



Project
Complaint
Mechanism

COMPLAINT: Kozloduy International Decommissioning Support Fund

REQUEST NUMBER: 2018/01

ELIGIBILITY ASSESSMENT REPORT – July 2018

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

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

Contact information

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<http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism.html>

How to submit a Complaint to the PCM

Complaints about the environmental and social performance of the EBRD can be submitted by email, telephone or in writing at the above address, or via the online form at:

<http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/submit-a-complaint.html>

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

EXECUTIVE SUMMARY

The Project Complaint Mechanism (PCM) received a [Complaint](#) from civil society representatives from Craiova, Romania (Complainants). The Complainants raised concerns in relation with the construction of the repository for radioactive waste located close to the Kozloduy Nuclear Power Plant in Bulgaria. The repository construction is being supported by the [Kozloduy International Decommissioning Support Fund](#) (the Project, or KIDSF) administered by the EBRD. Complainants raised issues associated with Project impacts on the population living in the South part of Romania, impacts on the environment, inadequate public consultations on the Project conducted in Romania and lack of transparency regarding the radioactive waste repository construction.

The Complainants requested in their [Complaint](#) that a Problem-solving Initiative (PSI) and a Compliance Review (CR) be undertaken by the PCM.

The PCM Eligibility Assessors find that the Complaint satisfies the criteria for a Problem-solving Initiative and for a Compliance Review. The Eligibility Assessors have determined that the Problem-solving Initiative should be conducted first, and the scope of any Compliance Review can be considered at a later stage pending the outcomes of the Problem-solving Initiative and following consultations with the Relevant Parties.

I. BACKGROUND

1. On 7 March 2018 the PCM received a [Complaint](#) Mr Lucian Sauleanu, president of ARC NGO Craiova in relation with the [Kozloduy International Decommissioning Support Fund](#) (KIDSF)¹ The [Complaint](#) was submitted by a number of civil society representatives from Craiova, Romania alleging impacts by the activities of the [Kozloduy International Decommissioning Support Fund](#) administered by the EBRD. The [Complaint](#) requested that a Problem-solving Initiative and a Compliance Review be undertaken by the PCM.
2. After having decided that the requirement to make good faith efforts to resolve the issues with the Bank and/or Client has been met, the PCM Officer registered the [Complaint](#) on 15 March 2018 in accordance with paragraphs 11-13 of the [PCM Rules of Procedure \(PCM RPs\)](#). The Complaint was subsequently posted on the [PCM Register](#) pursuant to paragraph 20 of the PCM RPs.
3. On 29 March 2018 Mr Leonardo D'Urso was appointed as *ad hoc* PCM Expert to conduct this Eligibility Assessment jointly with the PCM Officer, in accordance with paragraph 22 of the PCM RPs.
4. On 21 May 2018 PCM was informed by the Complainant, Mr Lucian Sauleanu, president of ARC NGO Craiova that he prefers Ms Luminita Simoiu from the Civic Association for Life to be the PCM contact person under this Complaint. PCM marked the change of the PCM contact person from the side of Complainants on the PCM Register under the Complaint [Processing steps](#) and informed the Parties of the Complaint about this change.
5. Bulgaria's Nuclear Power Plant at Kozloduy was built according to Soviet design with six VVER type-reactors. The Western European Nuclear Regulatory Association, and other experts, concluded that units 1-4 (VVER 440-230) could not reach acceptable safety levels. The deficiencies concerned the original design of the reactors and the limited function of their confinement systems. In view of Bulgaria's accession to the European Union, the Bulgarian government agreed to close down Kozloduy Nuclear Power Plant (units 1-4). Units 1 and 2 were shut down in 2002 and units 3 and 4 in 2006.
6. The European Commission and other European donors offered the Bulgarian government an assistance programme to cope with the early closure and decommissioning of the four units and the consequential measures in the energy sector. In June 2001, the [Kozloduy International Decommissioning Support Fund](#) was established at the EBRD. The Fund operates in Bulgaria on the basis of a Framework Agreement between the EBRD and the Bulgarian government and ratified by the Bulgarian Parliament. More than €700 million has been contributed largely by the European Commission as well as by Austria, Belgium, Denmark, France, Greece, Ireland, the Netherlands, Spain, Switzerland and the United Kingdom.
7. The Kozloduy IDSF finances and co-finances selected projects for two main purposes:
 - to support the decommissioning of units 1-4 of the Kozloduy Nuclear Power Plant, particularly through the provision of facilities for the treatment and storage of spent nuclear fuel and radioactive waste;

¹ Complaint 2018/01, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and annexed to this report.

- to address issues in the energy sector related to the closure of units 1-4 by demonstrating ways to reform and modernise both the supply and demand side of energy use in Bulgaria.
8. KIDSF also supports SERAW, the Bulgarian organization in charge of decommissioning Kozloduy units 1 to 4, in constructing a near surface repository close to the Kozloduy site for radioactive waste from the decommissioning process. The planning phase including site selection, hydrological and geological assessments, environmental impact assessments, design and site infrastructure preparation is largely complete and a construction permit is expected in late 2016.²

II. STEPS TAKEN IN THE ELIGIBILITY ASSESSMENT

9. The Eligibility Assessors have undertaken a general examination of the [Complaint](#), and documents and information provided by the Complainants, EBRD Management and the Client, to determine if the eligibility criteria set out in the PCM RPs are satisfied.
10. Initial meetings were held with Complainants, the Client and Bank staff by video-conference during May 2018. In-country consultations were organized with Complainants in Craiova, Romania and in Kozloduy, Bulgaria with SERAW Company (the Company, or the Client) by the PCM Expert and a member of PCM staff during 21-23 June 2018.
11. During these bilateral meetings with the Complainants and the Client, the Parties confirmed their interest to engage in a forum for dialogue lead by the PCM to discuss the issues underlining the [Complaint](#).

III. SUMMARY OF THE RELEVANT PARTIES' VIEWS

1. Complainants

12. The Complainants raised concerns in relation with the construction of the repository for radioactive waste. Complainants expressed their views to the PCM in writing in their Complaint form, during an initial video call held on 16 May 2018 and during the two in-country meetings with about 30 civil society representatives from Romania and Bulgaria in Craiova, Romania on 21 and 22 June 2018.

In summary, these are the issues raised by the Complainants:

- Complainants expressed their concerns that the location of the near surface repository for radioactive waste, Radiana is located too close to the Danube River and thus too close to the Romanian border. The Complainants asserted that the repository proximity implies a series of risks for the population living in the Southern part of Romania and the environment. Complainants stated that the land where the repository is being constructed is sandy and loamy and on a high slope which involves risks of landslides.
- Complainants raised concerns about the fact that the repository may not only store radioactive waste from the Kozloduy nuclear power plant units 1 to 4 that have been decommissioned, but would also store radioactive waste from the Kozloduy Nuclear Power Plant units 5 and 6 that are currently operational. Complainants were also

² Project Summary Document for Kozloduy International Decommissioning Support Fund, available at <https://www.ebrd.com/what-we-do/sectors-and-topics/nuclear-safety/kozloduy.html>.

concerned that the repository under construction may store radioactive waste coming from another nuclear power plant unit announced to be constructed in the region.

