

EBRD

Project Complaint Mechanism

Annual Report 2016



Stepansminda village, near Dariali HPP in Georgia

Report of the
Project Complaint Mechanism Officer



Project
Complaint
Mechanism

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1. MESSAGE FROM THE PCM OFFICE

In 2016, the PCM continued to clear the backlog of complaints that had accumulated over the years. In total, we published 12 Compliance Review, Problem-Solving and Monitoring reports and successfully closed six complaints during the year. We also received our first complaint related to the Bank's obligations under the 2014 Public Information Policy.

Other activities in 2016 which enhanced our effectiveness included:

- A focus on training PCM experts on processes and procedures to carry out their duties more effectively.
- Joining the Independent Accountability Mechanisms (IAMs) Standards and Good Practice working group charged with identifying and developing common standards and good practice guides for accountability mechanisms.
- The development of procedures for addressing reprisals relating to PCM complaints.
- The initiation of a new project management platform to better track PCM cases, identify timing challenges and enhance the overall transparency of PCM's complaint handling processes.
- The implementation of our first-ever stakeholder engagement survey to help better assess our performance and open up a more effective communication channel (outside of specific complaints) with our stakeholders.

We also engaged in a number of outreach events in the EBRD's countries of operations this year in order to increase awareness of the mechanism and learn more about the challenges faced by actual complainants on the ground. In particular, we held outreach events in Serbia and Ukraine and made presentations to EBRD Resident Offices in Belgrade, Kiev and Tbilisi. These events, particularly those involving communities themselves, are important as they help to raise the profile of the PCM with potential users. Perhaps more importantly they demonstrate the impact of mechanisms like the PCM and the essential role they play, especially for complainants, in giving them the right to be heard.

This year also marked an increased level of collaboration with other IAMs. We hosted a joint capacity-building workshop for local mediators in Athens together with the Office of the Compliance Advisor Ombudsman (CAO) of International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA) together with the Complaints Mechanism of the European Investment Bank (EIB), to improve our ability to engage in local problem-solving initiatives in the region. We also participated in the annual IAMs meeting in Manila, and are leading one of the working groups to help develop standards and good practice notes for use across the mechanisms.

Other profile raising activities included hosting an internal workshop for Bank staff on how to use community to community dialogue and joint problem solving to enhance EBRD projects, and being invited to speak on two separate panels at the UN Business and Human Rights Forum in Geneva on the effectiveness and challenges of grievance mechanisms.

The Project Complaint Mechanism Office

2. WHAT IS THE PROJECT COMPLAINT MECHANISM?

What is the Project Complaint Mechanism (PCM)?

The PCM is the accountability mechanism of the EBRD. It provides an opportunity for an independent review of complaints from one or more individual(s) or organisation(s) concerning a Bank project that is alleged to have caused, or is likely to cause, harm.

Our history

The EBRD established its first accountability mechanism in 2004. The Independent Recourse Mechanism, as it was initially known, was established as part of the EBRD's commitment to transparency and accountability of its operations. Since this time, the mechanism has evolved both procedurally and professionally and has gone through several iterations of change. In 2010, the mechanism formally changed its name to the Project Complaint Mechanism and hired its first dedicated staff member to manage the office along with three independent compliance experts who were called upon when necessary to investigate cases when they arose. The PCM Rules of Procedure, which underpin the mandate of the PCM, were again updated in 2014 to clarify the registration and eligibility stages of complaints and address issues around the length of time PCM complaints were taking to resolve. Since its founding in 2010 the PCM has registered 24 complaints. In an era of increasing demands for greater accountability, the PCM continues to work assiduously to enhance its efficiency, effectiveness and credibility.

PCM Rules of Procedure

The PCM process is governed by the PCM Rules of Procedure, which set out who may file a complaint, how a complaint should be filed, on what basis a complaint will be found eligible and, if found eligible, how it will be processed by the PCM (that is, Compliance Review, Problem-solving Initiative, or both). The PCM Rules of Procedure also describe requirements relating to timelines, reporting, disclosure of and access to information, training, outreach, and other issues relevant to the administration of the PCM. The current PCM Rules of Procedure came into force in November 2014.

Functions of the PCM

The PCM can 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 aims to resolve the dispute between the complainant and the client underlying a complaint without attributing blame or fault.

Figure 1 What happens when a complaint is received? [on page 7] outlines the PCM process when a complaint is received pursuant to the PCM Rules of Procedure.

3. OUR GOVERNANCE

The Chief Compliance Officer (CCO) is the head of the office in which the PCM is located.

The CCO's role with respect to the PCM is limited to ensuring that the PCM Officer carries out the PCM functions and administrative responsibilities according to the PCM Rules of Procedure.

In respect of the duties relating to the PCM, the Chief Compliance Officer (CCO), reports functionally and administratively to the President and has full and free access to the Chair of the Audit Committee.

PCM Officer

The post of PCM Officer has a number of safeguards to preserve its independence and impartiality. These include the following:

- The PCM officer is nominated by a committee and appointed by the President. The nomination committee consists of five members, both internal and external to the Bank.
- The PCM Officer serves as a full-time employee of the Bank on a five-year renewable contract. The PCM Officer will not have worked for the Bank (either as a staff member, Bank official, Director, Alternate Director, Director's Adviser or consultant) for at least two years before being appointed as the Officer.
- The PCM Officer, upon completion of his or her term of service, is not entitled to work for the Bank (either as a staff member, Bank official, Director, Alternate Director, Director's Adviser or consultant) for at least three years immediately following their term.

The PCM Officer is responsible for:

- the day-to-day administration of the PCM, including outreach and training
- maintenance of the PCM web site and Register
- Registration of complaints
- serving as a co-Eligibility Assessor
- selection of PCM experts to: determine eligibility; conduct Compliance Reviews and/or Problem-solving Initiatives
- monitoring and reporting on the implementation of follow-up activities
- reporting through the President to the Board annually and on an ad hoc basis whenever necessary
- communicating with local communities, civil society organisations and other accountability mechanisms.

The PCM Officer is supported by a staff of two and is provided with budgetary resources, in accordance with the PCM Rules of Procedure (see [PCM web page](#) for more information).

PCM Staff

The Project Complaint Mechanism Office currently comprises two full-time staff, a roster of seven independent experts and the PCM Officer. A brief biography of current staff is available at the [PCM webpage](#).

PCM Experts

PCM Experts are responsible for serving as co-Eligibility Assessors, Compliance Review Experts or Problem-solving Experts. PCM Experts may be responsible, on delegation by the PCM Officer, for any follow-up monitoring and reporting.

PCM Experts operate externally to the Bank, and are international professionals who specialise in areas such as environmental law, sustainable development and mediation. Seven PCM Experts are on a standing roster. They are:



