



Project
Complaint
Mechanism

GEORGIA – Jvari-Khorga Interconnection Project

REQUEST NUMBER: 2017/02

Compliance Review Monitoring Report I – December 2018

The Project Complaint Mechanism (PCM) is the independent accountability mechanism of the EBRD. PCM provides an opportunity for an independent review of complaints from one or more individual(s) or organisation(s) concerning an EBRD project, which allegedly has caused, or is likely to cause harm. PCM may address Complaints through two functions: Compliance Review, which seeks to determine whether or not the EBRD has complied with its Environmental and Social Policy and/or the project-specific provisions of the Public Information Policy; and Problem-solving, which has the objective of restoring a dialogue between the Complainant and the Client to resolve the issue(s) underlying a Complaint without attributing blame or fault. Affected parties can request one or both of these functions.

For more information about PCM, contact us or visit www.ebrd.com.

Contact information

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

<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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NOTE: Unless otherwise defined, capitalised terms used in this Compliance Review Monitoring Report refer to terms as defined in the PCM Rules of Procedure (2014).

Executive summary

This is the first PCM Compliance Review Monitoring Report related to the Complaint on the Georgia Jvari-Khorga Interconnection Project (i.e., the Project). Following a review of the Bank's compliance with its 2008 Environmental and Social Policy (ESP) in respect of the Project, the PCM Compliance Review Expert established three findings of non-compliance, related to: labour and working conditions; legitimacy of enterprises; wages and benefits; and adequate grievance mechanisms.

The Compliance Review Report contained a number of recommendations consistent with the findings of non-compliance identified in the Compliance Review. EBRD Management subsequently prepared a Management Action Plan in response to the recommendations outlined in the Compliance Review Report.¹

During this first monitoring period, the PCM Officer reviewed the update provided by Bank Management on the implementation of the Management Action Plan for the period of July - December 2018. The PCM Officer also sought Complainants' comments on implementation of the Management Action Plan, but received no comments from them.

The PCM Officer notes the steps undertaken by Management to fulfil the commitments outlined in the Management Action Plan, and considers Management Actions 1, 2, and 3 under this Complaint completed. No further monitoring is required and the Complaint is considered closed.

¹ The Complaints, Compliance Review Report and Management Action Plan are available on the [PCM Register](#).

1. Introduction

This Compliance Review Monitoring Report is prepared pursuant to paragraph 47 of the 2014 PCM Rules of Procedure. The PCM Officer is mandated to monitor the implementation of a Management Action Plan prepared in response to the findings and recommendations² contained in a Compliance Review Report. The PCM monitors the implementation of Management Action Plans and prepares Monitoring Reports at least biannually or until the PCM Officer determines that monitoring is no longer needed. Monitoring Reports are submitted to the President and the Board, and then published in the PCM Register on the EBRD website.

On 21 April 2017, the PCM reviewed a Complaint in relation to the Jvari-Khorga Interconnection Project in Georgia. The Complainant raised matters connected with failure of the Contractor to pay his salary during a six month period when he worked on the EBRD Jvari-Khorga Interconnection Project.

The Compliance Review was completed in June 2018. The Compliance Review Expert made three findings of non-compliance in respect of the grounds set out in the Complaint. In particular, EBRD was found in non-compliance in its application of the requirements under:

- PR 2.19(i) in relation to reputable and legitimate enterprises;
- PR 2.19(ii), in combination with PR 2.6 and PR 2.12, in relation to application of PR 2 requirements³, working relationships, wages, benefits, and conditions of work; and,
- PR 2.19(ii), in combination with PR 2.18, in relation to grievance mechanisms.

The Compliance Review Report included recommendations to address the findings of non-compliance, in response to which EBRD Management prepared a Management Action Plan (available on the [PCM Register](#) on the EBRD website).

This is the first Compliance Review Monitoring Report regarding the GEORGIA - Jvari-Khorga Interconnection Complaint.

² Pursuant to the PCM Rules of Procedure a Compliance Review Report will include recommendations to:

- a. address the findings of non-compliance at the level of EBRD systems or procedures to avoid a recurrence of such or similar occurrences; and/or
- b. address the findings of non-compliance in the scope of implementation of the Project taking into account prior commitments by the Bank or the Client in relation to the Project; and
- c. monitor and report on the implementation of any recommended changes.

³ ESP PR2.19 (ii) requires the Client to apply the requirements of paragraphs 2.6 to 2.16 and 2.18.

2. Context

The PCM received a Complaint in relation to the EBRD's financing of the Jvari-Khorga Interconnection Project in Georgia. The Project constitutes a EUR 60 mln sovereign loan co-financed with KfW for the construction of (i) a new 500kV/220kV substation at Jvari, (ii) a double circuit 500kV/8km transmission line from the Kavkasioni line to the Jvari substation and (iii) a double circuit 220kV/60km transmission line between Jvari and Khorga.