- Complainants asserted that EBRD is indirectly supporting nuclear energy activities and the risks associated with that, when the global trend is to renounce at nuclear sources of energy in favor of renewable sources of energy which are harmless to the population and the environment.
- Complainants noted that the Romanian population living in the area potentially affected by this Project were not properly informed and consulted on the construction of the repository, despite the provisions of ESPOO and Aarhus Conventions regarding citizens' rights to access Project related information.
- Complainants informed the PCM that civil society representatives from Craiova formed a civic platform "Anti-Kozloduy" and gathered about 15,300 citizens' signatures in support of a local referendum regarding the construction of the repository. Despite that, the referendum was not approved by the Local Council of Craiova.
- Complainants informed the PCM team that the initial Environmental Impact Assessment on the Project was challenged in local courts of Bulgaria by representatives of civil society organizations from Bulgaria. Complainants communicated to the PCM that the initial version of the Environmental Impact Assessment was declared illegal back in 2013 by the Supreme Administrative Court of Bulgaria and the company was asked to produce another Environmental Impact Assessment to address the issues found by the court. The company produced an updated version of Environmental Impact Assessment, which is also currently being challenged in court by representatives of civil society from Bulgaria.³

13. Two meetings with the civil society representatives were held on 21 and 22 June 2018 in Craiova to:

- Understand the Complainants general experience with the activities of the State Enterprise Radioactive Waste (SERAW or the Company) including positive impacts as well as pending concerns;
- Explore, in general terms, the underlying needs of the Complainants;
- Clarify what the PCM Problem-solving Initiative can and cannot achieve in order to manage Complainants' expectations;
- Survey Complainants views about whether a Problem-solving Initiative might be helpful (or not), and assess interest in pursuing a constructive dialogue;
- To circle back and share with the Complainants, the Company's preferred PCM function.

14. These were the main outcomes of the in-country meetings with Complainants:

- During the meetings the PCM had with the Complainants it appeared that Complainants were lacking information about the construction of the repository, they were not aware about the exact location of the Radiana repository and the current stage of the construction works.

³ Complaint 2018/01, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and annexed to this report and in-country meetings with the civil society representatives held on 21 and 22 June 2018 in Craiova, Romania.

- Complainants recognised that there is a need to construct the repository, as they understand that the Kozloduy Nuclear Power Plant already produced radioactive waste that needs to be securely disposed. Although, Complainants expressed concerns regarding the location of the repository being too close to the Danube River, thus close to the Romanian border. They were wondering if it is still not too late to change the location of the repository.
- They are aware that there is a memorandum of understanding signed between Bulgarian and Romanian authorities stipulating conditions for Project related information sharing with the local population from Romania. Although, Complainants raised issues about the fact that the information is not reaching its final destination; it is either being provided with delays, or is not being shared at all with the Romanian public.
- Complainants were wondering if there was an Environmental Impact Assessment, a Stakeholders' Engagement Plan, and an Emergency Evacuation Plan on the Project available and if the Romanian public living in the area of influence of the Project could have access to.
- Complainants showed their interest in engaging in a dialogue process with the Company under the auspices of the PCM. Complainants appreciated that the outcome of the dialogue would most probably not be to stop the Project as they were initially hoping while filing the Complaint to the PCM, but they expressed their hopes that a facilitated dialogue could probably enable the exchange of Project related information from both sides.⁴

2. Bank Management

15. In a written response to the [Complaint](#), EBRD Management explained that the Bank is administering the Kozloduy International Decommissioning Support Fund which is intended to financially support the construction of the first stage of the near surface disposal facility for low and intermediate level radioactive waste at the Kozloduy Nuclear Power Plant.
16. EBRD specified that the Bulgarian State Enterprise for Radioactive Waste is responsible for the implementation of the Project in line with Bulgarian laws and regulations and in accordance with best international practice. Failure to construct this storage would sustain a hazard to the environment and the population.
17. In response to the Complainants assertion that the repository may be used not only to store waste from the decommissioned Kozloduy units 1 to 4, but also for the radioactive waste from the operating units 5 and 6 and possibly from another unit, the Bank specified that the Fund is only intended for the construction of the first stage of the repository that is going to accommodate radioactive waste stemming from the decommissioning of Units 1-4 and will not finance other stages of the repository.
18. EBRD Management indicated on the Company efforts to engage with peer Romanian authorities that had an obligation to reach out to Romanian communities located in the area of influence of the Project and share Project related information, specifically the Bulgarian Ministry of Environment and Waters officially contacted the Romanian Ministry of Environment, waters and forests in this regard.
19. In response to the Complainants concerns regarding the selection of the repository location, the Bank clarified that a comprehensive site selection procedure was conducted in Bulgaria in compliance with the recommendations of the International Atomic Energy Agency and Nuclear Energy Agency, the Radiana site being ranked as the most appropriate for the construction of the repository for radioactive waste.

⁴ In-country meetings with Complainants held on 21 and 22 June 2018 in Craiova, Romania.

20. The Bank Management added that the construction of the low and intermediate level radioactive waste repository aims at improving the safety situation compared with the current situation on the ground.
21. In conclusion, EBRD indicated their support for the Company to engage in a dialogue process with civil society that could address the concerns raised by the Complainants.⁵

3. The Client

22. PCM Officer informed the SERAW Company about the registration of the Complaint and invited them to provide a written response. The official written response to the Complaint was provided to the PCM on 6 April 2018.⁶
23. PCM had an initial video call with representatives of the SERAW Company on 18 May 2018 and met in person with Company staff at their office in Kozloduy, Bulgaria on 22 June 2018. During the meeting with the PCM, the Company indicated their willingness to participate in Problem-solving Initiative with the Complainants under the auspices of the PCM⁷
24. On 22 June 2018 the PCM visited to the Project construction site where the Radiana repository is being constructed in the proximity of the Kozloduy Nuclear Power Plant itself.
25. In their written response to the PCM and during meetings, the SERAW Company explained that they are in charge of the constructing of a near surface disposal facility (repository) at the Kozloduy Nuclear Power Plant site at the decision of the Bulgarian Government.
26. The company also explained that the construction of the first stage of the facility is financed by KIDSF and administrated by the EBRD.
27. During the PCM meetings with the Company, the team in charge of the Project presented the Project activities and explained about their continuous efforts to engage with community members in Bulgaria and in Romania, including those from Craiova. They also explained that Romanian authorities are the primary instances where Complainants should seek for Project related information this being shared with them via official inter-ministerial channels between the two countries.
28. In response to the Complainants concerns regarding the selection of the repository location, the Company clarified that a comprehensive site selection procedure was conducted in Bulgaria in compliance with the recommendations of the International Atomic Energy Agency and Nuclear Energy Agency, the Radiana site being ranked as the most appropriate for the construction of the repository for radioactive waste.⁸

IV. DETERMINATION OF ELIGIBILITY

29. The Eligibility Assessors have examined the [Complaint](#) to determine whether the relevant eligibility criteria are met under paragraphs 24- 28 of the PCM RPs. They have considered the response of the Bank Management and the Company in accordance with paragraph 29 of the PCM RPs.