PCM experts and staff at training in London, February 2016

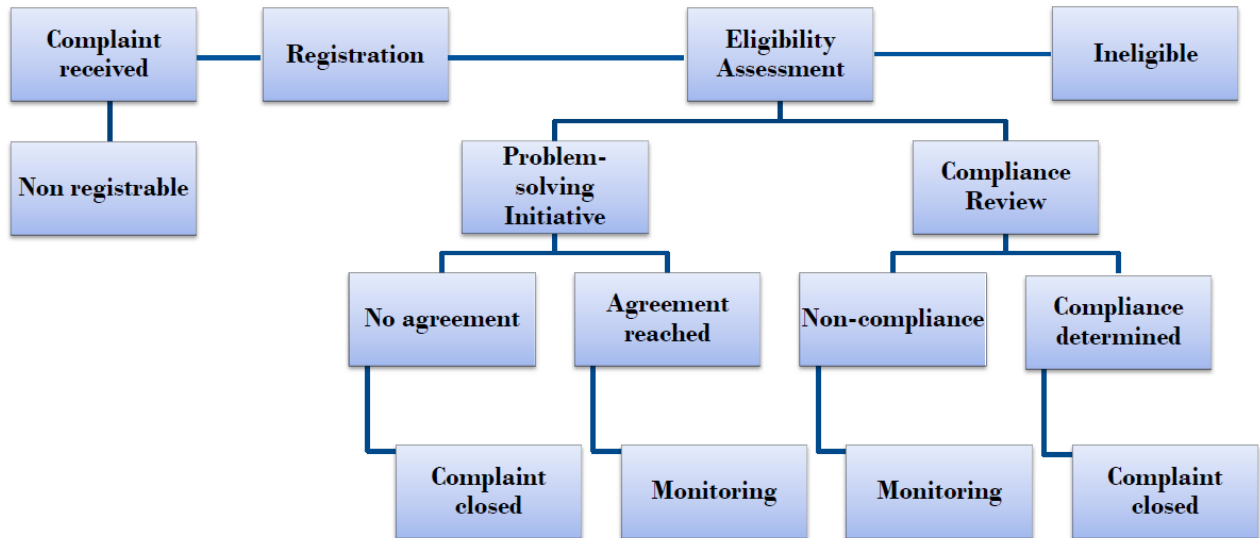
- Albab Akanda
- Owen McIntyre
- Neil Popovic
- Maartje van Putten
- Andrea Saldarriaga
- Halina Ward
- Susan Wildau.

The Experts' detailed biographies can be found on the [PCM webpage](#). They meet once a year with PCM and other Bank staff at the EBRD's headquarters in London for training and to share experiences.

4. THE PCM PROCESS

The PCM receives and processes complaints in accordance with the PCM Rules of Procedure. There are four main stages of complaint processing – Registration, Eligibility Assessment, Problem-solving and/or Compliance Review and Monitoring. Each of these stages is discussed in more detail below.

Figure 1 What happens when a complaint is received?



5. FEEDBACK FROM OUR STAKEHOLDERS

At the end of 2016, the PCM prepared a survey to gather feedback on our performance from stakeholders. The survey went out to the 99 stakeholders that we interacted with in complaint handling processes throughout the year and included EBRD staff, complainants, clients and civil society organisations. In the end we had a response rate of just over 38 per cent.

It is important to recognise that stakeholder surveys of this nature have to be regarded with extreme caution in the interpretation of their results. First, with a relatively small sample size the statistical margin of error can be large. Second, surveys of complaint mechanisms are notoriously difficult to assess because it is largely human nature that a person's view about the complaint mechanism and its processes will itself be shaped by whether he or she agrees with the result.

Notwithstanding these cautions, we think the results provide us with some important insight into the PCM's effectiveness from the perspective of our stakeholders and points to some areas where improvements may be needed. We have included selected results from the survey below:

Assertions	Responses ¹	Complainants-NGOs (N=7)	EBRD Staff (N=22)	Clients (N=9)
On professionalism...				
"The PCM staff listened to us attentively and took the necessary time to consult with us and understand our position throughout the complaint handling process".	Agree	83%	88%	88%
	Disagree	17%	12%	12%
On timing...				
"The PCM office effectively manages the complaint-handling process to ensure that relevant deadlines are met."	Agree	60%	35%	88%
	Disagree	40%	65%	-
On legitimacy...				
"The PCM enables trust from the stakeholder groups for whom the complaint mechanism is intended, and has a governance structure that holds it to account for the fair conduct of the complaint process."	Agree	50%	46%	100%
	Disagree	50%	23%	-
On accessibility...				
"The PCM is known to all stakeholder groups whom it is intended for, and provides adequate assistance for those who may face particular barriers to access."	Agree	17%	17%	66%
	Disagree	83%	25%	-
On consistency...				

¹ "Agree" includes both "Agree" and "Strongly Agree", "Disagree" includes both "Disagree" and "Strongly Disagree".

Assertions	Responses ¹	Complainants-NGOs (N=7)	EBRD Staff (N=22)	Clients (N=9)
"The PCM has consistent and clear processes for gathering and verifying evidence to inform its findings, actions, and conclusions."	Agree	50%	38%	100%
	Disagree	50%	54%	-
On equitability...				
"The PCM ensures that complainants have reasonable access to sources of information and advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms."	Agree	50%	16%	67%
	Disagree	50%	16%	-
On transparency...				
"The PCM keeps all parties to a complaint informed about its progress, and provides them with sufficient information about the mechanism's performance to build confidence in its effectiveness."	Agree	67%	33%	100%
	Disagree	33%	41%	-

The results from the survey will be reviewed with our stakeholders in 2017 in order to help us better interpret the data and inform our strategy development.

In addition to the survey, we also asked representative stakeholders to give us some qualitative feedback on the PCM's effectiveness.



The Environment and Sustainability Department values the objectives and principles of the Project Complaint Mechanism, and has learned a significant number of lessons from the Compliance Review of projects. Even when projects are found to be in compliance with the policy, the issues raised in the complaint and discussed during the PCM process have helped us improve our guidance to staff and instructions to clients.

With regard to overall effectiveness of the PCM, we would encourage more attention to be paid to the timeliness of processing complaints and a further emphasis on promoting Problem-solving Initiatives. We support continued efforts by the PCM to encourage meaningful dialogue between clients and stakeholder groups, and find that this can be a helpful addition to the due diligence process in complex situations. A good example this year was the South-West Corridor project in Kazakhstan, where the PCM expert worked with the client and local communities to find ways to improve safety issues in villages along the roadway.

**Alistair Clark, Managing Director,
Environment and Social Department, EBRD**

2016 was an important year for the PCM. The mechanism processed its first case regarding the implementation of the EBRD's Public Information Policy, it conducted its first ever problem-solving initiative and the Compliance Review of its first labour rights complaint. 2016 was also a very busy year as the backlog of PCM cases, some from 2013 and 2014, was actively being cleared. The result is a mixed bag of successes and disappointments for complainants, which provides a wealth of lessons about the effectiveness of the PCM.

The PCM non-compliance findings are important for accountability in the EBRD and for improvement of the Bank's policy implementation tools. Complainants, however, need redress for harm resulting from EBRD projects and the PCM is yet to 'walk the last mile' and deliver real remedies for communities. Comparing notes from the different cases, we also see a lack of consistency in PCM experts' approaches to following terms of reference, collection of evidence and site visits. These varying processes and outcomes expose the lack of provisions in the current PCM rules from 2014 for ensuring consistency, predictability and equal treatment of complainants by the mechanism.



**Fidanka Bacheva-McGrath, EBRD Campaign Coordinator,
CEE Bankwatch Network**



In late 2014 we were informed that a complaint had been received by the Project Complaint Mechanism relating to the Dariali Energy HPP project.

Our company was duly informed of the complaint and was asked to address each of the issues raised. The company expressed its position and provided all required information/documentation to the PCM.

The whole Compliance Review process was carried out in a transparent, highly professional and qualified manner. The observations, conclusions and recommendations in the PCM report were based on an objective and adequate assessment of the information, documentation and facts that were gathered from all parties in the Compliance Review process. The PCM process also provided us with opportunities to learn and to improve our internal systems.

