

The Project Complaint Mechanism

Annual Report for 2010

**Report of the
Project Complaint
Mechanism Officer**



European Bank
for Reconstruction and Development

Introduction

This report is prepared in accordance with the Rules of Procedure (“RP”) 63 of the Project Complaint Mechanism (“PCM”). The report covers PCM activities during the period 16 March 2010 to 20 December 2010 (“the Reporting Period”). This is the first PCM Annual Report.

Mechanism

After an extensive review and consultation process, the PCM, the Bank’s new accountability mechanism, replaced the Independent Recourse Mechanism (IRM) which had been in place since July 2004. The PCM became operational in March 2010 with the appointment of the PCM Officer Anoush Begoyan and four PCM Experts: Mr. Graham Cleverly, Dr. Owen McIntyre, Ms. Susan Wildau and Dr. Walter Leal. The PCM has two functions: a compliance review function which assesses whether the Bank has complied with its policies and a problem-solving function, which aims to resolve the problems underlying the complaint.

Compared to the IRM, the new Mechanism benefits from an improved and user-friendly registration system and wider scope for potential complaints. In particular, the group of potential complainants has been expanded to include NGOs and other civil society organisations. Also, an individual alone may raise a complaint under the new Mechanism without the necessity to be part of an Affected Group, which was the case under the IRM. It is important to mention, however, that complaints by civil society organisations (CSOs) will be eligible only for compliance reviews under the PCM.

The PCM also considerably enhances transparency by providing more opportunities for consultations with all relevant parties, including the complainant, the Bank, and the sponsors or financiers of the project in question. Importantly, it also provides for the publication of monitoring reports, i.e., reports on how well the Bank is implementing the recommendations or agreements arising from the compliance reviews or the problem-solving initiatives. Lastly, it strengthens the Bank’s ability to monitor a client’s compliance with relevant Bank policies.

Outreach programme

The PCM RP 57 provides that “the PCM will conduct outreach about the PCM within the EBRD, throughout the EBRD’s countries of operation, and among civil society generally”. In addition, the PCM is also required to conduct training for the Bank’s staff in London and in the Resident Offices.

Pursuant to the above-mentioned article, an outreach programme has been developed in consultation with relevant parties. The aim of the outreach programme is to enhance PCM’s visibility within the Bank and amongst its stakeholders by informing Bank’s staff, clients, local communities, non-governmental organisations and other civil society groups throughout the Bank’s countries of operations about the PCM. The programme includes the development of a dedicated webpage, meetings, presentations and publications, as well as cooperation with other similar accountability mechanisms in other IFIs.

The PCM webpage is currently up and running; it can be accessed from the home page of EBRD website (at <http://www.ebrd.com/pages/project/pcm.shtml>). The webpage is regularly updated where all relevant PCM documents as well as information on PCM activities can be found.

A leaflet outlining PCM functions and procedures, contact details and relevant references was published in English and Russian along with the PCM Rules of Procedures and is currently being distributed to relevant stakeholders. The Bank is finalising work on a more comprehensive PCM Guidebook which will be aimed mostly at NGOs, civil society organisations and other stakeholders, but also at the general public. All these publications are available in both English and Russian and electronic versions are posted on the PCM webpage.

The PCM now has an extensive database of stakeholders and contacts for the dissemination of the publications and, to date, 1,600 publications to the Bank’s Resident Offices and to over 20 civil society organisations throughout the countries of EBRD operations have been distributed.

In the course of 2010, a training programme aimed at raising awareness among Bank staff about the PCM and the Rules of Procedure and how to handle issues relating thereto was developed. Several sessions were carried out for the staff of the Bank both in Headquarters and in the Resident Offices, starting with the first such presentation which was held on 24th May for staff from the Bank's Office of the General Counsel.

In July 2010, the PCM Officer visited the head office of Bankwatch in Prague where she met several staff members of the organisation and discussed the new PCM and the outreach programme for CSOs.

A joint outreach mission to Georgia and Armenia took place in September 2010 together with the accountability mechanism of the Asian Development Bank. The two-day programme in each country included meetings with the Bank's clients (public and private) and the representatives of local CSOs. The PCM Officer took the opportunity to also visit the Resident Offices in those countries where she informed the staff about the PCM, its functions and procedures.

An international conference on the accountability mechanisms of IFIs, organised by Bankwatch in Budapest in November 2010, was another occasion on which the PCM Officer presented the Bank's mechanism to an audience that included mainly CSOs from Eastern Europe and CIS countries. Publications and information were also distributed during all those meetings.

Inaugural training for the PCM Experts

Pursuant to PCM RP 49, the inaugural training for the PCM Officer and the four PCM experts took place in London on 14-15 June 2010. The main aim of the training was to introduce and have an indepth discussion of relevant Bank policies, project monitoring and evaluation processes, as well as a general introduction to the Banks' operations and procedures.