⁵ Bank Management Response to the PCM Complaint dated 10 April 2018 available in annex to this report.

⁶ Client response to the Complaint dated 6 April 2018 available in annex to this report.

⁷ In country meeting with the Company on 22 June 2018.

⁸ Client response to the Complaint dated 6 April 2018 available in annex to this report.

30. PCM has also sought additional information and documentation from the Complainants, Bank staff (in particular, the Nuclear Safety and Environment and Sustainability Departments) and the Company, and conducted in country meetings in Romania and Bulgaria during 21-22 June 2018.

31. Pursuant to paragraph 24 of the PCM RPs, the Eligibility Assessors do not judge the merits of the allegations in the [Complaint](#) and do not make a judgement regarding the truthfulness or correctness of the [Complaint](#) in making their determination on eligibility.

32. The Eligibility Assessors have also determined that the criteria outlined in paragraph 25 of the PCM RPs have been met:

- The Complainants indicated in their [Complaint](#)⁹ a desire for PCM to undertake a Problem-solving Initiative and a Compliance Review.
- In regards to the outcomes sought pursuant to a PCM process, community members indicated the following:

*Stopping the funding of the nuclear waste repository at least until the client of your KIDSF complies with international conventions, until the population is authentically consulted or at least until the present court trial reaches an end.*¹⁰

- Although, during the in country meetings with the Complainants, they appreciated that the outcome of the PCM process is very unlikely to be able to stop the Project as they were initially hoping while filing the Complaint to the PCM, but they expressed their hopes that a facilitated dialogue could probably enable the exchange of Project related information from both sides.¹¹
- Complainants submitted copies of their correspondence with the Bank and indicated that they were not fully satisfied with the response to their letter addressed to the Bank in March 2018. In addition, Complainants submitted relevant supporting documents related to the [Complaint](#).¹²
- The Complaint raises issues covered by the EBRD's Environmental and Social Policy, namely issues described in the Performance Requirement 1 – "Environmental and Social Appraisal and Management", the Performance Requirement 4 – "Community Health, Safety and Security" and the Performance Requirement 10 – "Information disclosure and Stakeholders Engagement".

33. Pursuant to paragraph 28 of the PCM RPs, the Eligibility Assessors have found that the Complaint was not filed fraudulently or for a frivolous purpose, and that its primary purpose is not to seek competitive advantage through the disclosure of information or through delaying the Project. Further, the Complaint has not been yet addressed by a mechanism of another co-financing institution, and it does not relate to the obligations of a third party.

1. Determination of Eligibility for a Problem-solving Initiative

34. The Eligibility Assessors have determined that the eligibility criteria for a Problem-solving Initiative as set out in paragraph 24(a) of the PCM RPs are satisfied:

⁹ Complaint 2018/01, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and annexed to this report.

¹⁰ Complaint 2018/01, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and annexed to this report.

¹¹ In country meetings with Complainants on 21 and 22 June 2018.

¹² Complaint

- The Complainants are individuals located in the Impacted Area of the Project and have an economic interest in the Project Impacted Area;¹³
- Complainants raised issues covered by the EBRD's Environmental and Social Policy as described above.

35. Pursuant to paragraph 26 of the PCM RPs, 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 Complainants, civil society representatives from Craiova 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 of Craiova are living in the Project Impacted Area and the Company are willing to participate in meetings or other forums related to a Problem-solving Initiative;
- The Relevant Parties share some common interests such as Project related information exchange and constructive dialogue.

2. Determination of Eligibility for a Compliance Review

36. According to paragraph 24 (b) of the PCM RPs, to be held eligible for a Compliance Review, the Complaint must be filed within 24 months after the date on which the Bank ceased to participate in the Project and must relate to a Relevant EBRD Policy. The Eligibility Assessors consider that these conditions are met:

- the Complaint was filed within the prescribed timeframes; and
- the Complaint relates to the EBRD's Environmental and Social Policy, in particular Performance Requirement 1 – “Environmental and Social Appraisal and Management”, Performance Requirement 4 – “Community Health, Safety and Security” and Performance Requirement 10 – “Information disclosure and Stakeholder Engagement”.

37. Further, the Eligibility Assessors have considered that the Complaint raises more than a minor technical violation of the Relevant Policies.

38. Further, the Eligibility Assessors must consider paragraph 27 of the PCM RPs, which provides:

Where the Complaint raises issues appropriate for a Compliance Review, the Eligibility Assessors will, in their determination of eligibility, also consider whether the Complaint relates 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.

¹³ 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.”

39. The Eligibility Assessors consider that paragraph 27(a) of the PCM RPs is also satisfied. The issues raised constitute more than a minor technical violation of the Environmental and Social Policy. Further, under the Policy, the Bank had a responsibility for environmental and social appraisal of the Project, and to described Client commitments relating to relevant Performance Requirements, including PRs 4 and 10. The Bank also has a responsibility to monitor the implementation of Client commitments in this regard.

V. CONCLUSION

40. On the basis of the information set out above, the Eligibility Assessors have found that the Complaint satisfies the eligibility criteria for a Problem-solving Initiative and for a Compliance Review. In accordance with paragraph 30 c) of the PCM RPs¹⁴ the Eligibility Assessors have determined that the Problem-solving Initiative should be conducted in first instance, and the scope of any Compliance Review can be considered at a later stage, pending the outcomes of the Problem-solving Initiative and subject to further discussions with the Parties. Terms of reference for Compliance Review would be developed and discussed with parties, if possible.

¹⁴ In accordance with paragraph 30 of the PCM RPs: “[t]he Eligibility Assessors will issue an Eligibility Assessment Report [...] with a determination of whether the Complaint is eligible for a Problem-solving Initiative, Compliance Review, both (with a decision regarding the order in which they should be conducted), or neither.”

TERMS OF REFERENCE FOR A PROBLEM-SOLVING INITIATIVE

Complaint on Kozloduy International Decommissioning Support Fund Request: 2018/01

Application

1. These Terms of Reference apply to any activity or action undertaken as part of the Problem-solving Initiative, which includes the promotion of a facilitated dialogue among the Parties to discuss the issues raised in the [Complaint](#), without attributing blame or fault.¹⁵
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.¹⁶

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 RPs.