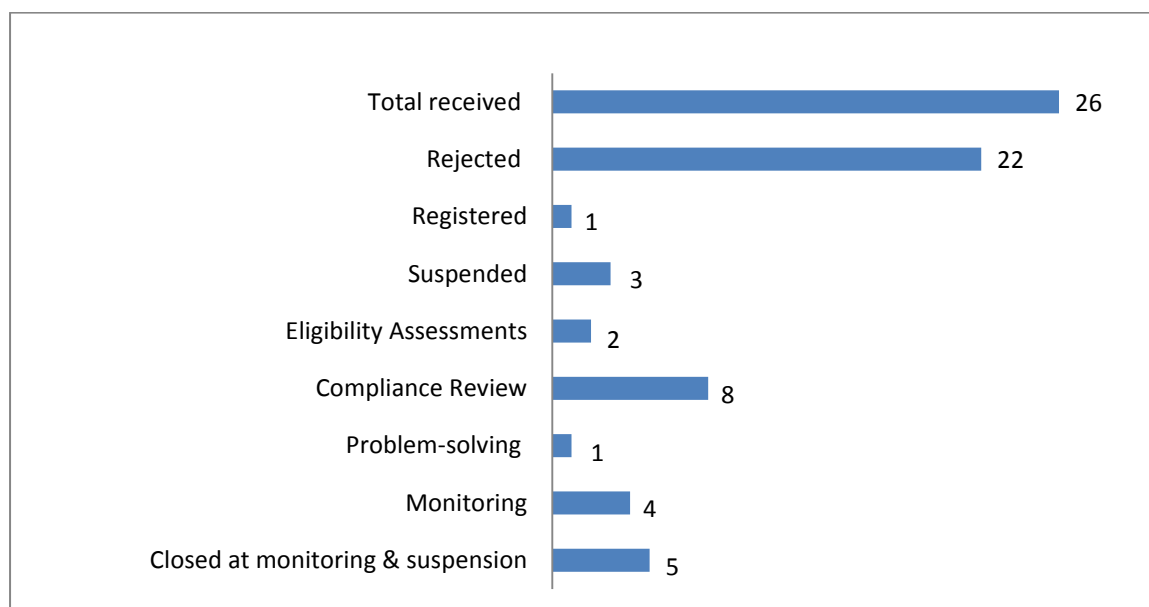
Dariali Energy continues to be committed to achieving best practice in environmental and social stewardship and governance in its operations and provides an example of successful hydro power plant development and production of renewable energy in Georgia.

**Konstantin Ioseliani, Chief Executive Officer
Dariali Energy**

6. COMPLAINTS IN 2016

In 2016, the PCM received 26 new complaints, of which only one was registered. The PCM suspended the registration decision on three new complaints submitted in 2016 and allowed the complainants and the Bank Management the opportunity to correct the failure of meeting the registration criteria. The PCM continued working on different stages of Eligibility Assessment, Compliance Review, Problem-Solving and Monitoring for 12 ongoing complaints (see Figure 2).

Figure 2 PCM complaints and stages achieved in 2016



The first Problem-solving Initiative conducted by the PCM was finalised in December 2016 and concerned the South-West Corridor Road project in Kazakhstan. The Problem-solving completion report has been published in the PCM register. During 2017 the PCM is going to monitor the implementation of the agreements reached between parties during the Problem-solving initiative.

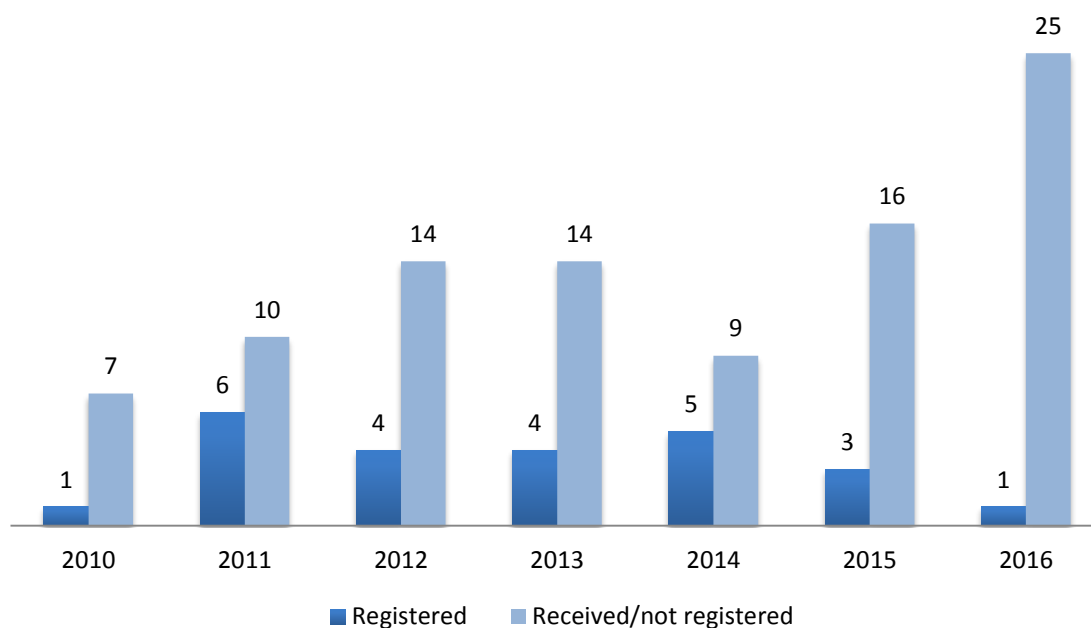
PCM Experts concluded their compliance reviews on four complaints and asked the Bank Management to prepare Management Action Plans for EPS Restructuring, Dariali HPP, Altain Khuder and Turk Traktor complaints.

The Ombla HPP complaint, which was in the monitoring stage during the last two years, was successfully closed in November 2016 after the Bank's management completed all the actions envisaged under the Management Action Plan. In total, the PCM published 12 Compliance Review, Problem-solving and Monitoring reports in 2016.²

Figure 3 shows the total number of complaints received during the six years since the PCM was established in 2010. Twenty four complaints have been registered out of a total number of 119 complaints received during 2010-16. Some 95 complaints did not meet the registration criteria, leaving approximately 20 percent of complaints eligible for registration pursuant to the PCM Rules of Procedure.

² Note that the data provided in Figure 2 above records where complaints have moved through multiple stages of the process over the course of the year – for example, a complaint for which the Eligibility Assessment was completed and the Compliance Review begun, is counted in both the Eligibility Assessment and Compliance Review categories.

Figure 3: PCM complaints by year 2010-16



In terms of who may submit a complaint to the PCM, the scope is quite wide. According to the PCM Rules of Procedure, any individual or organization such as a community group or CSO may submit a complaint seeking Compliance Review. However, in order to request a Problem-solving Initiative, the individual or individuals must be actually located in an area which is or may be affected by a project, or have an economic interest, including social and cultural interests.

The PCM receives complaints via individuals as well as local and international CSOs who may assist individuals and groups and submit complaints on their behalf. A CSO report published in 2016 suggested that complaints filed with the help of civil society organisations (be these local or international organisations) are more likely to be registered and go further in the process³. Figure 4 shows that CSOs either at the local or international level tend to be involved in filing complaints registered by PCM.

Looking at the number of registered complaints by industry sector (see Figure 5), reveals that the power and energy continues to be the sector for which the largest number of PCM complaints have been registered. The transport sector follows behind, along with the natural resources and finally manufacturing/services. The newest complaint that PCM has registered during 2016 was in relation to a project in Serbia in the power and energy sector.

³ C. Daniel, K. Genovese, M. van Huisjstee & S. Singh (eds.) Glass Half Full? - The State of Accountability in Development Finance. Amsterdam: SOMO (January 2016)

