



Project
Complaint
Mechanism

COMPLAINTS: Belgrade Public Transport and Traffic Infrastructure

REQUEST NUMBERS: 2017/06 and 2017/08

PROBLEM-SOLVING COMPLETION 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

Inquiries should be addressed to:

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

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

How to submit a Complaint to the PCM

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

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

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Unless otherwise defined, capitalised terms used in this Problem-solving Completion Report refer to terms as defined in the PCM Rules of Procedure.

Executive Summary

The Project Complaint Mechanism (PCM) received two Complaints raising concerns about limited public consultations and accessibility issues of Slavija Square in Belgrade, subject to that was refurbishment with the support of the EBRD. The Complainants requested that a Problem-solving Initiative (PSI) be undertaken by the PCM.

In a written response to the first and the second Complaints, EBRD Management indicated support for a Problem-solving Initiative undertaken by the PCM. The Eligibility Assessment Report for a Problem-solving Initiative (PSI), released in October 2017, concluded that both Complaints are eligible and satisfied the criteria for a PSI in accordance with the PCM Rules of Procedure (PCM RP), specifically paragraphs 24-26 and 28-29.

Given that, at the time of the Eligibility Assessment, the construction works at Slavija Square were in their final stages, the PCM Officer and the PCM Expert noted the community members' interest to meet and discuss their concerns with relevant representatives of City of Belgrade as soon as possible. Therefore, in addition to bilateral meetings held with the Complainants and the City of Belgrade, a joint meeting was also facilitated by PCM on 26 October 2017.

During the joint meeting, the parties expressed their agreement to engage in a PCM facilitated dialogue process and, on the basis of previous consultation with PCM, agreed with the content of a Framework Agreement for Dialogue. However, the City of Belgrade's representatives indicated that their mandate for that specific meeting was limited to a conversation about Slavija Square.

The meeting was therefore focused on Slavija Square, and the Complainants expressed concerns related to accessibility issues of pedestrians and cyclists, given the fact that the pedestrian crossings were moved away from the square. At the same time, the representatives of the City commented that the design primarily considered safety of pedestrians and identified a good balance between pedestrian accessibility and safety.

At the end of the meeting, the City of Belgrade representatives committed to release to the public project related information and analysis supporting the design while the Complainants committed to analyse the data and propose specific parameters to the City to be taken into account while measuring the impacts of the project. While the City reiterated an obligation to monitor the traffic flow at Slavija and provide analysis of the effects of the project, the Complainants shared their availability to contribute to the monitoring efforts. At the end of the meeting, both parties indicated their willingness to consider the need for further PCM facilitated joint meetings.

Over the following weeks, the mediation team focused on understanding parties' preferences regarding the next steps of the dialogue process in relation to both of the specified topics. First of all, the mediation team was interested in understanding if the City of Belgrade would engage in the PSI regarding the Complainants' concerns related to limited public consultations and to accessibility issues of Slavija Square in Belgrade, and if so, who would be the mandated representatives of the City of Belgrade to discuss about either of the two concerns. On the other hand, when it comes to discussion on reconstruction of Slavija Square, the Complainants expected to receive the relevant project-related data and pending their internal analysis of the data, expressed that they looked forward to a further meeting with the representatives of the City of Belgrade. Although the project presentation was shared with the public by means of the City of Belgrade's website, while the presentation of the project analysis was shared with the mediation team and with the Complainants by e-mail, the Complainants clarified that additional information should be considered relevant and made available.

Given several attempts by the mediation team and PCM Officer to understand the City of Belgrade's preferences for next steps, and to receive its formal commitment in this regard, no replies were received by PCM to any letters sent for this purpose. Specifically, the PCM Officer sent official letters on January 25th, March 29th, May 16th, June 25th and July 11th, while in-country meetings were organized on January 24th, May 23rd and July 11th. Neither the letters and meetings nor emails and phone calls by members of the PCM mediation team stimulated a formal response from the City.

In short, while the Complainants were very clear about their interest to continue with the PCM-facilitated dialogue process, the City of Belgrade failed to formally indicate its willingness to continue.