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 RPs, the concerns expressed in the [Complaint](#), and the general circumstances of the [Complaint](#). The Expert will employ such methods as he/she

¹⁵ 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."

¹⁶ European Code of Conduct for Mediators:
http://ec.europa.eu/civiljustice/adr/adr_ec_code_conduct_en.pdf.

deems necessary including facilitated information-exchange, mediated bilateral and joint discussions and conciliation.

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;
 - h. Coordinate with independent experts and/or Independent Accountability Mechanisms, as appropriate.

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 RPs, the Problem-solving Expert shall prepare a Completion Report. The Report will describe the issues raised in the [Complaint](#); 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 RPs.
11. In accordance with paragraph 39 of the PCM RPs, 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: COMPLAINT

Complaint Form

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



Project
Complaint
Mechanism

Step 1: Details of the Complaint

<p>Name of the Person(s) or Organisation(s) filing the Complaint ("the Complainant").</p> <div style="background-color: black; width: 100%; height: 15px;"></div>
<p>2. Contact information of the Complainant (Please include address and, if possible, phone number and email address).</p> <p><div style="background-color: black; width: 100px; height: 15px;"></div>, Craiova, Dolj, Romania, email <div style="background-color: black; width: 100px; height: 15px;"></div>, phone no. <div style="background-color: black; width: 100px; height: 15px;"></div></p>
<p>3. Is there a representative making this Complaint on behalf of the Complainant?</p> <p>No</p>
<p>Is proof of authorisation included with the Complaint?</p> <p>No <input type="checkbox"/></p>
<p>4. Are you requesting that this Complaint be kept confidential?</p> <p>No <input type="checkbox"/></p>
<p>5. Please provide the name or a description of the EBRD Project at issue.</p> <p style="text-align: center;">Kozloduy International Decommissioning Support Fund</p> <p>KIDSF supports SERAW, the Bulgarian organisation in charge of decommissioning Kozloduy units 1 to 4, in constructing a near surface repository close to the Kozloduy site for radioactive waste from the decommissioning process. The first stage of construction is being funded with a €71.8 million (\$85.7 million) grant from the Kozloduy International Decommissioning Support Fund, which is administered by the European Bank for Reconstruction and Development.</p>
<p>6. Please describe the harm that has been caused or might be caused by the Project (<i>please continue on a separate sheet if needed</i>)</p> <p><i>First of all, the repository will not only be used for the radioactive waste from the decommissioning Kozloduy units 1 to 4, but also for the radioactive waste from the operating units 5 and 6 and possibly from another unit announced to be installed in the region. Thus, EBRD indirectly supports nuclear energy activities in the future, with the risks implied, when the global trend is to renounce to such sources of energy in favour of renewable, population and environment risk free energy. A surprising conclusion considering the mission stated on the EBRD site: "we promote entrepreneurship, inclusive, sustainable growth and green energy."</i></p> <p>The near surface repository for radioactive waste close to the Kozloduy site implies a series of risks for the population and environment, including communities from the south region of Romania, in the name of whom we file this complaint. Even if the ESPOO and Aarhus Conventions speak of the right of the potentially affected communities to be consulted, the few public debates organized in transfrontier context were only formally respected. The Romanian public was not appropriately informed and thus, only about 10 Romanians happened to participate. There has been an unacceptable lack of transparency regarding the nuclear waste repository project and a total lack of information which should have been made available for the Romanian population living in areas potentially affected by this project. However, representatives of a civic platform anti-Kozlodui our NGO has founded together with other local associations, have succeeded to gather no less than 15300 (!) citizen signatures in support of a local referendum which has not been approved by the Local Council in Craiova. This number is, nonetheless, the most important and eloquent proof of the citizens' will to be consulted.</p> <p>The initial Environmental Assessment was declared illegal back in 2013 by the Supreme Administrative Court in Bulgaria</p>

Please write on a separate sheet wherever needed.

and the present one is currently challenged in court, the main concern being if the guidelines of the Court were respected.

In a study elaborated by the Bulgarian Academy of Sciences on the evaluated site, Radiana does not appear amongst the most favourite. Scientific studies claim that given the sandy and loamy ground out there and the quite high slope, a risk of landslides is present.

An analysis of [REDACTED] professor and engineer specialised in materials resistance from the University of Craiova, questions the geography of the place in relationship with building such a waste repository – an alluvial terrain, close to the Danube.

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 (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?

No (please go to question 8)

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.

[Excerpts from the Environmental and Social Policy of EBRD that show a lack of the client to comply with EBRD policies:](#)

„The client will review the measures regularly, and engage the affected communities and agencies on an ongoing basis, informing them on the status of implementation of plans and commitments, results, and discussing with them any material changes needed to the plans, in advance of changes.“

- SERAW and Bulgarian officials have not been transparent with the Romanian communities in transfrontier context (ESPOO and Aarhus Conventions).

„As part of the client's assessment of public health, safety and security risks and potential impacts from project-related activities (see paragraph 7 on page 30), the client will identify major-accident hazards, and will take all measures necessary to prevent major accidents and to limit their consequences for humans and the environment, with a view to ensuring high levels of protection to humans and the environment in a consistent and effective manner. Such measures will be identified in a major-accident prevention/emergency preparedness policy and an appropriate management system including organisational structures, responsibilities, procedures, communication, training, resources and other aspects required to implement such policy and to respond effectively to emergencies associated with project hazards. The management system will include an internal and an external emergency plan.“

Please write on a separate sheet wherever needed.

- We would like EBRD to inform us if the client has provided you with such a plan.
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). Together with other NGOs in Craiova, I have founded a civic platform anti-Kozloduz projects. Representatives of our platform have sent letters and complaints to officials in Romania and have maintained a dialogue with opponents in Bulgaria, including ██████████ Deputy Chairman of the National Movement Ecoglasnost, who is currently challenging in court the lawfulness of the Environmental Assessment of the proposed Nuclear Waste Facility in Bulgaria, case no. 1343/17 of the Supreme Administrative Court, after a similar Environmental Assessment was declared illegal by the court back in 2013. The main concern is whether the guidelines given by the Supreme Administrative Court at that time were actually respected.
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 type="checkbox"/>
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 type="checkbox"/>
13. What results do you hope to achieve by submitting this Complaint to the PCM? Stopping the funding of the nuclear waste repository at least until the client of your KIDSF complies with international conventions, until the population is authentically consulted or at least until the present court trial reaches an end.
Date: March 7, 2018

Supporting documents

If possible, please provide the following supporting documents by email to pcm@ebrd.com:

- 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.
- A written record of your correspondence with the EBRD in regards to this problem (these may be letters, emails or other form of correspondence and communication).
- A written record of your correspondence with the Project Sponsor (Client) in regards to this problem (these may be letters, emails or other form of correspondence and communication).

