

EBRD

# Project Complaint Mechanism

Annual Report 2013

Report of the Project Complaint  
Mechanism Officer



|   |    |
|---|----|
| PCM in 2013: Reflecting on experience and looking ahead | 2  |
| PCM caseload since 2010                                 | 4  |
| PCM complaints at a glance                              | 6  |
| PCM complaints – issues and process                     |    |
| Boskov Most Hydro Power Plant, FYR Macedonia            | 7  |
| Ombla Hydro Power Plant, Croatia                        | 7  |
| Paravani Hydro Power Plant, Georgia                     | 8  |
| Rivne Kyiv High Voltage Line, Ukraine                   | 10 |
| Sostanj Thermal Power Plant, Slovenia                   | 10 |
| EPS Kolubara Environmental Improvement, Serbia          | 11 |
| Energy Resources Phase II and Oyu Tolgoi, Mongolia      | 13 |
| EPS Power II, Serbia                                    | 16 |
| EPS Emergency Power Sector Reconstruction Loan          | 17 |
| EPS Power II  |    |
| EPS Kolubara Environmental Improvement, Serbia          |    |
| Complaints suspended for registration                   | 18 |
| Ineligible complaints                                   | 18 |
| Review of the PCM Rules of Procedure                    | 19 |
| Cooperation with other IFIs                             | 21 |
| Annex I: PCM Budget 2014                                | 23 |
| Annex II: Definitions and links                         | 24 |

## PCM in 2013: Reflecting on experience and looking ahead

Last year was a year of reflection and analysis for the Project Complaint Mechanism (PCM). In 2013, the EBRD started the review of the existing Rules of Procedure, which provided an opportunity to look at the past three years of operations, allowing internal and external stakeholders to give feedback and analysing what worked and what did not. In exploring how to improve the rules that govern the mechanism, the review would also aim at improving PCM practices and performance. So far, the process of gathering input and consultation has allowed the assessment of information about the accomplishments and workings of the mechanism, as well as the subjective experience of the many stakeholders, both internal and external to the Bank. During the review process, the Bank focused on four factors that are indicative of a well-functioning accountability mechanism:

- ✓ **Accessibility:** Are all stakeholders aware of and informed about developments at the PCM, and are they able to appropriately relate to it during the problem-solving and compliance processes?
- ✓ **Credibility:** Do all stakeholders, both inside and outside the Bank, perceive the PCM as independent and fair-minded, and do its findings and recommendations have clear evidentiary and judgment bases?
- ✓ **Efficiency:** Does the PCM operate with optimal use of funds and time to meet the needs of both the Bank and the complainants?
- ✓ **Effectiveness:** Does the PCM have a positive impact, in terms of improving the development effectiveness of projects, in terms of improving the overall compliance environment at the Bank, and in terms of meeting legitimate needs of affected people?

As a result, PCM received lots of valuable comments from across the spectrum of interested parties; these were largely approving, but also constructively critical and incisive. This very

important initial stage of the review will help to shape the revised Rules of Procedure, as well as its performance.

During the last three years, the EBRD itself has been changing and it is important for an accountability mechanism that is intended to strengthen the Bank's development outcomes to take that into account. Since the establishment of the PCM the Bank has expanded geographically into new countries of operations, including Egypt, Jordan, Kosovo, Morocco, and Tunisia (others may follow), it has increased its capital base to €30 billion<sup>1</sup>, launched a new Joint Action Plan with the European Investment Bank Group and the World Bank Group as part of the "Vienna Initiative", and witnessed dramatic political turmoil in some of its countries of operations. We understand that the PCM needs to remain relevant to these developments and the new directions in the Bank.

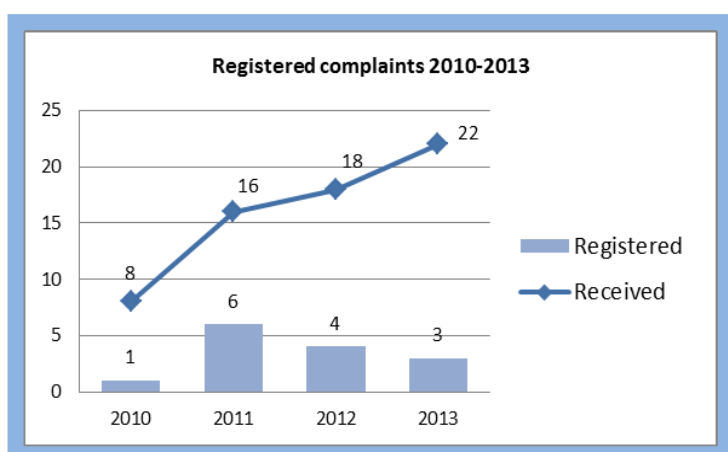
In the coming 12 months the PCM will continue working on the review of the PCM Rules of Procedure, including a series of extensive public consultation meetings in six different EBRD countries of operations and at the Bank's headquarters in London. We will be receiving comments from the public until 6 March 2014 and are aiming to present the revised PCM Rules of Procedure and the outcomes of the review process during the EBRD's 2014 Annual Meeting of the Board of Governors in May 2014 in Warsaw, Poland. As in previous years, the PCM will host a dedicated session at the Civil Society Programme during the Annual Meeting and will engage with participating representatives of civil society organisations.