Figure 4 Complaints by filer 2010-16

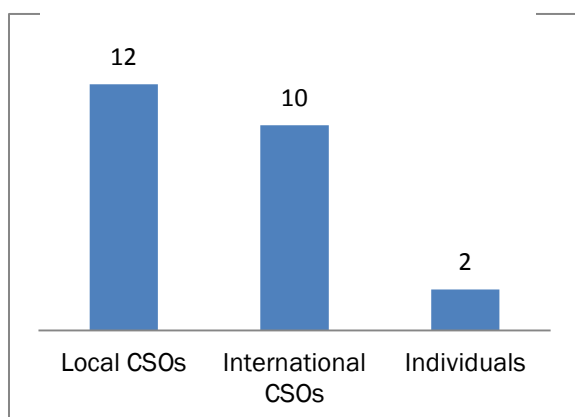
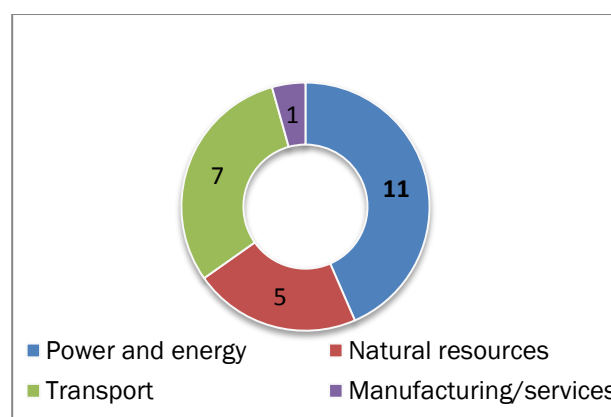
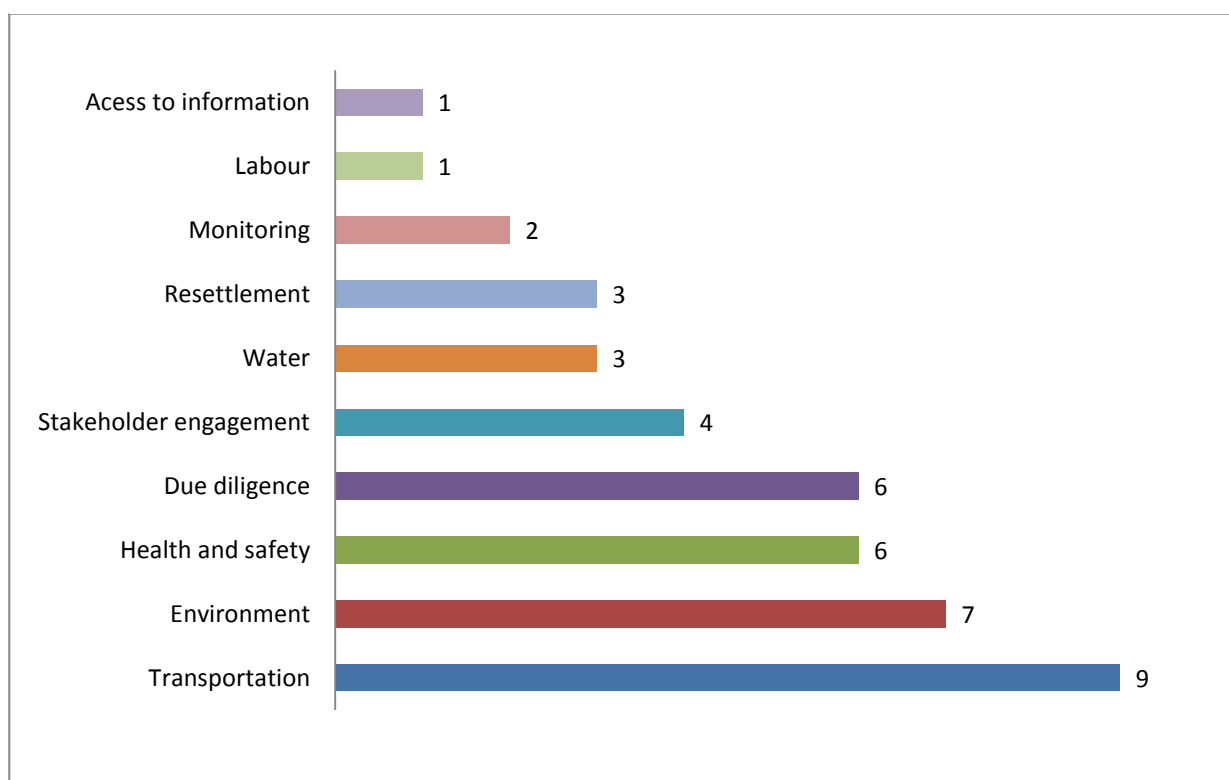


Figure 5 Complaints by sector 2010-16



The data in Figure 6 shows the types of issues raised in complaints. The analysis is based on the 24 complaints registered by the PCM during 2010-16. Most complaints raise multiple issues, the highest number of complaints (9) relate to transportation issues, including access to roads, road safety, unpaved dirty roads and dust on the roads caused by mining operations where the EBRD is implementing its projects.

Figure 6 Complaints by issue raised, 2010-16



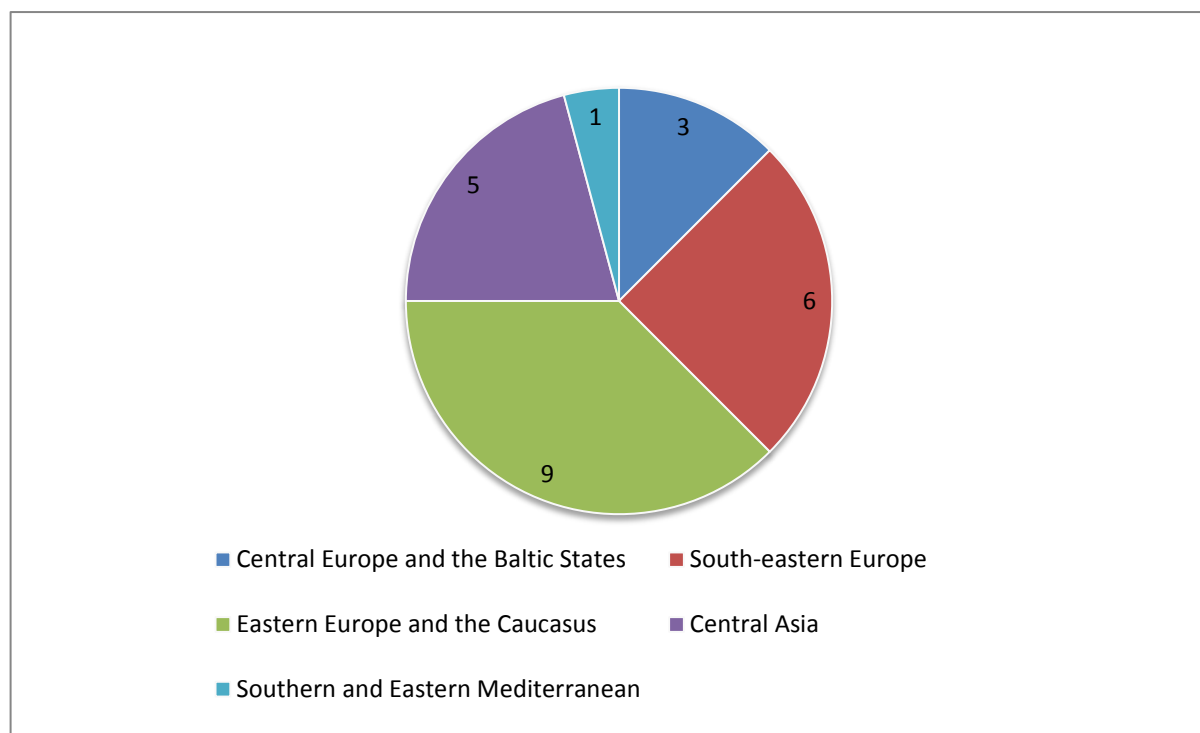
The second largest category of issues relate to environmental protection, which was raised in seven complaints. The environmental categories in this chart include pollution, impacts on biodiversity, geodynamics risks, inadequate waste management, and impact on protected habitats.

Health and safety and due diligence issues were raised in six complaints. For example, most of the complaints from Mongolia raise issues in relation to dust on the roads connecting mining operations that allegedly cause health problems to people and cattle

living along the roads. Most of the complaints also alleged concerns regarding inadequate assessment of environmental risks, reliance on outdated impact assessments, and failure to carry out cumulative impact assessments.

The complaints registered by the PCM by regions during 2010-16 are displayed in Figure 7. The majority of complaints have been received in Eastern Europe and the Caucasus.