A final in-country mission was organized between 11-13 July and the mediation team organized meetings with both parties. During this mission it was clarified with the Complainants that the additional data that was requested should be related to the following five areas: (1) *Time saving information for public transportation and vehicles*; (2) *Increase of safety improvement for pedestrians*; (3) *Counting of vehicles prior to works and after works*; (4) *Counting of pedestrians prior to works and after works*; and (5) *Reasons why the pedestrian crossing was moved to Makenzijeve street and why the cycle lane was interrupted*. Another letter was sent by the PCM Officer during this period with no response from the City of Belgrade.

Taking into account that the local elections might have impacted on the City of Belgrade's ability to mandate representatives and to communicate with the PCM, the mediation team noted that the process was effectively suspended for almost eight months with both parties' agreement. The Complainants were periodically informed of the status of the process and shared their agreement to keep the process on hold until a formal response came from the City of Belgrade.

The PCM Expert appreciates that the PSI had the potential to create a constructive dialogue platform that would have been instrumental in addressing community concerns. Consequently, given the PCM Expert's opinion, according to which no further progress towards resolution of the dispute is possible, the Problem-solving Initiative is considered completed in line with paragraph 37 of the PCM Rules of Procedure.

I. Background

1. On 10 May 2016 the PCM received two Complaints in relation to the EBRD's Belgrade Public Transport and Traffic Infrastructure Project in Serbia¹. The first Complaint (2017/06) was submitted by Pravo na grad (Right to the city) and the second (2017/08) by Ulice za bicikliste (Streets for cyclists), each a civil society organisation in Belgrade. Both Complaints requested that a Problem-solving Initiative (PSI) be undertaken by the PCM.
2. The Complaints were suspended in order to afford an opportunity for the Bank and Client to address the concerns raised. The Complainants were informed about the PCM Officer's decision to suspend the registration to afford such an opportunity.
3. At the time the Complaints were first received, PCM understood that implementation of the Project was delayed. In August 2017 PCM was informed by Bank staff that the Client had engaged in discussions with the Complainants in spring/summer 2017. Accordingly, in August 2017, the PCM Officer contacted the Complainants to verify whether they were satisfied with the outcome of their discussions with the Client. They reported that their concerns had not been addressed, and they requested that the PCM register their Complaints.
4. The first Complaint was registered by the PCM Officer on 4 September 2017 and the second on 14 September 2017, in accordance with paragraphs 11-13 of the PCM Rules of Procedure (PCM RP). The two Complaints were subsequently posted in the PCM Register pursuant to paragraph 20 of the PCM RP.
5. Given that the two Complaints raised substantively similar issues and related to the same Bank Project with the same Client, the PCM decided to review the Complaints together in accordance with paragraph 64 of the PCM RP.
6. On 15 September 2017 Mr Constantin-Adi Gavrilă was appointed as an ad hoc PCM Expert to conduct the Eligibility Assessment for the Complaints jointly with the PCM Officer, in accordance with paragraph 22 of the PCM RP.
7. In a written response to the two Complaints, the EBRD Management expressed their support for the PCM facilitating a PSI to help address the issues raised by the Complainants. The Bank clarified that the refurbishment and reconstruction of Slavija Square in Belgrade is a part of the programme of upgrades to the City's public transport network and central boulevards that is being financed by EBRD under a loan originally signed in 2011. This project is helping to renew the tram fleet, improve the safety and accessibility of public transport and enable road traffic to flow more smoothly.
8. The Bank Management expressed their hope that the PSI led by the PCM would enable an amicable resolution².
9. The PCM Eligibility Assessors found, in October 2017, that the two Complaints satisfy the criteria for a PSI as documented in the Eligibility Assessment Report³. The EBRD

¹ Complaints Number 2017/06 and 2017/08 are available at <https://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html>

²Bank Management Response dated 19 September 2017 available in annex to the Eligibility Assessment Report.

³Eligibility Assessment Report for PSI (English), October 2017.

President accepted the recommendation of the Eligibility Assessors for a PSI and ad hoc PCM Expert Constantin-Adi Gavrilă was appointed to undertake the assignment.

10. The PCM Expert and the local mediator conducted the Problem-solving Initiative from November 2017 to July 2018. This document comprises the Problem-solving Completion Report in accordance with paragraph 37 of the PCM RP. The Report describes the background, the issues raised in the Complaints; the methods used during the PSI; and the results of the Initiative including any issues that remain outstanding.

