soon as practicable following the President's decision to accept the Eligibility Assessors' recommendation to undertake a PSI.
5. Every effort shall be made to ensure that the PSI is conducted as expeditiously as circumstances permit. It is intended that the first stage of the process, including capacity-building and facilitated discussions among the Relevant Parties, will be completed within 45 calendar days. It is understood that the time for subsequent stages will be guided by the requirements of the process. The PSI will be considered completed when the Relevant Parties reach an agreement, if one of the Parties no longer wishes to continue in the process, or when, in the opinion of the Problem-solving Expert, no further progress toward resolution is possible, as per paragraph 37 of the PCM RP.

#### Procedure: Conduct of the Problem-solving Initiative

6. The Problem-solving Expert may conduct the PSI in such a manner as he/she considers appropriate, according to the work plan that has been discussed and agreed to by the parties, and taking into account the PCM RP, the concerns expressed in the Complaints, and the general circumstances of the Complaints. The Expert will employ such methods as he/she deems necessary including facilitated information-exchange, mediated bilateral and joint discussions and conciliation.

---

<sup>11</sup> The problem-solving function of the PCM is described in the Rules of Procedure as having "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."

<sup>12</sup> European Code of Conduct for Mediators:

[http://ec.europa.eu/civiljustice/adr/adr\\_ec\\_code\\_conduct\\_en.pdf](http://ec.europa.eu/civiljustice/adr/adr_ec_code_conduct_en.pdf).

7. During the course of the PSI the Problem-solving Expert may:
  - a. Organize the dialogue process;
  - b. Develop an agreed work plan and framework agreement for the process, in consultation with the Complainants and the Client;
  - c. Finalize objectives for the dialogue process and agendas with input from all parties;
  - d. Seek to ensure a productive working environment where parties can explore creative options;
  - e. Facilitate solutions as described by the different stakeholders and initiate and guide the PSI process;
  - f. Document and publish process results and agreements, as appropriate and in consultation with the parties;
  - g. Treat all parties with respect and assure a fair and balanced process where parties can make informed choices.

Note: It is not the role of the Problem-solving Expert to decide whether parties' actions, opinions or perceptions are right or wrong or to arbitrate in favour of one of the parties.

#### **Problem-solving Initiative Completion Report**

8. In accordance with paragraph 37 of the PCM RP, the Problem-solving Expert shall prepare a Completion Report. The Report will describe the issues raised in the Complaints; the methods used during the PSI; and the results of the PSI including any issues that remain outstanding. The Report will also identify the need for any follow-up monitoring and reporting by the PCM Officer.
9. Prior to publicly releasing the Problem-solving Completion Report, the PCM Officer will verify with all Relevant Parties that they agree to the content as well as public release of the Report and that there are no confidentiality concerns raised.
10. The Completion Report shall be distributed to the Relevant Parties, the President and the Board of Directors for information, and publicly released in accordance with paragraph 38 of the PCM RP.
11. In accordance with paragraph 39 of the PCM RP, the PCM Officer will monitor the implementation of any agreements reached during the PSI. The PCM Officer will submit draft PSI Monitoring Reports to the Relevant Parties who will be given reasonable opportunity to comment on such Reports. If the PCM Officer receives comments from the Relevant Parties, the PCM Officer will have five (5) Business Days from the day the last comments are received to finalise the Report and will send the final Report to the President and to the Board. Within five (5) Business Days thereafter, the PSI Monitoring Report will be publicly released and posted on the PCM website. The PCM Officer will issue PSI Monitoring Reports at least biannually or until the PCM Officer determines that monitoring is no longer needed.

#### **Exclusion of Liability**

12. Without prejudice to the privileges and immunities enjoyed by PCM Experts, the Problem-solving Expert shall not be liable to any party for any act or omission in connection with any PSI activities undertaken pursuant to these Terms of Reference.