Please send your Complaint by fax, post, or email to:

Project Complaint Mechanism
Attn: PCM Officer
European Bank for Reconstruction and
Development
One Exchange Square
London EC2A 2JN
Fax: +44 20 7338 7633
E-mail: pcm@ebrd.com

Alternatively, a Complaint may be delivered by post or hand, at any one of the [EBRD Resident Offices](#) in the countries of operations. Please mark these "For the attention of the Project Complaint Mechanism Officer"., indicating that it is for transmission to the PCM. Complaints may be sent using the Complaint [online form](#), available at: http://www.ebrd.com/eform/pcm/complaint_form

Please write on a separate sheet wherever needed.

ANNEX 2:

BANK MANAGEMENT RESPONSE TO THE COMPLAINT

Construction of the near surface repository at Kozloduy NPP site

Management Response

The EBRD-administered multilateral donor fund KIDSF is financing the construction of the first stage of a near surface disposal facility for low and intermediate level radioactive waste (repository, NDF) at the Kozloduy NPP site (hereafter “the Project”), which is managed by the Bulgarian State Enterprise Radioactive Waste (SERAW). The task is assigned to SERAW by the Bulgarian Government through Council of Ministers Decision (CMD) No.683 of 25 July 2005. With CMD No. 898 of 8 December 2011 the facility is declared as national facility according to the Act on State Property and Territory Arrangement Act. CMD No.3 of 10 January 2013 declares the facility as a strategic facility, which is important for national security according to the Rules for implementation of the Law for State Agency for National Security. The NDF construction is subject to the Bulgarian Environmental Impact Assessment (EIA) procedure and consultations.

The NDF is required to safely and securely store low and intermediate level radioactive waste stemming from decommissioning of Kozloduy NPP in line with Bulgarian laws and regulations and in accordance with best international practice. Failure to provide this storage would sustain a hazard to environment and population.

To ensure compliance with the Convention on Environmental Impact Assessment in a Transboundary Context, EU legislation and EBRD Environmental and Social Policy, the Project included consultation in Romania and a public discussion of the EIA report in Craiova, Dolj County, Romania.

EBRD has received a complaint from Mr. Lucian Sauleanu, president of ARC NGO Craiova, Romania, against construction of the Project. Upon careful review of the information presented in the complaint and additional consultations with SERAW, **we deem that the statements made in the complaint are unfounded and misrepresent facts to the point of being frivolous.** Below are management’s detailed comments on the various points raised in the complaint:

Statement 1: First of all, the repository will not only be used for the radioactive waste from the decommissioning Kozloduy units 1 to 4, but also for the radioactive waste from the operating units 5 and 6 and possibly from another unit announced to be installed in the region. Thus, EBRD indirectly supports nuclear energy activities in the future, with the risks implied, when the global trend is to renounce to such sources of energy in favour of renewable, population and environment risk free energy. A surprising conclusion considering the mission stated on the EBRD site: “we promote entrepreneurship, inclusive, sustainable growth and green energy.”

KIDSF supports construction of the first stage of the NDF only, which is an integral part of the infrastructure necessary to accommodate the radioactive waste stemming from the decommissioning of Units 1-4 of Kozloduy NPP. KIDSF will not finance construction of NDF stages dedicated for the waste from Units 5 and 6 of KNPP or any other sources.

Statement 2: “The Romanian public was not appropriately informed and thus, only about 10 Romanians happened to participate. There has been an unacceptable lack of transparency regarding the nuclear waste repository project and lack of information which should have been made available for the Romanian population living in areas potentially affected by this project” “SERAW and Bulgarian officials have not been transparent with the Romanian communities in transfrontier context (ESPOO and Aarhus Conventions)”

The EIA procedure was carried out in compliance with the requirements of the Espoo Convention on Environmental Impact Assessment in a Transboundary Context, the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental issues in the EU and Article 98, paragraph 1 of the Environmental Protection Act,

which clearly define the responsibilities of the parties during the EIA in a transboundary context. ***According to the Conventions the communication between Bulgaria and Romania was to be made through the competent authorities. Thus SERAW could not reach out the Romanian communities directly and used the official channels for this purpose; specifically the Bulgarian Ministry of Environment and Waters officially contacted the Romanian authorities - Romanian Ministry of Environment, waters and forests.*** Via the Bulgarian Ministry of Environment and Waters SERAW provided the information to the Romanian authorities, who in turn shared that information with the Romanian community. The EIA documentation has been made publicly available on the internet site of the Environmental Agency of Dolj County since 13 April 2015, as well as on the internet site of the Romanian MEWF. The registered copies of all the correspondence and communication exchange is readily available and can be provided upon request.

12 city councils, administration of Dolj County, ISU Oltenia and Prefecture of Dolj Craiova Hall, the Chemistry and Physics departments of the Craiova University, Medical Faculty, Pharmacy Faculty and 53 NGOs were informed about the public consultations on the EIA procedure. The announcement of the date of the public discussion meeting was published in local newspapers and local authorities, the Chemical and Physics departments from Oltenia University, Medicine Faculty, Pharmacy Faculty and 53 NGOs were informed about the public discussion. The public consultation meeting took place on the 9 June 2016 in the city of Craiova, Romania, with the participation of Romanian and Bulgarian community members, institutions and organizations. According to the minutes the public hearing was attended by 113 stakeholders (and not just 10 persons as stated in the complaint), of which 36 were Bulgarian nationals. The public discussion continued from noon to 8p.m., translation and presentations into Romanian were provided and minutes have been taken. The Romanian party provided the Bulgarian party with the list of participants in the public discussions meeting as well as with comments made during the public discussions and those received later. SERAW statement on the questions and proposals, recommendations, opinions and objections, expressed during and after the public discussions was sent to the Romanian MEWF, which in turn put forward certain conditions to consider for the EIA decision.

All afore-mentioned clearly demonstrates that the EIA consultations were conducted in accordance with the Espoo and Aarhus Conventions. Romanian governmental institutions and communities were provided with the EIA Report and considerable amount of additional information. EIA procedure for the NDF was transparent and all the necessary information has been made available to the Romanian residents living in areas potentially affected by this project.

We presume that the information contained in the complaint alleging only 10 participants from the Romanian side refers to the debates in cross border context and Espoo and Aarhus convention implications that took place in Craiova Concert hall on 09.07.2016 and which was arranged by the representatives of the Civil Society of Romania and Bulgaria, continuing the series of debates that were initiated back in 07.07.2011, in Becket, Romania, with a number of other subsequent meetings on the same topic, and referendum requests mentioned in the complaint (19.09.2015). ***Those meetings were not arranged by EBRD/SERAW, and thus poor participation and lack of information to the community on this important topic, if any, should be addressed to the local authorities, in as far as they may have responsibility for supporting public debate.***

Statement 3: In a study elaborated by the Bulgarian Academy of Sciences on the evaluated site, Radiana does not appear amongst the most favourite. Scientific studies claim that given the sandy and loamy ground out there and the quite high slope. A risk of landslides is present.