A round-table discussion was held during the training during which experts discussed previous IRM cases, as well as the cases from their previous work with other similar

accountability mechanisms, how they were assessed and reviewed, and the lessons learnt. The overall conclusions of the roundtable were that the involvement of the IRM as a mediation tool in cases requiring Problem-solving Initiative proved to produce positive outcome, especially where project clients were able and willing to cooperate. Meanwhile, the Compliance Review case undertaken by the IRM on Vlore Termal Power Generation project produced important findings and recommended a number of remedial changes to EBRD practices and procedures that would eliminate recurrence of similar issues in EBRD projects in the future. In both cases the involvement of the IRM and the results of its investigations were welcomed not only by complainants, but also by the EBRD staff involved in those projects. The experts also agreed that the changes made to the mechanism made the PCM more accessible and user-friendly for the complainants and improved it as a key feedback tool for the Bank.

Budget

PCM RP 65 requires that the PCM Officer, in consultation with the CCO, prepares the annual budget indicating the level of resources required for the forecasted activities of the PCM for the coming year. It is important to note that in 2010, the resources for the PCM were increased by the addition of a permanent position for the PCM Officer. In discussion with the management on the 2011 budget, it was proposed to maintain the level of PCM expenditure at the same level as for 2010. As was the case for 2010, expenses over and above the amount budgeted for the PCM are expected to be met out of the Bank's management reserve fund.

Cooperation with other accountability mechanisms

After becoming operational, the PCM replaced the IRM as a member of the network of International Accountability Mechanisms ("IAMs"). Every year accountability and compliance practitioners from different International Development Banks and International Financial Institutions meet to update each other on their work, to exchange ideas and views. While these annual meetings are an important forum for

professional interaction, there was a feeling that their episodic character did not allow for continued discourse on issues. Thus, an online network has been established to facilitate a more regular collaboration between IAMs. The network is currently hosted by the Asian Development Bank. EBRD's PCM Officer and PCM Experts are all now part of that network.

In June 2010, the PCM Officer attended, for the first time, the IAM Annual Meeting. During the meeting several important issues were raised and discussed, including IAM outreach activities (means, costs, coverage, "internal outreach"), internal governance and independence, mandates of IAMs, straightening of the cooperation between IAMs, especially around co-funded projects and other. Two specific subjects generated active discourse during the meeting: harmonisation of IAMs and the use of host country systems. Both topics raised interest at the conceptual level, but participants agreed that it was not feasible to take any practical steps on these two issues. Overall, the meeting helped to establish good working relations with other IAMs. This resulted, in particular, in the joint outreach mission to Caucasus with the ADB accountability mechanism reported above.

D1 Motorway Phase 1 complaint

On 7 June 2010 PCM received its first Complaint on the D1 motorway Phase I Project in Slovak Republic. The Complaint was made by the Priatel'ia Zeme – CEPA and SOS BirdLife Slovensko organisations. The Complaint raised concerns about the alleged inadequacy of the appraisal of environmental risks related to the Turany – Hubova section of the motorway and the alleged damage and further potential damage to the Natura 2000 sites and habitats of Community importance. The Complainant alleged that the underestimation of environmental risks has led to insufficient mitigation measures, which have in turn resulted in damage to the Rojkovske Raselinisko Mire Nature Reserve in the course of the preparatory construction works. The Complainant further alleged that the Project has breached the EC Habitat Directive and the Performance Requirement 6 on Biodiversity Conservation and Sustainable Management of Living Natural Resources of the EBRD Environmental and Social Policy 2008. The Complainant was seeking a Compliance Review of the Project under the PCM.

The PCM Officer registered the Complaint on 11 June 2010, in accordance with the PCM RP 10 and subsequently designated one of the PCM Experts, Dr Walter Leal, to assist in the eligibility assessment of the Complaint. The Eligibility Assessors concluded that the Complaint was eligible for a Compliance Review. The Eligibility Assessment Report was issued on the 18 August and PCM Expert Dr Owen McIntyre was appointed as the Compliance Review Expert. Currently, the Compliance Review process is ongoing. Details of the registration and the Eligibility Assessment Report can be viewed at <http://www.ebrd.com/pages/project/pcm/register.shtml>.

Manifestly Ineligible complaints

During the reporting period, the PCM received seven complaints that were manifestly ineligible for consideration under the PCM for the following reasons: four complaints were on matters related to procurement, one raised allegations of corruption, one was on the issue of restitution and one was still under consideration by the Environment and Sustainability Department. These complaints were forwarded to the relevant bodies within the Bank.

Dated: 20 December 2010

Anoush Begoyan
Project Complaint Mechanism Officer