**ANNEX 1:**  
**FIRST COMPLAINT**

**From:** PCM - Project Complaint Mechanism  
**Sent:** 12 June 2017 11:39  
**To:** PCM - Project Complaint Mechanism  
**Subject:** New Project Complaint

**Project Complaint to PCM**

**Date/Time**  
12/06/2017 10:38

**Name/Organisation**  
Centre for ecology and sustainable development CEKOR

**Country**  
SERBIA

**Is there a representative making this Complaint on behalf of the Complainant?**  
Yes

**If yes, please provide the Name and Contact information of the Representative**  
CEKOR is representing the following Complainants:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]

**Are you requesting that this Complaint be kept confidential?**  
No

**If yes, please explain why you are requesting confidentiality**  
n/a

**Please provide the name or a description of the EBRD Project at issue.**  
47318 EPS Restructuring, 41923 EPS Kolubara Environmental Improvement, 27005 EPS Power II, 17829 EPS: EMERGENCY POWER SECTOR RECONSTRUCTION LOAN

**Please describe the harm that has been caused or might be caused by the Project.**  
Complainants [REDACTED] have a problem with expropriation with Public enterprise Electric Power Industry of Serbia, financed by EBRD for many many years.  
Most urgent in this moment is that [REDACTED] are asked to leave their homes in order coal mine could progress, while they were not given temporary shelter, not funds to purchase new homes. In next days they could end up on street if nobody helps.  
The four of them are asked to sign a document tomorrow (June 13th) and leave their homes so EPS coal pit could progress their coal pit. In spite of months of communication with EBRD CSO and EPS they still didn't get a temporary shelter, nor a document proving plans to give them some

temporary solution, and they did not receive money for their homes, so they are not in position to buy new homes.

Those people could be put on street in short notice if no one takes this case seriously. Potential down-payment is also possible, once when authorities decide to finally pay for the homes of five.

**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 had a constant communication with [REDACTED]. CEKOR was represented by [REDACTED]

**Please also describe any response you may have received**

We have received a letter from [REDACTED] on May 22 stating: "EPS have offered apartments to both households in the city of Lazarevac, which will be paid for by EPS until the court processes have been completed and compensation paid. " However, this did not happen, this promise was not fulfilled, EBRD and EPS failed to show document they ever offered apartments, in spite of specifically asking this [REDACTED] May 25th and Jun 1st.

**Have you contacted the Project Sponsor 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**

Project sponsor representative [REDACTED] was copied to the communication with EBRD. Afterwards, letters were exchanged with EPS complaint mechanism, with dozen of senior EPS decision-makers copied.

**Please also describe any response you may have received.**

Answer from EPS was anonymous (without name) letter from EPS complaint mechanism which failed to address the heart of the problem.

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

n/a

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

I believe EBRD Performance Requirement 5 on Land Acquisition, Involuntary Resettlement and Economic Displacement in point 30. states: "New resettlement sites built for displaced persons will offer, at a minimum, pre-displacement living conditions and where achievable, sustainable and cost-effective opportunities to improve the standard of living." We feel this policy is in jeopardy.

**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).**

Some of those people are at court in order to prove the value of their possessions, and [REDACTED] launched a case for discrimination.

**Are you seeking a Compliance Review where the PCM would determine whether the EBRD has failed to comply with its Relevant Policies?**

No

**Are you seeking a Problem-solving Initiative where the PCM would help you to resolve a dispute or problem with the Project?**

Yes

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

We want those families to resettle as soon as possible from 50 meters from open pit to secure location, to have provided quality temporary shelter and to receive fair price for they homes, so they could find a place for their permanent relocation.

## SECOND COMPLAINT

<b>Step 1: Details of the Complaint</b>
1. Name of the Person(s) or Organisation(s) filing the Complaint (“the Complainant”).  Nebojsa Mitrovic
2. Contact information of the Complainant (Please include address and, if possible, phone number and email address).
3. Is there a representative making this Complaint on behalf of the Complainant?  <b>Yes</b> <input type="checkbox"/> (if yes, please provide the Name and Contact information of the Representative):  <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>  <b>No</b> <input type="checkbox"/>  <b>NO representative</b>
Is proof of authorisation included with the Complaint?  <b>NO</b>
4. Are you requesting that this Complaint be kept <b>confidential</b> ? <b>Yes</b> (if yes, please explain why you are requesting confidentiality)  I don` t need.  <b>NO</b>
5. Please provide the <b>name or a description of the EBRD Project</b> at issue.  Kolubara Environmental Improvement Project (Project ID 41923 EPS)
6. Please describe the <b>harm that has been caused or might be caused</b> by the Project (please continue on a separate sheet if needed):  Serbian public enterprise EPS wants to relocate me from my home in Vreoci in order to expand mine, but they payed me only one part of my property. The problem is I and my family cannot go away until we are payed in full, because we need to settle down somewhere else. We are a large family with 5 children. We also have dozens of sheep, which also cannot be put just like that to street; first some prerequisites are needed to be met. Because this didn` t happen, we are not willing to move from here.  The procedure for force eviction is on. Police was at our door earlier this spring to try to conduct force eviction, but the village stood with us and we blocked eviction with our lawyer and villagers. Stand off like this is expected soon again.
<b>Step 2: Problem-solving Initiative</b>
7. If you are requesting the PCM’s help through a <b>Problem-solving Initiative</b> , 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):

EBRD was informed in written form about this case this spring; letter will be attached to this complaint.