This statement is incorrect. Since the very beginning of the site selection process in Bulgaria, in compliance with the international experience, the vicinity zones of the existing nuclear facilities have been considered as particularly prospective. Already in the Report on Survey and Selection of Potential Sites for a National RAW repository (Geological Institute – Bulgarian Academy of Science, 2005), the zone of the Kozloduy NPP was analysed and graded amongst the first three

most favourite candidate-sites for construction of a low and intermediate level radioactive waste (LILW) repository. Initially it was designated as Kozloduy site, later in 2008 it was named Radiana site.

The comment regarding landslide hazard is completely ungrounded, because:

i. The geomorphology and topography of the Radiana site natural terrain (gentle slope with inclination of 3 – 12 %) as well as the engineering geological varieties (including the sandy clayey sediments of the Brusarska Formation) with the respective geotechnical parameters do not suppose development of any landslide processes in the natural slope.

Nowhere in the Radiana site and the vicinities even insignificant deformations in the natural slope developed. The stability tests performed on the natural slope within the site selection stage proved these observations.

ii. The Technical Design of the National Disposal Facility elaborated by a Westinghouse led consortium, composing highly qualified experts from Spain and Germany. The slope stability have been analysed by most advanced methods. The modelling analysis verified the slope stability for any loading conditions.

The statement that Radiana was not named amongst favourable sites in a study by the Bulgarian Academy of Sciences is a misrepresentation of facts.

Statement 4: An analysis of ██████████, professor and engineer specialized in material resistance from the University of Craiova, questions the geography of the place in relation with building such a waste repository – an alluvial terrain, close to the Danube.

A comprehensive site selection for the LILW disposal has been performed in Bulgaria in compliance with recommendations of the International Atomic Energy Agency and Nuclear Energy Agency in a stepwise approach. The territory of the whole country was analysed and evaluated following a specially developed methodological procedure for selecting potential sites.

The Radiana site was ranked first and after additional investigations was selected for construction of the NDF, as the studies concluded that the Radiana site is neither threatened by flooding nor by erosion caused by the Danube River for the entire lifetime of the NDF.

Regarding the ground material resistance, the disposal facility is designed to be founded on the sandy clayey sediments of the Brusarska Formation. These are no alluvial sediments deposited by the Danube river. They are Pliocene and possess much higher than the allowable bearing capacity which was proven by the analyses made by Westinghouse led consortium experts. Besides, the repository will be constructed on a 5 m thick soil-cement cushion. Notwithstanding that the main role of the cushion is to further increase the unsaturated zone, the soil-cement cushion will additionally increase the ground base stability. The allegation that the Radiana site is located in alluvial terrain, close to the Danube River has been proven incorrect, which is also confirmed by the 2011 Report “Prediction of Eventual Changes in the Hydrogeological Conditions of the Radiana Site under Unfavourable Concurrence of Hydrological, Hydrotechnical, and Climatic Circumstances and Assessment of the Erosion and Flood Hazard” by the Geological Institute of the Bulgarian Academy of Sciences.

Numerous studies performed by the leading Bulgarian institutions and the NDF designers disprove results of the analysis performed by Prof. ██████████.

Statement 5: Request to provide information regarding the Emergency Preparedness/Response Plan.

SERAW has developed its emergency plans for the facilities that are already constructed and are in operation, following the requirements of the Bulgarian Regulation on Emergency Planning and Emergency Preparedness in Case of Nuclear and Radiological Emergencies and IAEA Safety Standards approved by the nuclear regulator as part of the procedure for issuing license for operation of the above mentioned facilities.

The National Disposal Facility is under construction. During this stage there is no radioactive waste or radioactive materials on the site, which means that there is no risk associated with their handling and disposal. During the construction period all health and safety risks are managed by the Contractor's health and safety plan. This Plan covers all possible health and safety risks associated with civil construction activities.

Prior to the commissioning of the facility the emergency plan for National Disposal Facility operation will be finalised, approved by respective authorities and put into force. This is also a legal requirement of the Bulgarian Regulation on procedure for issuing licenses and permits for safe use of nuclear energy.

During the project siting and design stages SERAW has taken all measures to ensure safety for the operational personnel, population, and the environment. The NDF design analyses safety during the facility operation and after its closure for both normal operation and possible accidents scenarios. The NDF design and the EIA Report (part 5 - Characteristics of the risks for environment, population in the region and of the workers on the site in case of potential emergencies and incidents) prove that the maximum annual effective dose for the population is lower than the limits determined by the nuclear legislation and by the Safety standards of the International Atomic Energy Agency.

The technical design and the corresponding safety assessment report are approved by the Bulgarian Nuclear Regulatory Agency, which issued the permit for construction of the National Disposal Facility.

Statement 6. The request to stop the Project until the Court decision.

Preliminary implementation of EIA Decision and the EIA Decision were appealed at the beginning of 2017 by the NGOs – National Movement “Ekoglasnost” and “Coalition for Sustainable Development”. The Appeal of the preliminary implementation of EIA Decision was rejected by the Supreme Administrative Court with Decisions No. 2187/21.02.2017 and No. 6208/17.05.2017. The Supreme Administrative Court proceedings for the appeal against the EIA Decision are ongoing. No decision has been taken during the last sitting of the Court on 14 March 2018 and the next one is scheduled for 16 May 2018.

Suspension of the Project during the appeal process is the prerogative of the Bulgarian courts. The court has not found any justification for suspension as any delay would on balance pose a greater risk to the community and environment.

The construction of the low and intermediate level radioactive waste repository aims to improve the safety situation compared to the current one.

Summarizing all above-mentioned facts, EBRD considers that the requirements of the Environmental and Social Policy, Espoo and Aarhus Conventions and other applicable regulations were fully met and the communities, NGOs and other stakeholders were given the opportunity to express their concerns and proposals, which were taken into account; thorough engineering and geological studies have been undertaken by reputable national scientific institutions and international experts; SERAW is committed to its obligations under the terms of Project financing and is open to a dialogue targeted at resolving any concerns.

ANNEX 3:

CLIENT RESPONSE TO THE COMPLAINT

SERAW position on complaint of [REDACTED] of ARC NGO Craiova, Romania against construction of the near surface repository at Kozloduy NPP site (hereafter “the Project”) financed by KIDSF

SERAW is constructing a near surface disposal facility (repository) at Kozloduy NPP site. The construction of the first stage of the facility is financed by KIDSF, administrated by EBRD. The task is assigned to SERAW by the Bulgarian Government with Council of Ministers Decision (CMD) No.683 of 25 July 2005. With CMD No. 898 of 8 December 2011 the facility is declared as national facility according to the Act on State Property and Territory Arrangement Act. With CMD No.3 of 10 January 2013 the facility is declared as a strategic facility, which is important for the national security according to the Rules for implementation of the Law for State Agency for National Security.