II. The Issues

11. A PSI is focused on helping parties find common ground and a common vision to address concerns and challenges by enabling a process that is fair and broadly inclusive and legitimate. Given the multi-stakeholder and complex environment, the environmental and social issues need to be looked at constructively, from the resolution and prevention perspective, with focus on agreed sustainable next steps, rather than on the determination of fault and liability. In short, constructive engagement of issues in the PSI context means to articulate the nature of the situation in a way that opens the door to understanding and cooperation.
12. In regards to the present matter, the topics that were proposed for conversation in the PSI were concerns brought to the attention of the PCM in both Complaints and discussed during in country visits that comprised part of the Eligibility Assessment process carried out in September-October 2017. They are related to adequacy of public consultations and accessibility issues of Slavija Square in Belgrade, which were refurbished with the support of the EBRD.
13. As presented in their Complaints, the Complainants indicated, during an initial joint meeting with the City of Belgrade's representatives in October 2017, three areas of concern related to the reconstruction of Slavija Square. The first one is related to the City of Belgrade's systemic approach to city planning and citizen inclusion, specifically that the City could use more transparent and efficient tools to involve the community in designing, developing and implementing the city planning policies. The second concern refers to the City of Belgrade's approach to transportation planning in the context of the systemic approach to city planning and citizen inclusion. Finally, in the context of the first two concerns, the Complainants expressed interest in discussing efficient solutions for pedestrians and cyclists to cross Slavija Square, as the reconstruction did not adequately address their needs, by moving the pedestrian crossings away from the square.
14. Regarding the two main areas of concern raised by the community members, the representatives of the City of Belgrade indicated that their mandate was limited to discussing issues relating to Slavija Square. Accordingly, the concern referring to the City's systemic approach to city planning and citizen inclusion and the approach to transportation planning could not be covered in the meeting.
15. The City of Belgrade's stated position was that the main priority considered with Slavija Square's reconstruction, and other projects related to the city traffic, is the safety of citizens. Various relevant professionals and institutions were involved in the project design, including the Faculty of Transportation.

16. Regarding the community members' complaints relating to lack of transparency of the Slavija project development, the City of Belgrade's representatives pointed that the public consultation process was organized in line with applicable legal requirements.
17. Based on the Complainants' request made at the first joint meeting that the City of Belgrade should disclose the Slavija-related data that would enable them to assess the project impact on cyclists and pedestrians, the City of Belgrade published the project presentation at its website and shared the project analysis with the Complainants by e-mail.

III. Methodology

18. The methodology was implemented according to the Terms of Reference (ToR) for a Problem-solving Initiative, which were annexed to the Eligibility Assessment Report. The methods used aimed to promote a facilitated dialogue among the parties to discuss the issues raised in the Complaint, without attributing blame or fault⁴.
19. The PCM Expert was tasked to conduct the PSI in a neutral, independent and impartial manner and to be guided by principles of objectivity and fairness giving consideration to the needs, concerns and interests of the Relevant Parties.
20. As a principle, the PCM Expert could conduct the PSI in such a manner as he considered appropriate, according to the work plan that has been agreed to by the parties, and considering the PCM RP, the concerns expressed in the Complaints, and the general circumstances of the Complaints. The PCM Expert could employ such methods as he deemed necessary, including facilitated information-exchange, mediated bilateral and joint discussions and conciliation.
21. The PCM Expert and the local mediator, with the support of the PCM Officer, worked as a team to try to design and implement the PSI. Although a Framework Agreement for Dialogue was discussed and agreed in the October 2017 joint meeting, the parties did not have a chance to develop that framework due to the fact that the City of Belgrade's representation could not be confirmed.
22. Specifically, the mediation team's methodology focused on: a) the implementation of the next steps agreed at the end of the initial joint meeting, b) building the parties capacity to engage effectively in the dialogue process, and c) determining the City of Belgrade's representation.
23. On 7 December 2017, the City of Belgrade informed the mediation team that the Slavija project was posted on Beokom web site.⁵ The mediation team informed the Complainants accordingly.
24. According to the Complainants' communications to PCM in December 2017, City of Belgrade representatives have indicated in the October joint meeting that this data was the foundation for the solution that was implemented, and they only requested access to this information to get a better understanding of the project design. Therefore, the

⁴The 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."

⁵ Information available at http://www.beograd.rs/cir/beoinfo/1743064-nove-biciklisticke-staze-u-sklopu-uredjenja-slavije_2/

mediation team informed the City of Belgrade on 18 December 2017 that the Complainants requested data related to scientific measurement about length of walking distances, traffic flow and traffic safety of pedestrians, data that was not included in the project information released to the public earlier in December.