The Complainant alleges he did not receive payment during a six months period he worked as Project Manager for Jyoti Structures Ltd, a subcontractor of the Project (Contractor), and that he was terminated from his employment without receiving his salary. The Complainant requested that both Problem-solving and Compliance Review be undertaken by the PCM. The Complaint was registered by the PCM Officer on 8 May 2017 in accordance with paragraphs 11-13 of the PCM Rules of Procedure (RPs), and was subsequently posted in the PCM Register pursuant to paragraph 20 of the PCM RPs.

The PCM conducted an Eligibility Assessment of the Complaint based on the eligibility criteria set in the PCM Rules of Procedure. The Eligibility Assessment Report, released on 31 August 2017, concluded that the Complaint was eligible for a Compliance Review and ineligible for a Problem-solving Initiative.

The Compliance Review was initiated in August 2017. PCM Expert, Professor Owen McIntyre, was appointed by the EBRD Board of Directors to undertake the Compliance Review. The Compliance Review Expert found:

- EBRD was non-compliant in its application of the requirement under PR 2.19(i) of the 2008 Environmental and Social Policy (ESP) in relation to ensuring that non-employee workers engaged by the Client through contractors or other intermediaries to work on Project sites are reputable and legitimate enterprises.
- EBRD was non-compliant in its application of the requirement under PR 2.19(ii), in combination with PR 2.6 and PR 2.12 of the 2008 ESP, in relation to: (i) requiring contractors to apply the requirements under ESP PR 2.6 through PR 2.16 and PR 2.18, (ii) ensuring the Client's adequate documentation and communication to workers of their working conditions and terms of employment, and (iii) ensuring that the wages, benefits and conditions of work offered are comparable to those offered by equivalent employers in the relevant country, region and sector concerned.
- EBRD was non-compliant in its application of the requirement under PR 2.19(ii), in combination with PR 2.18, in relation to ensuring either that the Client required the Contractor to provide an effective grievance mechanism for its workers or, alternatively, provided non-employee workers access to effective resolution of grievances by means of its own grievance mechanism.

The Compliance Review Expert made three recommendations on improvements to EBRD internal systems and procedures. EBRD Management was requested to prepare a Management Action

Plan, including a timetable and estimate of the human and financial resources required to implement the recommendations considered appropriate. The final Compliance Review Report was submitted for information to the EBRD's Board of Directors, along with the Management Action Plan. The Board approved the Management Action Plan and the Compliance Review Report, Management Action Plan and Complainant's comments were publicly released on 20 July 2018 in the PCM Register on the EBRD website.

3. Current monitoring period

The PCM Officer reviewed an implementation update on the Management Action Plan regarding the Complaint for the period July 2018 - December 2018 provided by EBRD Management to the PCM. The PCM Officer reviewed several documents referenced by Management in the implementation update, namely the:

- EBRD PR2 Toolkit on project due diligence and monitoring;
- EBRD PR2 Guidance note on [Employee grievance mechanism](#);
- EBRD PR2 Guidance note on [Labor and working conditions Wages and working hours](#);
- EBRD PR2 Guidance note on [Labor and working conditions Workforce retrenchment](#).

4. PCM observations

In light of information received to date, and in accordance with the scope of the PCM Officer's monitoring role, the PCM Officer has made observations regarding the implementation of the Management Action Plan (MAP) concerning the Jvari-Khorga Interconnection Project.

In the discussion below, the Actions as set out in the MAP are included, with the accompanying information drawn from EBRD Management's implementation update. The PCM's comments are also provided.

Action 1. PR 2 Risk Management

Management implementation update

Ensure strict adherence to EBRD's internal PR2-specific risk assessment tool.

As part of continuous improvement in project risk management and performance, EBRD developed and implemented a comprehensive toolkit for addressing PR2 related matters. EBRD will continue using PR2-specific tools, including the PR2-specific risk assessment tool. Due to the fact that this action was initiated and implemented prior to this PCM case as continuous improvement of project risk management and project performance enhancement on labour matters, the implementation of Management Action 1 has been completed.

Action Complete

PCM comments: The action item has been completed. PCM considers no further monitoring required.

Action 2. Reputable and legitimate enterprises

Management implementation update

Consider introduction of enhanced non-employee worker protection requirements into the process of selection of contractors.

The proposed action addressing contractor selection process relates to procurement matters.

No action needed

PCM comments: No monitoring is required.

Action 3. Employee Grievance Mechanisms

Management implementation update

Actively highlight the Guidance Note on Employee Grievance Mechanism.

As of December 2017 EBRD made the EBRD Guidance Note on Employee Grievance Mechanism publicly available on its website (<http://www.ebrd.com/who-we-are/our-values/environmental-and-social-policy/implementation.html>). EBRD has been and will continue advising clients and consultants to utilise all the labour related guidance notes, including the one on employee grievance mechanism. Due to the fact that this action was

initiated and implemented prior to this PCM case as a result of continuous improvement of project risk management and project performance enhancement on labour matters, the implementation of this Management Action 3 has been completed.

Action Complete

PCM comments: The action item has been completed. PCM considers no further monitoring required.

5. Conclusions and next steps

The PCM Officer takes note of the steps taken by Management to fulfil the commitments outlined in the Management Action Plan, and as of December 2018, considers Actions 1, 2, and 3 closed. Accordingly, this Complaint does not require any further monitoring by the PCM and is closed.