The investment proposal of SERAW for construction of National disposal facility for radioactive waste is subject to an Environmental impact assessment procedure, which included consultation with the Romanian party and a public discussion of the EIA report in Craiova, Dolj County, Romania. The project is implemented in full compliance with the Convention on Environmental Impact Assessment in a Transboundary Context, EU legislation and EBRD Environmental and Social Policy.

There are several incorrect statements in the complaint form, which will be proven wrong successively.

Statement 1: “The Romanian public was not appropriately informed and thus, only about 10 Romanians happened to participate. There has been an unacceptable lack of transparency regarding the nuclear waste repository project and lack of information which should have been made available for the Romanian population living in areas potentially affected by this project” “SERAW and Bulgarian officials have not been transparent with the Romanian communities in transfrontier context (ESPOO and Aarhus Conventions)”

In compliance with the requirements of the Convention on Environmental Impact Assessment in a Transboundary Context and on the basis of Article 98, paragraph 1 of the Environmental Protection Act, the EIA procedure is carried out in a cross-border context.

The above mentioned convention strictly defines the responsibilities of the parties during the procedure of EIA in transboundary context. According the Convention the communication between Bulgaria and Romania is only through the official channels. This means that SERAW could not contact directly the Romanian population. For this the official channels was used - the Bulgarian Ministry of Environment and Waters contacted officially the Romanian authorities - Romanian Ministry of Environment, waters and forests. Below it is described how the SERAW via the Bulgarian Ministry of Environment and Waters provided the information to the Romanian authorities, which are obliged to provide the information to the Romanian population. It is described also that the Romanian authorities provided the information to the Romanian population.

Bearing in mind the expressed willingness of Romania (as an affected country from the implementation of the investment proposal on Bulgarian territory) to participate in a cross-border EIA procedure (with letter No.7439/NN/15.09.2009), in the course of the EIA procedure in December 2014 the Bulgarian party (Ministry of Environment and Waters – MEW) sent to the Romanian Ministry of the environment, waters and forests (MEWF) the updated Terms of Reference for the EIA Report translated into English. The Terms of Reference was also published on the internet site of Bulgarian MEW.

In line with the additional information required by the Romanian party (with letter No. 6665/GLS/ 27.01.2015) concerning the motives of the Supreme administrative court to reject the previous EIA decision №21-9/2011 and the presence of new elements and changes into the characteristics of the investment proposal, with letter out.№ OBOC-1/16.03.2015 Bulgarian MEW sent to Romanian MEWF parts of the EIA Report – the Non-technical summary, part Transboundary impact and Report on the assessment of the degree of impact of the investment proposal on the subject and purposes of the Natura 2000 protected areas, as well as the required information.

With letter from 24 March 2015 out. Ref. OBOC-1/24.03.2015, Bulgarian MEW informed Romanian MEWF about scheduled public discussions on Bulgarian territory, about provision of access to the EIA Report (translated into English) through the internet site of MEW and sent to the Romanian MEWF the whole EIA Report along with all annexes in electronic format.

Since March 2015 on the internet site of SERAW has been provided access to the EIA Report (in Bulgarian and English), as well as Public Grievance forms (in Bulgarian, English and Romanian languages) through which the interested persons can provide opinion or statement and ask questions. Subsequently SERAW provided on its internet site access to the Non-technical summary translated into Romanian.

With letter inc. OBOC-1/28.05.2015 Romanian MEWF sent to MEW summary of the statements of the Romanian authorities. In reply (with letter from 30 July 2015) MEW sent to Romanian MEWF statement of the Employer SERAW covering the raised questions.

Additionally, to the Romanian MEWF were sent answers to the raised questions and clarifications regarding additional requests made by the Romanian party (with letter reg.No.9328/ CPP/17.12.2015 and reg.No.9328/ CPP/11.03.2016).

With letter from the Romanian party (MEW inc.No.99-00-95/17.05.2016) was received a proposal for holding a meeting for public discussion of the EIA Report.

The meeting for public discussion took place on the 9 June 2016 in the city of Craiova, Romania, with the participation of Romanian and Bulgarian citizens, institutions and organizations. Translation and presentations in Romanian language were provided. Minutes from the meeting were signed. The Romanian party provided to the Bulgarian party list of the participants in the public discussions meeting as well as the comments of the stakeholders expressed during the public discussion meeting and the statements received additionally.

The SERAW statement on the posed questions and the made proposals, recommendations, opinions and objections, expressed during the public discussions meeting and including the additional statements, was sent to the Romanian MEWF with letter out.No.99-00-217/16.08.2016.

In reply was received letter from Romanian MEWF (inc.No.OBOC/1/04.11.2016), which includes certain conditions, which to be included in the EIA decision. They are included into the EIA decision №7-7/2016.

The text above shows clearly, that the EIA consultations in accordance with the Convention on Environmental Impact Assessment in a Transboundary Context continued more than year and a half. To the Romanian party was provided not only the EIA Report, but also considerable amount of additional information.

The Romanian authorities (Romanian Ministry of environment, waters and forest and Environmental Agency of Dolj County) have spread the information and have informed the interested parties in line with the Romanian legislation. The EIA documentation has been made publicly available on the internet site of the Environmental Agency of Dolj County since 13 April 2015, as well as on the internet site of the Romanian MEWF. According to the Minutes of meeting from the public discussion, for the resumption of the EIA procedure were informed 12 city councils, as well as the administration of Dolj County, ISU Oltenia and Prefecture of Dolj Craiova Hall, the Chemistry and Physics departments of the Craiova University, Medical Faculty, Pharmacy Faculty and 53 NGOs. The announcement of the date of the public discussion meeting

was published in local newspapers and about the public discussion were informed local authorities, Chemical and Physics departments from Oltenia University, Medicine Faculty, Pharmacy Faculty and 53 NGOs.

From the above it can be seen that the EIA procedure for the National Disposal Facility for Radioactive Waste was transparent and all the necessary information have been made available to the Romanian population living in areas potentially affected by this project. A proof of this is the fact that the public discussion meeting continued from noon until 8 p.m. According to the minutes of public hearing 113 stakeholders participate in the public hearing. Only 36 are with Bulgarian names. This information proves that the number of the Romanians that participated in the public hearing was significantly higher than the stated 10 persons.

Statement 2: In a study elaborated by the Bulgarian Academy of Sciences on the evaluated site, Radiana does not appear amongst the most favorite. Scientific studies claim that given the sandy and loamy ground out there and the quite high slope. A risk of landslides is present.

The statement that the Radiana site has not been considered amongst the most favorite sites within the site selection studies performed by the Geological Institute of the Bulgarian Academy of Sciences is definitely incorrect.