25. The City of Belgrade sent a presentation⁶ to the mediation team on 25 January 2018 where different sub-variations of the adopted Slavija project were presented and compared.
26. Following earlier phone conversations, a meeting was organized on 24 January 2018, when the mediation team and the City of Belgrade representatives, discussed the case update, the City's representation in the process as well as the additional data that was requested by the Complainants. As a result, the PCM Officer sent an official letter to the City of Belgrade.
27. Since no response was received from the City of Belgrade, further communication from the PCM followed (letters of March 29th and May 16th, as well as number of phone calls) all aimed at explaining the role of PCM and exploring the City of Belgrade's representation and willingness to use the PSI further. On May 23rd, another meeting was organized for the same purposes, however, it hasn't brought more clarity regarding the City's representation issues, especially having in mind, at that moment ongoing transition in the City Administration leadership due to elections held on March 4th 2018.
28. Additional email communications were sent by the mediation team in June 2018 regarding Complainants' requests for additional data related to Slavija, and on June 25th 2018 another letter was sent to newly elected leadership, suggesting a meeting for July 2018 with the Mayor or with other City of Belgrade officials who have authority to discuss and make decisions both on the issues related to Slavija project as well on the City's strategic development.
29. The mediation team scheduled bilateral meetings with both parties on July 11th 2018.
30. The mediation team met with the representatives of the City Secretariat for Transportation, Secretariat for Investment and CESTRA consultants, while the City Architect was not able to join, even though his presence was confirmed earlier. The conversation with the representatives of the City of Belgrade included the options of having one or two dialogue process for both topics – approach to consultation and accessibility of pedestrians and cyclists in Slavija Square. It was clear that regardless of the personal opinions of the City's representatives, the City of Belgrade doesn't have a position on this topic. This is a reflection of the representation difficulties of the City of Belgrade in the PCM facilitated dialogue process. The option of having a larger roundtable and smaller working groups related to each topic was also explored and found interesting by meeting participants.
31. At the same day, a final letter was sent by the PCM Officer, with the hope that it would trigger a response within a 7-10-day timeline that was agreed with the meeting participants, representing the City of Belgrade.
32. The mediation team briefed the Complainants in the same day on the status of communications with the City of Belgrade. The option of having a roundtable and working

⁶ The presentation was compiled on January 24th 2018 by CES COWI, with the name "Saobraćajna simulacija varijanti rešenja trga Slavija; sa sugestijama Sekretarijata za saobraćaj"

groups was found interesting by the Complainants too, should the City will clarify its representation and the parties will continue to engage with PCM support.

33. At the time of this report, no formal responses were received by PCM from the City of Belgrade. This has prompted the mediation team to determine that “no further progress towards resolution of the dispute is possible”.

IV. Results and outstanding issues

34. The City of Belgrade’s representatives and community members had the opportunity to interact with each in a constructive manner to understand their individual perspectives and to discuss and agree some next steps. Further, the communication platform that was created could be used by the parties to foster mutual understanding and to explore options for next steps, with the possibility to include a wider circle of interested stakeholders in the dialogue.

V. Public release of Problem-solving Completion Report

35. In accordance with paragraph 38 of the PCM RP, the PCM Officer will circulate the Problem-solving Completion Report for information to all Relevant Parties, as well as to the President and the Board. If the Relevant Parties agree, this Report will be publicly released and posted on the PCM web site. If the Relevant Parties do not agree to the release of the Report due to confidentiality concerns, a summary of the Report will be publicly released and posted on the PCM website.

VI. Conclusion

36. The PSI had potential to help the parties open the door to communication and understanding, and exchange views and key information related to the adequacy of public consultations and accessibility issues of Slavija Square. The parties did not reach informed agreements as has not been made clear if the City of Belgrade remains open to using the PCM-facilitated dialogue process any further.
37. The PCM Expert recognises that further efforts are unlikely to establish more progress around unresolved issues raised in the Complaints. As per the PCM RP, paragraph 37, the PCM Expert concludes, “no further progress towards resolution of the dispute is possible”. Consequently, the PCM Expert considers the PSI completed.
38. The PCM Officer is also encouraged to seek feedback from the parties regarding the PSI.