The PCM will welcome the 2014 Annual Meeting of International Accountability Mechanisms in London, during which it will also host an associated public event.

---

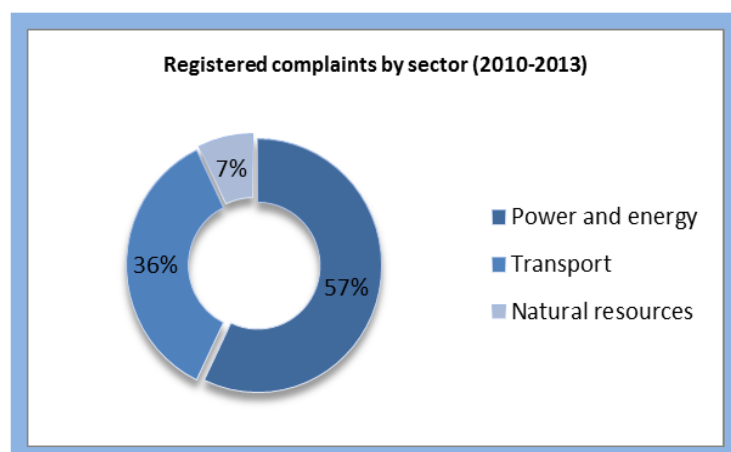
<sup>1</sup> At the 2010 EBRD Annual Meeting, the Board of Governors approved an increase to the Bank's authorised capital from €20 billion to €30 billion, via a temporary increase in callable capital of €9 billion and a transfer from reserves to paid-in capital of €1 billion.

Since its launch in 2010 the PCM has seen a dramatic increase in the number of requests received; this shows that the PCM is becoming increasingly visible and is enjoying the trust of the Bank's constituencies. During the last three years, the PCM received 64 letters or complaints, of which 14 were registered, six suspended for registration and 44 deemed ineligible.



The majority of the PCM complaints remain in the Power and energy sector, and two of the three complaints received in 2013 were in that sector. One further complaint received in 2013 was in the Natural resources sector. The Compliance Review (CR) function also remains the most requested, although in 2013 two of the three registered complaints also requested a Problem-solving Initiative.

Since 2010 the PCM completed seven CRs. Following a peak in the number of registered complaints in 2011, the PCM continued reviewing some of them in 2013, completing five CRs in that year.



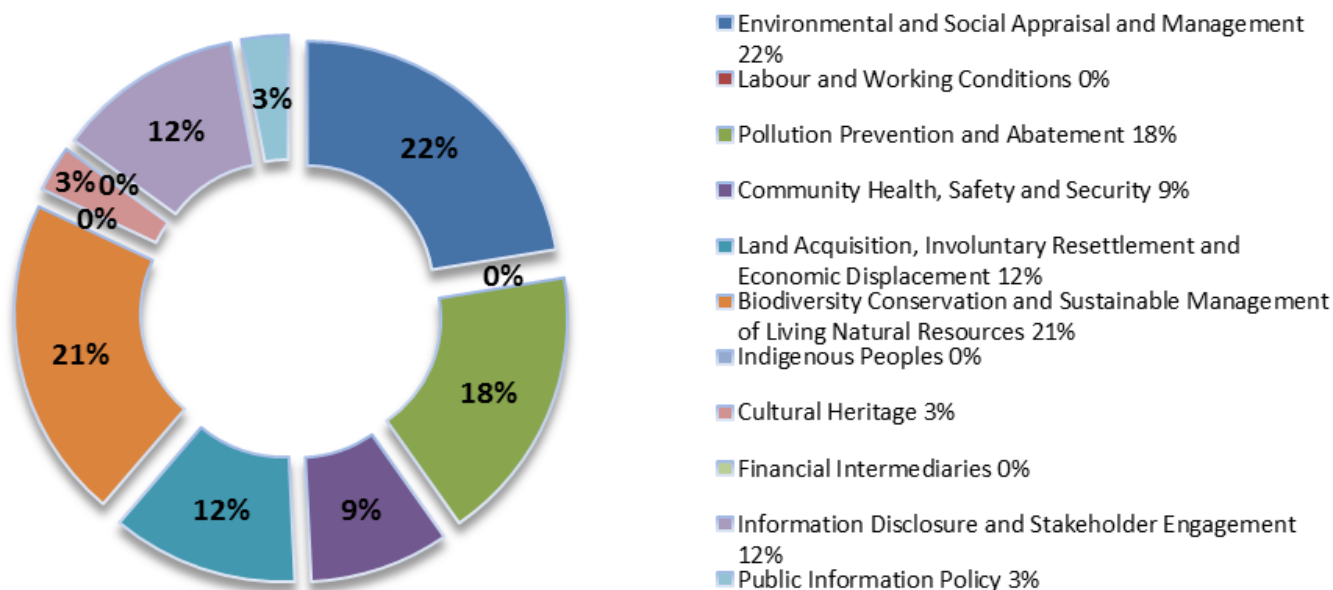
Two of these cases made findings of compliance (Rivne Kyiv High Voltage Line project in Ukraine and Sostanj Thermal Power Plant project in Slovenia), while three resulted in findings of non-compliance (Boskov Most Hydro Power Plant project in FYR Macedonia, Ombla Hydro Power Plant project in Croatia and Paravani Hydro Power Plant project in Georgia) – the first findings of non-compliance since the PCM became operational. In 2013 the PCM continued working on another CR for a complaint registered in 2012 (EPS Kolubara Environmental Improvement project in Serbia), which is still on-going. PCM also registered three new complaints in 2013. The new complaints registered in the reporting period are in relation to five