Figure 7 Complaints by region 2010-16



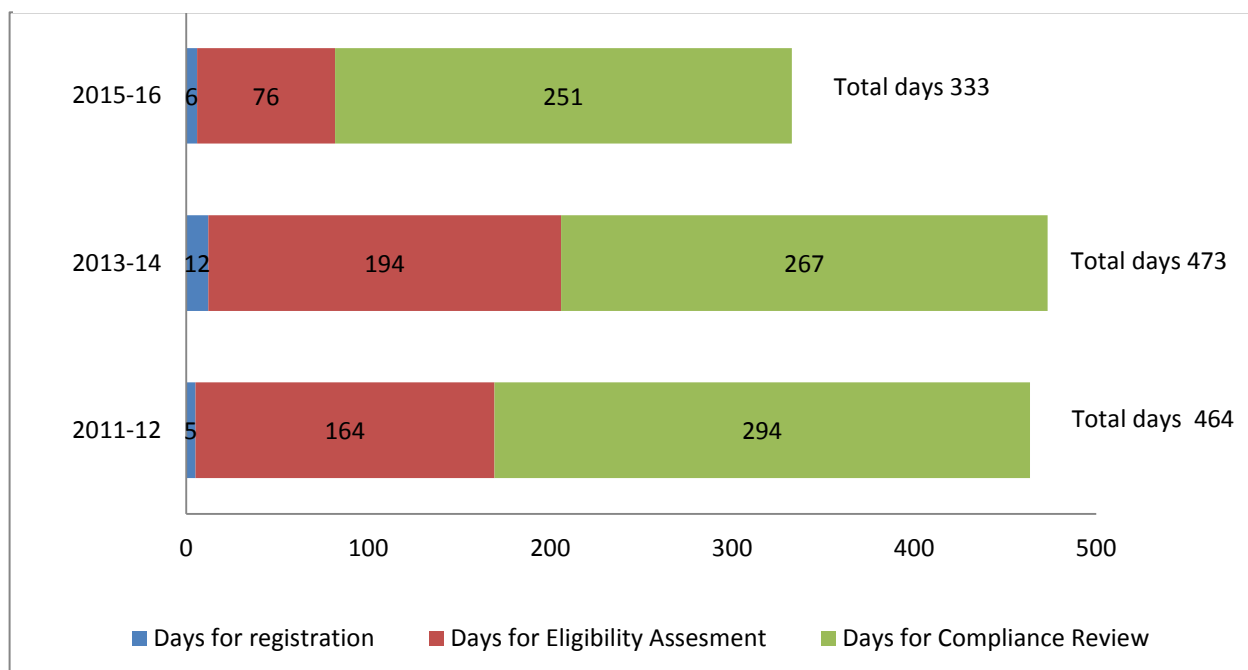
In Annex 1 of this report there is a snapshot of complaints that were under consideration by the PCM during 2016.

Complaint processing time

Figure 8 shows the duration a complaint process takes from its registration until it reaches the monitoring stage. The composite average length of time over the last six years for a complaint to reach the monitoring stage of a Compliance Review is 443 business days.

Looking at data since 2010, it takes on average about eight business days for the PCM to decide on the registration of a new complaint, although the PCM Rules of procedure currently allow for 10 business days. The Eligibility Assessment takes on average 158 business days after registration and the Compliance Review takes an average of 277 business days from the time the Eligibility Assessment has been completed. The average complaint duration over the last two years has declined to 333 business days which is an almost 25 per cent reduction from the average duration since 2010. All complaint-related reports issued in 2016 can be found in the [PCM Register](#).

Figure 8 Complaint processing time 2011-16



Complaints received

Following receipt of a complaint, the PCM Officer will decide within 10 business days whether it meets the criteria for registration. Of the 26 complaints received by the PCM in 2016, only one was registered and 25 did not satisfy the registration criteria. Of these 25:

- 22 were not registered because they related to matters outside the purview of PCM, in particular procurement and contractual issues, allegations of fraud and corruption. These complaints were forwarded to the appropriate departments in the Bank.
- One was not registered during the year because it was submitted to the PCM more than 12 months after the last disbursement date of EBRD funds.⁴
- Two other complaints were deemed ineligible for registration because they related to projects for which the Bank has not yet provided a clear indication that it will be financing.⁵

Suspended complaints

Under the PCM Rules of Procedure, a complaint may be suspended from further processing if the complainant did not attempt to raise their concerns first with the EBRD and/or the client (this requirement can be waived by the PCM Officer, if such efforts would be harmful to the complainant or futile). In suspending a complaint to allow the

⁴ Under the PCM Rules of Procedure a complaint must relate to a project where the Bank maintains a financial interest and must be filed within twelve months following the last disbursement date of funds.

⁵ The PCM Rules of Procedure stipulate that where the Problem-solving function is requested, the complaint must relate to a project where the Bank has provided – and not withdrawn – a clear indication that it is interested in financing the project, or the project has passed Final Review by the Bank’s Operations Committee. Where the Compliance Review function is requested, the complaint must relate to a project that has either been approved for financing by the Board or by the body which has been delegated authority to give approval to the financing of such project. In both cases, the PCM has informed the complainants that if the Bank formally approves these projects in the future and if the alleged issues still exist, they would be able to contact the PCM again so that the complaint could be duly considered.

Bank and/or client reasonable time to consider and, if possible, address the concerns of the complainant, it is anticipated that effective resolution might be achieved in a manner that is timelier than that of a PCM process. While a complaint remains suspended, the PCM maintains contact with the complainant and Bank staff to monitor whether any progress has been made towards resolution of the issues raised. A complainant may request that the PCM continue processing their complaint, for example if insufficient progress has been made towards resolution, after a reasonable amount of time has passed.

In 2016, three complaints were suspended while the PCM allowed the complainants and the Bank's management the opportunity to correct the failure of meeting the registration criteria. The three suspended complaints in 2016 related to transport projects in Serbia and Kazakhstan. Besides these three, the PCM continued to check progress of other suspended complaints. Over the course of the year, four suspended complaints were closed as no further action was sought. Another five complaints remained suspended at the end of 2016.

Registered complaints

The PCM Officer will register a complaint if the complaint includes:

- information about the identity and means of contact of the complainant and authorised representative (if any)
- the name or a description of a project, and describes the harm or potential harm the project has caused or is likely to cause
- and if the named project meets certain timing requirements within the Bank's financing cycle.⁶

The PCM registered one complaint in 2016 focused on information disclosure. This complaint was submitted by CEE Bankwatch Network and is in relation to the EBRD's financing of the EPS Restructuring Project in Serbia, alleging non-compliance with the Bank's 2014 Public Information Policy and the 2014 Environmental and Social Policy. At issue is whether the Bank failed to provide information in a timely manner, in accordance with the Public Information Policy.

Complaints under Eligibility Assessment

After a complaint has been registered, the PCM Officer assigns a PCM Expert to conduct the Eligibility Assessment jointly with the PCM Officer. The Eligibility Assessment is not intended to judge the merits of the allegations in the complaint, or to make a judgement regarding the truthfulness or correctness of the complaint; rather, the objective is to ascertain whether, based on the information available, the complaint satisfies the eligibility criteria outlined in the PCM Rules of Procedure. The criteria include the following:

- For a Problem-solving Initiative, the Eligibility Assessors determine that the complaint has been brought by one or more individuals impacted by a project, and that a Problem-solving Initiative may assist in resolving the dispute, or is likely to have a positive result.
- For a Compliance Review, the Eligibility Assessors consider whether the complaint relates to actions or inactions that are the responsibility of the Bank, are more than a technical violation of a relevant EBRD Policy, and/or are a failure of the Bank to monitor client commitments pursuant to a relevant EBRD Policy.

⁶ Where Problem-solving has been requested, the project must be subject to a clear indication that the Bank is interested in financing the project, or where the Bank maintains a financial interest; and, where Compliance Review has been requested, the project must be subject to approval for financing by the Board of Directors (or delegated authority).