Since the very beginning of the low and intermediate level waste site selection process in Bulgaria, in compliance with the international experience, the vicinity zones of the existing nuclear facilities have been considered as particularly prospective. Still in the Report on Survey and Selection of Potential Sites for a National RAW repository (Geological Institute – BAS, 2005), the zone of the Kozloduy NPP was analysed and graded amongst the first three most favorite candidate-sites for construction of LILW repository. Initially it was designated as Kozloduy site, later in 2008 it was called Radiana site.

The comment for a landslide hazard is completely ungrounded. The following main arguments can be pointed out:

i. The geomorphology and topography of the Radiana site natural terrain (gentle slope with inclination of 3 – 12 %) as well as the engineering geological varieties (including the sandy clayey sediments of the Brusarska Formation) with the respective geotechnical parameters do not suppose development of any landslide processes in the natural slope.

Nowhere in the Radiana site and the vicinities even insignificant deformations in the natural slope have been developed. The performed stability analyses of the natural slope within the site selection stage proved these observations.

ii. Within the Technical Design of the National Disposal Facility elaborated by a Westinghouse Consortium, composing highly qualified experts from Spain and Germany, the slope stability have been analysed by most advanced methods. The modeling analyses verified the slope stability for any loading conditions.

Statement 3: An analysis of [REDACTED] professor and engineer specialized in material resistance from the University of Craiova, questions the geography of the place in relation with building such a waste repository – an alluvian terrain, close to the Danube.

A comprehensive site selection for low and intermediate level waste disposal has been performed in Bulgaria in compliance with the recommended by the International Atomic Energy Agency and Nuclear Energy Agency stepwise approach. The territory of the whole country was analyzed and evaluated by a step by step process following a specially developed methodological procedure for selecting potential sites. Using a system of comparative attributes, a multi-attribute comparative analysis was made of the potential candidate-sites for evaluating their capabilities of meeting the safety requirements, their suitability for disposition and construction of the facilities for LILW disposal. As result of this analysis the Radiana site was graded at the first place and after additional investigations was selected for construction of National Disposal Facility for LILW.

The statement that the Radiana site is located in alluvial terrain, close to the Danube River is not correct. The distance from Radian site to the Danube River is 3.9 km. Flooding of the site is impossible because of the topographic (geomorphological) disposition of the site and its remoteness from surface waterstreams and reservoirs. In 2011 the Geological Institute of the Bulgarian Academy of Sciences issued a report titled *“Prediction of Eventual Changes in the Hydrogeological Conditions of the Radiana Site under Unfavourable Concurrence of Hydrological, Hydrotechnical, and Climatic Circumstances and Assessment of the Erosion and Flood Hazard”*. This study concluded that the Radiana site is neither threatened by flooding nor by erosion caused by the Danube River for the entire lifetime of the NDF.

As regard to the ground material resistance: The disposal facility is designed to be founded on the sandy clayey sediments of the Brusarska Formation. These are not alluvial sediments deposited by the Danube river. They are Pliocene and possess much higher than the allowable bearing capacity which was proven by the analyses made by Westinghouse Consortium experts. Besides the repository will be constructed over a 5 m thick soil-cement cushion. Notwithstanding that the main role of the cushion is to increase still more the unsaturated zone, the soil-cement cushion will increase additionally the ground base stability.

Statement 4: “As part of the client’s assessment of public health, safety and security risks and potential impacts from project related activities the client will identify major-accident hazards, and will take all measures necessary to prevent accidents and to limit their consequences for humans and the environment, with a view to ensuring high levels of protection to humans and the environment in a consistent and effective manner. Such measures will be identified in a major-accident prevention/emergency preparedness policy and in an appropriate management system including organizational structures, responsibilities, procedures, communication, training, resources and other aspects required to implement such policy and to respond effectively to emergencies associated with project hazards. The management system will include internal and external emergency plan” “We would like to inform us if the client has provided you with such a plan”

During the project implementation SERAW has taken all the measures to provide safety for the population, operational personnel and the environment. Safety assessments are elaborated, which include analysis of the safety during the NDF operation, analysis of accidents as well as safety analysis after closure of the facility. Major accidents are identified. Their impact is assessed. With the design – robust design of the NDF based on multi barrier system all the measures are taken to limit the consequences of the accidents to the operational personnel, population and the environment. In the safety assessments and respectively in part 5 of the EIA Report (Characteristics of the risks for environment, population in the region and of the workers on the site in case of potential emergencies and incidents) it has been shown that the maximum annual effective dose for the population is orders of magnitude lower than the regulatory limit determined by the nuclear legislation and by the Safety standards of the International Atomic Energy Agency.

The measures for provision of safety are provided in the SERAW’s Policy for Management of Safety and the Integrated Management System of the SERAW that follows the requirements of the International Atomic Energy Agency (IAEA) safety standards: Safety Requirements GS-R-3“ Management systems for facilities and activities” and Safety Guide GS-G-3.1 “Application of the Management System for Facilities and Activities”. SERAW Integrated Management System considers all aspects mentioned in the Statement No.4, including appropriate organizational structure, responsibilities, procedures, communication, training, resources and other aspects required to implement all activities of the SE RAW in a safe manner. SERAW Integrated Management System is process oriented as required by the above mentioned IAEA safety standards. SERAW Integrated Management System is documented in the Manual of the Integrated Management System (IMS). All processes of the IMS are fully developed, approved by

the management of SERAW and entered into force. Important process of the management system is the process Emergency Planning and Emergency Preparedness.

SERAW has developed its emergency plans for the facilities that are already constructed and are in operation by the Specialized Division “Decommissioning units 1-4”, Specialized Division “RAW Kozloduy”, and Specialized Division “Novi Han Facility”. These emergency plans follow the requirements of the Bulgarian Regulation on Emergency Planning and Emergency Preparedness in Case of Nuclear and Radiological Emergencies and IAEA Safety Standards and are approved by the nuclear regulator as part of the procedure for issuing license for operation of the above mentioned facilities.

The emergency plan for National Disposal Facility operation is due at the stage when the construction is completed and the facility is under commissioning. Now National Disposal Facility is under construction. During this stage there is no radioactive waste or radioactive materials on the site, which means that there is no risk associated with their handling and disposal. During the construction period all health and safety risks are managed by the health and safety plan of the Contractor. This health and safety plan covers all possible health and safety risks associated with civil construction activities.

After the National Disposal Facility construction phase prior the commissioning phase the NDF emergency plan will be finalized, approved by respective authorities and put into force. This is also legal requirement of the Bulgarian Regulation on procedure for issuing licenses and permits for safe use of nuclear energy. It should be stressed that with the robust design of the NDF, which is based on multibarrier system, all measures are taken to limit the consequences to the operational personnel, population and the environment in case of accident. The safety assessment report proves that all considered design and beyond design accidents have no radiological impact above the statutory limits and best European practice.

The technical design and the corresponding safety assessment report are approved by the Bulgarian Nuclear Regulatory Agency, which issued order of approval of the design and permit for construction of the National Disposal Facility.