*Please also describe any response you may have received.*

Response was not satisfactory.

**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)

Project sponsor is more than informed; the least I can say is they were represented on an attempt to conduct force eviction.

*Please also describe any response you may have received.*

They were only interested to kick us out form our home, total inhuman attitude.

**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.

We can provide you a video of standoff between police and villagers on attempt of forced eviction.

**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.**

.....

### 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.

EBRD Performance Requirement 5 on Land Acquisition, Involuntary Resettlement and Economic Displacement

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).

There is a court case in which we are engaged against EPS to protect devaluation of our property.

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?

**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**

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

We want a fair and unbiased expert to estimate the situation and report to EBRD and EPS so their wrongdoings and inhumane deeds could be fixed and reverted. Firstly of all, we don't want to be kicked out with our 5 children, we don't want our sheep herd to die, we want first to be paid in full, prepare conditions and transport our sheep herd, and move away in peace.

**Date: 12.07.2017**

## **ANNEX 2:**

### **BANK MANAGEMENT RESPONSE TO THE FIRST COMPLAINT**

#### **MANAGEMENT RESPONSE**

EBRD management welcomes this proposed problem solving initiative. Although the Bank has not directly financed the mining activities around Vreoci, EPS is a long-standing EBRD client and helping the company to improve its environmental and social performance is an important objective of our engagement. As a result we have been working with the company and local stakeholders both on improving their resettlement practice and stakeholder engagement at the corporate level and on the ground.

We have recently assisted EPS in developing a corporate resettlement framework that established principles and procedures that will apply to land acquisition and resettlement activities across the company. We are also currently funding a major initiative to review and update EPS' approach to stakeholder engagement. One of the aims of this work is to enable the company to become more proactive and responsive when dealing with people directly affected by resettlement and land acquisition.

EBRD has been monitoring the on-going land acquisition in Vreoci. Staff from our Environment and Sustainability Department have visited the village several times and took part in meetings with community representatives and local civil society organisations in August 2011 and March 2016. Since March 2017 we have been engaged in extensive discussion with CEKOR, Bankwatch, EPS and some of the affected households on individual resettlement cases, including the households mentioned in the problem solving request. The Bank's approach throughout has been to try to understand the respective position and concerns of each of the parties and to encourage them to communicate directly so as to reach an amicable resolution. Whilst there has been some progress towards achieving mutually acceptable solutions, EBRD management believes that a mediated discussion between the households and the company is likely to be the most effective way to resolve the remaining issues. The Bank will do what it can to support a successful outcome from this initiative.

## BANK MANAGEMENT RESPONSE TO THE SECOND COMPLAINT

### Management Response

EBRD management welcomes the proposed problem solving initiative to assist Mr Mitrovic and EPS resolve the remaining issues associated with the acquisition of Mr Mitrovic's land. Although the Bank has not directly financed the mining activities around Vreoci, EPS is a long-standing EBRD client and helping the company to improve its environmental and social performance is an important objective of our engagement. As a result we have been working with the company and local stakeholders both on improving their resettlement practice and stakeholder engagement at the corporate level and on the ground.

We have recently assisted EPS in developing a corporate resettlement framework that established the principles and procedures that will apply to land acquisition and resettlement activities across the company. We are also currently funding a major initiative to review and update EPS' approach to stakeholder engagement. One of the aims of this work is to enable the company to become more proactive and responsive when dealing with people directly affected by resettlement and land acquisition.

EBRD has been monitoring the on-going land acquisition in Vreoci. Staff from our Environment and Sustainability Department have visited the village several times and took part in meetings with community representatives and local civil society organisations in August 2011 and March 2016. Since March 2017 we have been engaged in extensive discussions with Mr Mitrovic and other local land owners and we are aware of his complaints regarding the land acquisition process and the levels of compensation that he has received. The Bank's approach throughout has been to try to understand the respective position and concerns of each of the parties and to encourage them to communicate directly so as to reach an amicable resolution. Whilst there has been some progress towards achieving mutually acceptable solutions, EBRD management believes that a mediated discussion between Mr Mitrovic and EPS is likely to be the most effective way to resolve the remaining issues. The Bank will do what it can to support a successful outcome from this initiative.