Two Eligibility Assessments (in whole or in part) were concluded in 2016, relating to the following Bank projects in the Power and Energy sector: **IPP4 Al-Manakher Power** in Jordan and **EPS Restructuring** in Serbia.

The Eligibility Assessments of IPP4 Al-Manakher Power and EPS Restructuring complaints led to a determination of eligibility for a Compliance Review in both cases.

EPS Restructuring in Serbia



In February 2016 the PCM received a complaint from CEE Bankwatch Network relating to disclosure of information in relation with the Elektroprivreda Srbije restructuring project in Serbia.

The complaint alleged that the Bank failed to comply with its Public Information Policy and with elements of its Environmental and Social Policy. The complaint alleged that the Bank management failed to make available on time the Board report for the project and that this delay in disclosing the document failed to comply with the PIP procedural provisions for information requests.

The PCM conducted an eligibility assessment of the complaint in May 2016 and found it eligible for a Compliance Review. A final report including the findings and recommendations, if any, should be published in 2017. This was the PCM's first complaint on the EBRD' Public Information Policy.

Complaints under Compliance Review

If an Eligibility Assessment concludes that a complaint satisfies the eligibility requirements to initiate a Compliance Review, the PCM Officer appoints a PCM Expert (who was not an Eligibility Assessor) to conduct a Compliance Review.

The objective of a Compliance Review is to establish if (and if so, how and why), any EBRD action, or failure to act, in respect of a Project has resulted in non-compliance with a relevant EBRD policy, and, if in the affirmative, to recommend remedial changes. Such changes may include recommendations to address findings of non-compliance at the level of EBRD systems or procedures, and/or address findings of non-compliance in the scope or implementation of the Project, and monitor and report on the implementation of any recommended changes.

Eight complaints were under Compliance Review during the year, relating to the following Bank projects⁷:

- EPS Restructuring Serbia/ Power and energy
- Turk Traktor Turkey/ Manufacturing and services
- IPP4 Al-Manakher Power Jordan/Power and energy
- Altain Khuder - Debt and Equity Mongolia/Natural resources

⁷ The complaints relating to the EPS Restructuring, Turk Traktor, IPP4, Altain Khuder, Dariali HPP and South-West Corridor Road Projects are processed under the 2014 PCM Rules of Procedure. The others are processed under the 2009 iteration of the Rules.

- Dariali HPP Georgia/Power and energy
- South-West Corridor Road Kazakhstan/Transport
- Energy Resources II Mongolia/Natural resources
- Oyu Tolgoi Mongolia/Natural resources

Compliance Review work on the complaint relating to the South-West Corridor Road Project was concluded in 2016 with one finding of non-compliance. The Bank's management was required to prepare a Management Action Plan that was subsequently accepted by the EBRD's Board of Directors.

South-West Corridor Road in Kazakhstan – Compliance Review

On 24 November 2014 the PCM registered a complaint regarding the South-West Corridor Road project in Kazakhstan, submitted by the local NGO "Blago". The road rehabilitation funded by EBRD connects a part of the "Western China – Western Europe" Corridor and has the objective of facilitating the transit of goods and passengers between Kazakhstan, China, Russia and Europe to promote regional integration.



The complaint claimed that the road was poorly constructed and was not properly maintained, thus negatively affecting residents of six villages situated along the road. The main concerns included issues of poor access, inadequate lighting, lack of convenience facilities and unsafe underpasses and crossings. The complaint also alleged that the Bank did not properly undertake its monitoring responsibilities, failed to address systemic problems linked to infrastructure projects in Kazakhstan and did not adequately engage in dialogue with the complainant and civil society organisations.

In October 2015 the PCM determined this complaint to be eligible for a Compliance Review. After revising project related documents and meeting with parties, the Compliance Review determined that although the Bank had put in place a monitoring programme commensurate with the level of risks and the nature of the project, it had not been properly implemented by the Bank management. It did, however, determine that the Bank was in compliance with its obligations with respect to stakeholder engagement. The review did not undertake any analysis on systemic problems linked to infrastructure projects, since it did not consider this to be a normative obligation for the Bank.

The Compliance Review Expert made recommendations relating to the unclear assignment of responsibilities of parties in the Loan Agreement and Consultant Contracts and specific roles played by the different Bank departments to ensure the submission of the client reports. In addition, the Compliance Review Report made recommendations regarding communication shortcomings within the Bank involving the ongoing monitoring of the projects.

The Bank has responded to Compliance Review and has developed a Management Action Plan to implement the recommendations considered appropriate. The PCM office will be monitoring the implementation of the plan going forward.

The PCM office also closed the complaint relating to IPP4 Al-Manakher Power in Jordan. The findings of the PCM expert concluded that the Bank was in compliance with its relevant policies regarding the project.

Complaints at the problem-solving stage

Should an Eligibility Assessment result in the assessors' recommendation for a Problem-solving Initiative, the PCM Officer will convey the recommendations to the President who decides whether or not to accept it. The President's decision (and reasons for it) will be publicly disclosed.

If the President approves the recommendation to proceed with a Problem-solving Initiative, the PCM Officer appoints a PCM Expert to carry out problem-solving consistent with the Terms of Reference outlined in the Eligibility Assessment Report.

One Problem-solving Initiative, relating to the complaint in respect of the South-West Corridor Road Project in Kazakhstan was finalised in 2016. Substantive work was conducted by the PCM in collaboration with the Bank's Environmental and Sustainability Department to enhance conditions for parties to reach agreements. This Problem-solving Initiative was the first one undertaken by the PCM that reached such an advanced stage of understanding between the parties. While some issues remain outstanding, the initiative has achieved the maximum in the given circumstances. The agreement is currently is now under the monitoring stage.

South-West Corridor Road in Kazakhstan – Problem-solving



The complaint about the South-West Corridor project also triggered the PCM's Problem-solving Initiative in November 2015. A mediation and conflict resolution process was initiated with the client and the residents of the six villages along the corridor in the Aktobe region of Kazakhstan. During this process, the villagers raised road safety concerns in relation to the newly upgraded road which they claimed had caused harm to them and their cattle.

The PCM Problem-solving expert conducted the Problem-solving Initiative in July 2016 in Aktobe region, Kazakhstan. The initiative held open dialogue sessions with more than 150 villagers, local and district authorities, local police, as well as representatives from the state road authority. The public meetings were highly valued by the residents who were keen to get involved in making their roads safer.

The PCM Problem-solving Initiative does not assign blame to any of the parties involved in the process, but rather seeks to use dialogue to address complex social and environmental issues so that all relevant parties can contribute to positive workable solutions.

By holding an open dialogue, all parties were able to clarify their concerns which included the lack of winter snow clearance, the need for regular road maintenance, the absence of convenient designated cattle crossings, as well as the need for appropriate speed limits in the areas where the roads pass through these villages.

The process and subsequent agreement between the client and the villages resulted in a number of positive achievements directly related to the Problem-solving Initiative and beyond. While, the dialogue process did not resolve all of the issues identified in the complaint, it did resolve some issues and helped to organise the communities to identify and bring forward their issues so that remaining issues might be addressed in the future. The PCM will be monitoring the agreement reached by the relevant parties who participated in the Problem-Solving to ensure that commitments are met.


Complaints under monitoring

In accordance with the 2014 PCM Rules of Procedure, the PCM Officer monitors the implementation of Management Action Plans, and issues Compliance Review Monitoring Reports at least biannually or until the PCM Officer determines that monitoring is no longer needed.⁸

Management Action Plans are prepared by Bank management following receipt of a Compliance Review report that contains findings of non-compliance and provides recommendations to address those findings. In preparing Compliance Review Monitoring Reports, the PCM Officer consults with the relevant parties. The reports are submitted to the EBRD's President and Board of Directors for information, and then publicly released.

In 2016, Compliance Review Monitoring Reports were issued relating to the following complaints:

- Boskov Most Hydro Power, FYR Macedonia/Power and energy
- Ombla HPP, Croatia/Power and energy
- Paravani HPP, Georgia/Power and energy⁹
- EPS Emergency Power Sector Reconstruction Loan, Serbia /Power and energy
- EPS Power II, Serbia /Power and energy
- EPS Kolubara Environmental Improvement Projects, Serbia/Power and energy.

