

Problem-solving Completion Report Summary October 2017

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 Serbia¹. One complaint was submitted by the Centre for Ecology and Sustainable Development (CEKOR) representing five households in "Kolonija" settlement in Vreoci which are being resettled due to the expansion of the Kolubara mine². A second Complaint was received from another resident of Vreoci, Mr Nebojsa Mitrovic, who is also being resettled due to the expansion of the Kolubara mine³.

The Complainants have requested that a Problem-solving Initiative (PSI) be undertaken by the PCM. 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 Eligibility Assessment Report for a Problem-solving Initiative (PSI), released in August 2017, concluded that both Complaints are eligible and satisfy the criteria for a PSI in accordance with the PCM Rules of Procedure (PCM RP), specifically paragraphs 24-26 and 28-29.

In accordance with the PCM RP, the PCM has reviewed the Complaints together following consultation with the Complainants, given that the substance of the Complaints is reasonably related. The President of the Bank accepted the recommendation of the Eligibility Assessors for a PSI and on September 1st 2017, PCM Expert Constantin-Adi Gavrilă was appointed to undertake the assignment. Given the need for culturally meaningful co-facilitation and coordination with parties and other stakeholders on the ground, the PCM Expert worked with Ana Toskić, a local mediator licenced by the Serbian Ministry of Justice that joined the PCM team for the PSI.

Considering the urgent need for constructive engagement the PCM team conducted the PSI from September 1st to September 25th 2017. The PSI was successful in helping the parties open the door to communication and understanding, which allowed them to exchange views and key information related to Kolubara open mine pit operations, safety of people and buildings, voluntary resettlement and fair compensation. The parties reached informed agreements where needed regarding temporary resettlement, updated investments inventory of the households and agreed that the compensation for the expropriated households will be determined by the domestic courts, as prescribed by the Serbian legislation.

Essentially, the PSI has helped the parties unblock the situation by allowing the company to advance operations, while successfully addressing the community members' need to establish formal ownership and to prove their arguments regarding fair compensation in the domestic courts, without the pressure of the risk physical endangerment connected with a forceful eviction process. This was agreed to be achieved by voluntary temporary resettlement of the four families living in the "Kolonija", Vreoci, located in the proximal direction that the mine is advancing to.

Although all community members were interested in resolving all the issues related to resettlement, including the financial compensation for their households, the company was not prepared to make decisions here commenting that (a) the community members will need to establish ownership legally first; (b) some community members don't own the land, but only the

¹ Project Summary Document for EPS Restructuring Project, available at <http://www.ebrd.com/work-with-us/projects/psd/eps-restructuring.html>.

² 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.

³ 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.

buildings; (c) legal proceedings are pending and need to be finalized in order for the Company to have a legal basis to pay compensations.

The Zivanovic (one of the five families involved in the first complaint) and Mitrovic families, indicated that they will not resettle before the completion of the legal proceedings and have expressed interest in receiving formal insurances that, in the meantime, the members of their families are physically safe and will not be forcefully evicted. Both families have received compensation for part of their households and are interested in finalizing the compensation process. While acknowledging that the Kolubara mine will not advance directly in the direction of their households and the company is interested in voluntary and peaceful resettlement, the company representatives were not prepared to make formal commitments.

The process was designed by the PCM team in consultation with the parties and it was agreed by the parties during the first joint meeting by signing Framework Agreements for PSI. Each community member that attended PSI have met the company twice in joint meeting. Before the second joint meeting, the PCM team had extensive bilateral meetings with all the parties to explore individual and joint interests. As a result, agreements were signed with four families at the second joint meeting.

The PCM Expert appreciates that the PSI stimulated a constructive dialogue platform that, if maintained and improved, should assist the parties in engaging directly with the outstanding expropriation issues over time.

The PCM Expert recognises that further efforts are unlikely to establish more progress around the unresolved issues raised in the complaint. As per the PCM Rules of Procedure, paragraph 37, the PCM Expert therefore concludes, “no further progress towards resolution of the dispute is possible”. Consequently, the PCM Expert considers the Problem-solving Initiative completed, but identifies the need for follow-up monitoring and reporting by the PCM Officer that is also encouraged to seek feedback from the parties regarding PSI.