Bank-financed projects – one complaint on the Energy Resources Phase II and Oyu Tolgoi projects in Mongolia (Natural resources sector) and two complaints on the EPS Emergency Power Sector Reconstruction Loan, EPS Power II and PS Kolubara Environmental Improvement projects in Serbia (Power and energy sector). Only one of the five projects (EPS: Emergency Power Sector Reconstruction Loan) is in the environmental category B<sup>2</sup> in accordance with the EBRD's ESP 2008, while the rest are in category A.<sup>3</sup> Currently

all three complaints are in the Eligibility Assessment (EA) stage.<sup>4</sup> In terms of the issues raised in the complaints over the three-year period, most related to the environmental and social appraisal of projects, measures for biodiversity conservation and pollution prevention. There were no complaints related to labour and working conditions or indigenous peoples.

*The following chart looks at the breakdown of complaints by issues raised in line with the ESP 2008 and the Public Information Policy (PIP).*

**Complaints by issue raised (2010-2013)**



<sup>2</sup> A project is classified as Category B when the potential adverse environmental and/or social impacts that it may give rise to are typically site-specific, and/or readily identified and addressed through mitigation measures.

<sup>3</sup> A project is classified as Category A when it could result in potentially significant and adverse future environmental and/or social impacts and issues which, at the time of categorisation, cannot readily be identified or assessed.

<sup>4</sup> Please refer to the PCM Register for more detailed information about the complaints:  
[www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)

# PCM complaints at a glance

| Year registered | Project name  | Country       | Sector            | Complainant(s)  | PCM function requested | PROGRESS IN 2013   |
|-----------------|---|---------------|-------------------|---|------------------------|--|
| 2013            | <i>EPS Emergency Power Sector Reconstruction Loan</i> | Serbia        | Power and energy  | Center for Ecology and Sustainable Development (CEKOR), Serbia  | CR                     | EA in progress.  |
|                 | <i>EPS Power II</i>                                   |               | Power and energy  |   |                        |  |
|                 | <i>EPS Kolubara Environmental Improvement</i>         |               | Power and energy  |   |                        |  |
|                 | <i>EPS Power II</i>                                   | Serbia        | Power and energy  | CEKOR, Serbia representing Milan Simic and Dragan Simic (members of project-affected community )                                  | PSI and CR             | EA in progress.  |
| 2012            | <i>Energy Resources Phase II</i>                      | Mongolia      | Natural resources | A group of nomadic herders, OT Watch NGO, Shuteen Gaviluut NGO, Mongolia  | PSI and CR             | EA in progress.  |
|                 | <i>Oyu Tolgoi</i>                                     |               |                   |   |                        |  |
|                 | <i>EPS Kolubara Environmental Improvement</i>         | Serbia        | Power and energy  | Ecological Society “Vreoci”, Serbia<br><br>The Council of the Local Community of Vreoci, Serbia                                   | PSI and CR             | EA complete.<br>Problem-solving Initiative: NOT eligible.<br>CR in progress. |
|                 | <i>Sostanj Thermal Power Plant</i>                    | Slovenia      | Power and energy  | Focus Association for Sustainable Development, Slovenia<br><br>Environmental Legal Service, Slovenia<br><br>CEE Bankwatch Network | CR                     | CR complete: Finding of compliance.  |
| 2011            | <i>Rivne Kyiv High Voltage Line</i>                   | Ukraine       | Power and energy  | National Ecological Centre of Ukraine   | CR                     | CR complete: Finding of compliance.  |
|                 | <i>Paravani Hydro Power Plant</i>                     | Georgia       | Power and energy  | Association Green Alternative, Georgia  | CR                     | CR complete: Finding of non-compliance.                                      |
| 2011            | <i>Ombra Hydro Power Plant</i>                        | Croatia       | Power and energy  | Zelena akcija/Friends of the Earth Croatia  | CR                     | CR complete: Finding of non-compliance.                                      |
|                 | <i>Boskov Most Hydro Power Plant</i>                  | FYR Macedonia | Power and energy  | Centre for Environmental Research and Information “Eko-vest”, FYR Macedonia   | CR                     | CR complete: Finding of non-compliance.                                      |