The results of the monitoring reports issued by the PCM during 2016 can be found on the  [PCM Register](#).

⁸ PCM also monitors the implementation of agreements reached during a Problem-solving Initiative.

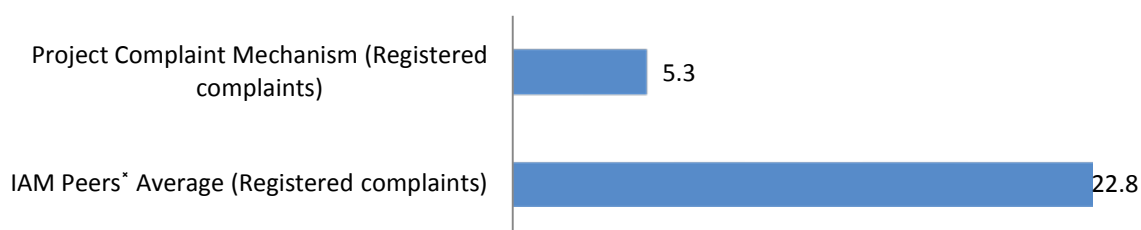
⁹ The 2009 PCM Rules of Procedure apply to these complaints, as they were received before 7 November 2014. They state the following: "The PCM Officer will monitor the implementation of the recommendations of the Compliance Review report subject to the timetable and estimate of human and financial resources as set in the Management Action Plan. The PCM Officer will issue Compliance Review Monitoring Reports at least biannually or until the PCM Officer determines that the implementation issues are concluded...."

7. OUTREACH AND AWARENESS RAISING

The PCM seeks to continuously increase awareness and improve the accessibility of the Bank's accountability mechanism for individuals and communities impacted by projects as well as civil society organisations (CSOs). While the number of registered complaints we receive per 1,000 projects in 2015-16 is more than four times less than our IAM peers (see Figure 9), we did increase the overall number of complaints received (not necessarily registered) by the PCM in 2016 by approximately 62 per cent from the previous year.

This would seem to indicate that while the PCM is still not attracting the same volume of registerable complaints as our peers, we are making some progress overall in terms of raising our profile as an entry point for complaints concerning the Bank (even if most of these complaints deal with procurement, contractual issues, allegations of corruption, etc., and are therefore out of the PCM's scope).

Figure 9 Number of complaints registered per 1,000 projects



*IAM Peer Average uses publically available data from the following IAMs: EIB-CRM, MICI-IADB, CAO-IFC and IP-WB. Data is based on a 2 year period between 2015-16 (MICI data is from 2014-15)

The PCM continues to reach out to potential users to help them understand how the mechanism works and what services are available to them based on their circumstances. PCM publications are available on the [PCM web site](#) in multiple languages.

Outreach events are also essential for promoting awareness and accessibility of the PCM. In 2016, the PCM held numerous small-group meetings with CSOs and participated actively in the Civil Society Programme during the Bank's Annual Meeting held in London in May.

The PCM Officer made two separate presentations in Geneva at United Nations Forum on Business and Human Rights and hosted a number of CSO events jointly with Independent Accountability Mechanisms (IAMs) of other International Financial Institutions (IFIs) in Belgrade, Amsterdam, Athens and Kiev. The PCM also participated in meetings with CSOs held on the margins of the annual meeting of the IAMs network held in Manila, the Philippines in September 2016.



Key themes emerging from conversations with CSOs include partnership and engagement with IAMs, barriers to accessing accountability mechanisms, protection of complainants' security and responding to retaliation. CSOs also raised issues related to:

- the independence of the PCM,
- transparency and access to information concerning IFI-financed projects

- the role IAMs might play in closing the “information gap”
- improving the implementation and scope of IAMs’ mandates
- addressing project impacts in sectors in which CSOs are identifying systemic issues (for example, hydropower and mining projects).

More details on outreach events are provided below.

Regional Mediator Workshop for East and Southern Europe and West Asia, (Athens, Greece)

In June 2016, the PCM, together with CAO and EIB-Complaints Mechanism organised a regional workshop for local mediators and dispute resolution professionals from East and Central Europe and West Asia.

24 mediators from 13 countries including Albania, Armenia, Bulgaria, Croatia, Greece, Kosovo, FYR Macedonia, Montenegro, Poland, Romania, Russia, Serbia and Turkey attended the workshop. The workshop participants were identified following a selection process based on participants’ mediation skills and experience, and guidance from the International Mediation Institute.

The aim of the workshop was to build capacity and basic skills in the area of community-company dispute resolution. Those trained could serve as local and regional mediation professionals to be accessed by IAMs in future complaint handling processes.

The workshop covered basic principles and process steps related to mediation. Over the course of three days, participants engaged in a number of facilitated exercises and activities based on a fictional case study and case examples, with the aim of applying mediator’s skills/experience to different stages of a dispute resolution process relevant to IAMs.

The next regional workshop for mediators in 2017 will be in Asia, and will build on the existing experience of capacity building for dispute resolution work and dialogue facilitation on the ground.

Regional Workshop “Citizen-Driven Accountability of IFIs” (Kiev, Ukraine)

The PCM, along with their counterparts from the EIB, World Bank, IFC, MIGA, Overseas Private Investment Corporation, Black Sea Trade and Development Bank and with the support of CEE Bankwatch and the National Ecological Centre of Ukraine (member of Bankwatch) organised a regional Civil Society workshop entitled “Citizen-Driven Accountability of International Financial Institutions”.

The event gathered about 80 representatives of CSOs and project impacted peoples from Albania, Azerbaijan, Bulgaria, Georgia, Germany, Greece, Moldova, Poland and Ukraine and was an opportunity for interactive dialogue and experience sharing between IAMs and civil society from the region.

The workshop was aimed at sharing information about IAMs, exchanging views with CSOs about their experiences, including practical case studies and listening to concerns as well as ideas about promoting accountability and redressing harm by submitting complaints.

During the workshop, participants increased their understanding of IFIs’ mandates and IAMs’ roles to ensure their accountability, history of IAMs, their commonalities and differences. IAMs presented case studies and examples of their work. CSOs presented their experiences and challenges engaging with IAMs. IAMs shared conditions for eligibility of complaints and operating procedures of IAMs to conduct Compliance Reviews and problem-solving processes.

CSOs also presented examples of community impacts related to MDB-funded projects and community representatives themselves described some of the very real issues they face on the ground when dealing with projects in their communities such as intimidation and the burden of proof they face in bringing their complaints forward.

In addition to these two workshops, the PCM also engaged with CSOs and community groups in Belgrade and Amsterdam. These meetings were smaller-scale informal discussions of how the PCM and CSOs work to promote accountability and accessibility of the mechanisms, how to make the PCM more effective for those impacted by projects on the ground, and an exploration of the challenges and opportunities faced by complainants when submitting a complaint. Through these engagements, the PCM has developed a better understanding of the challenges faced by communities seeking to raise concerns about development projects, and this will help to inform our processes going forward.



EBRD staff in-reach and training

In addition to raising the PCM's profile among CSOs, we also provided training and orientation to EBRD staff, including those in London as well as the Astana, Belgrade, Kiev and Tbilisi resident offices. PCM Experts also contributed to raising the understanding of PCM through their engagement with Bank management and site visits relating to particular complaints.

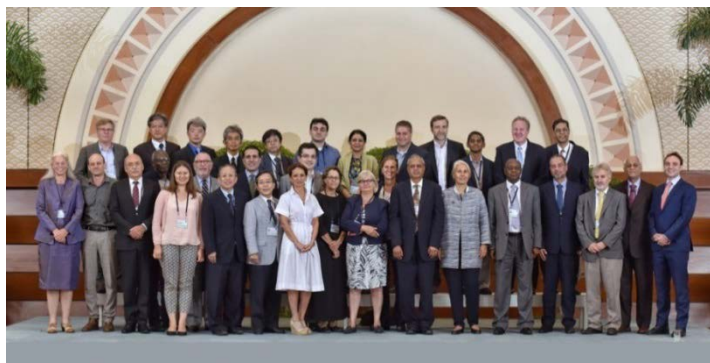
In-banking workshop - Company-community dialogue and joint problem solving

Dialogue and joint problem solving are practical tools increasingly used to enhance the operations of medium and large-scale investment projects (notably in the natural resources, energy and infrastructure sectors). For some years, it has been increasingly recognised that the application of these tools can enhance the necessary trust and working relationships between project operators and communities to reduce conflict and improve efficiencies. This builds business value, for both clients and financiers.

In July 2016 the PCM organised a workshop with a company-community mediation expert, Gina Barbieri, from the World Bank Group's CAO (the independent accountability mechanism of IFC/MIGA). Gina shared her stories and perspectives on how dispute resolution techniques can be used to help clients to reach agreements with communities they are in dispute with. The workshop was a good awareness raising session for the PCM, appreciated by the Bank staff who received a practical view of best practice for dispute resolution.

The network of IAMs in 2016

Each of the IFIs has a citizen-driven accountability mechanism, referred to as an Independent Accountability Mechanisms or IAM. Each IAM has a different mandate and scope of work. For example, unlike the PCM, some mechanisms might deal with corruption or procurement issues. However, IAMs are similar in that they receive external complaints about their institutions' funded projects and are concerned with the environmental and social performance of their institutions.



IAMs meeting in Manila, September 2016

The IAMs are loosely organised into a [network](#), bringing together dedicated international practitioners and experts in accountability, compliance and mediation, and

corporate governance. The purpose of the network is to provide a platform for the exchange of knowledge and expertise, and to cooperate to enhance the effectiveness of the work of citizen-driven accountability mechanisms. Membership of the IAM network is guided by a set of general principles, developed by its current member institutions.

The 13th annual meeting of the network of IAMs was held in Manila, in the Philippines on 5-8 September 2016. As in previous years, representatives discussed a variety of topics such as a review of IAM procedures and the new World Bank safeguards system that provides for more flexible application of standards and country regulations. IAMs also reflected on institutional conflicts of interest and how to avoid them, how they might assess their effectiveness, and how they might address risks of reprisal to complainants. Participants also considered opportunities for collaboration for joint outreach to promote greater awareness and accessibility of the mechanisms to local communities and affected populations.

On the margins of the IAMs annual meeting, a full-day meeting was held which brought together IAMs with about 70 CSO representatives. Key topics discussed included the need for more transparency and greater access to information on complaints. IAMs also recognised the significant support that CSOs offer to those impacted by projects in connection with the complaint handling process.

ANNEX 1: COMPLAINTS UNDER CONSIDERATION IN 2016

Number	Project	Country	Registered	Eligibility Assessment	Site visits	Compliance Review	Problem-solving	Site visits	Outcomes	Monitoring	Closed
2016/01	EPS Restructuring	Serbia	23/02/2016	■		■			Non-compliance		
2015/01	Altain Khuder	Mongolia	15/01/2015	■		■			Non-compliance		
2015/02	IPP4	Jordan	11/08/2015	■		■		■	Compliance		■
2015/03	Turk Traktor	Turkey	11/09/2015	■		■		■	Non-compliance		
2014/04	South-West Corridor Road	Kazakhstan	24/11/2014	■	■		■	■	Problem-solving finalised	■	
2014/04	South-West Corridor Road	Kazakhstan	24/11/2014	■	■	■			Non-compliance		■
2014/05	Dariali	Georgia	08/12/2014	■		■		■	Non-compliance		
2013/01	Energy Resources	Mongolia	02/08/2013	■	■	■		■	TBD		
2013/01	Oyu Tolgoi	Mongolia	02/08/2013	■	■	■		■	TBD		
2013/03	EPS: Emergency Power Sector Reconstruction Loan, Power II, Kolubara Environmental Improvement	Serbia	29/10/2013	■		■		■	Non-compliance	■	
2012/01	Paravani	Georgia	04/01/2012	■		■		■	Non-compliance	■	
2012/04	EPS Kolubara Environmental Improvement	Serbia	31/08/2012	■	■	■		■	Non-compliance	■	
2011/05	Boskov Most	FYR Macedonia	14/11/2011 & 10/01/2012	■	■	■			Non-compliance	■	
2011/06	Ombla	Croatia	24/11/2011	■		■		■	Non-compliance	■	■

ANNEX 2: 2016 EXPENDITURE

The EBRD is committed to providing budgetary resources to the PCM “sufficient to allow the activities permitted by [the PCM Rules of Procedure] to be carried out.”¹⁰

In 2016 the PCM expenditure was as follows:

Expenditure*	Amount (GBP)
Complaint processing (PCM Experts’ fees, related travel and expenses, hospitality, etc.)	265,563
PCM Experts’ annual training (PCM Experts’ fees, related travel and expenses, hospitality, etc.), Independent Accountability Mechanisms (IAMs), conferences and meetings	45,901
Outreach (travel and expenses, hospitality, etc.)	12,778
Administrative (publications, translation, photocopies, telephone costs, etc.)	424
TOTAL	324,667

*Expenditure does not include salaries and benefits for staff

¹⁰ PCM Rules of Procedure, paragraph 68.

Definitions and abbreviations

Bank or “EBRD”	The European Bank for Reconstruction and Development.
Client	The entity or entities that is/are responsible, directly or indirectly, for carrying out and implementing all or part of a Project.
Complainant	The individual(s) or Organisation(s), as the case may be, submitting a complaint to the PCM.
Complaint	The written request submitted by a Complainant to the PCM pursuant to these rules of procedures.
Compliance Review (CR)	The process to determine whether the Bank has complied with a Relevant EBRD Policy in respect of a Project.
CSO	Civil Society Organisation
Eligibility Assessment (EA)	The process of determining whether a registered complaint is eligible for a Compliance Review and/or a Problem-solving Initiative, or neither.
ESD	Environmental and Sustainability Department
IAMs	Independent Accountability Mechanisms
Management Action Plan (MAP)	The Bank Management Action Plan developed in response to the recommendations contained in the Compliance Review Report.
NGO	Non-Governmental Organisation
PCM Experts	The experts on the roster of experts and, where appointed, the expert appointed on an ad hoc basis to assist or carry out an Eligibility Assessment, a Problem-solving Initiative or a Compliance Review.
PCM Officer	The person responsible for the day-to-day administration of the PCM, including receipt of complaints, registration, eligibility and Problem-solving functions.
PCM Register	The public log on the PCM web site listing all registered complaints and their status.
Problem-solving Initiative (PSI)	The process carried out to assist in the resolution of the issues underlying an eligible complaint, including mediation, conciliation, dialogue facilitation or independent fact-finding.
PR	Performance Requirements
Project	A Bank-financed activity for which a Project Summary Document (PSD) is prepared pursuant to the Bank’s Public Information Policy or a Bank activity that is subject to the application of a Relevant EBRD Policy with the exception of those activities that are expressly exempted from the application of these rules by a Board decision.
Project Complaint Mechanism (PCM)	The EBRD’s accountability mechanism governed by the PCM rules of procedure.
Relevant EBRD Policy	2014 Environmental and Social Policy and Performance Requirements, 2008 EBRD Environmental and Social Policy and Performance Requirements, previous EBRD environmental policies, and/or project specific provisions of the 2014 Public Information Policy and previous Public Information Policies and any Policies approved in the future by the Board of Directors designated to be included in this Definition.
Relevant Parties	The parties with a direct interest in a complaint, including, but not limited to, the Complainant and/or the Authorised Representative, if any, the relevant Bank department, team, or unit, the Client, and/or any other project financiers.