---

**Boskov Most Hydro Power Plant,  
FYR Macedonia**

*Sector: Power and energy*

*Environmental category: A*

*EBRD finance: €65 million*

*Client: AD Elektrani na Makedonija*

*Project Board approval: 8 November 2011*

*Complaints registered: 14 November 2011  
and 10 January 2012*

*CR completed in 2013*

*Current PCM review status: complaint  
closed*

*Finding: non-compliance*

---

The financing is towards the construction of a hydropower plant near Debar in western FYR Macedonia. The project is intended to utilise the full hydro potential of the tributaries that combine to make up the Mala Reka River and will include a 34 metre-high dam and storage reservoir covering a surface area of 22 hectares near the village of Tresonce in the Mavrovo National Park.<sup>5</sup>

The complaints were submitted by the local non-governmental organisation (NGO), the Centre for Environmental Research and Information “Eko-vest”, FYR Macedonia. The complaints alleged that the project failed to comply with the EBRD’s 2008 ESP on a total of five grounds. These related to the adequacy of the assessment of the environmental risks to mammals, birds and the landscape in the Mavrovo National Park, the cumulative

impacts on the local climate, the adequacy of the assessment of benefits versus costs and the adequacy of the assessment of alternatives to the proposed project. They further alleged an incomplete biodiversity assessment and breach of the relevant national planning requirements.

The PCM Expert Graham Cleverly completed an EA in May 2012 finding the complaints eligible for a CR. PCM Expert Owen McIntyre completed the CR concluding with a finding of non-compliance in respect of only one of the grounds set out in the complaints – the CR determined that the assessment of the project’s potential impacts on biodiversity and living natural resources was not sufficiently comprehensive and conclusive to satisfy the requirements of Performance Requirement (PR) 6 (Biodiversity Conservation and Sustainable Natural Resource Management) of the 2008 ESP. The CR Report was posted on the PCM Register on 3 January 2014 and the complaint was closed.<sup>6</sup>

---

**Ombla Hydro Power Plant, Croatia**

*Sector: Power and energy*

*Environmental category: A*

*EBRD finance: €123.2 million*

*Client: Hrvatska Elektroprivreda d.d.*

*Project Board approval: 22 November  
2011*

---

<sup>5</sup> Project Summary Document (PSD):  
[www.ebrd.com/pages/project/psd/2011/41979.shtml](http://www.ebrd.com/pages/project/psd/2011/41979.shtml)

---

<sup>6</sup> The text of the complaint, full EA and CR reports are available on the PCM Register:  
[www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)



*Complaint registered: 24 November 2011*

*CR completed in 2013*

*Current PCM review status: complaint closed*

*Finding: non-compliance*

The project intended to finance the construction of a hydroelectric power plant near the city of Dubrovnik, involving (among other things) the construction of a grout curtain and a conveyance and filtration plant, with the aim of supplying drinking water to Dubrovnik and the surrounding area.<sup>7</sup>

The complaint was submitted by the local NGO Zelena akcija/Friends of the Earth Croatia. It alleged that the project failed to comply with the EBRD's 2008 ESP on a total of five grounds related to the adequacy of the Environmental Impact Assessment, meaningful public consultation by the client, approval of the project without an adequate biodiversity assessment and treatment of alleged 'critical habitats' in accordance with the precautionary approach.

The PCM Expert Owen McIntyre completed an EA in July 2012, finding the complaint eligible for a CR. Prior to completion of the PCM CR and following detailed consultations with the project developer, Hrvatska Elektroprivreda d.d. (HEP), and relevant authorities in Croatia regarding the findings of the independent

biodiversity study, the EBRD and HEP agreed to cancel the EBRD loan for the project. However, the CR process was not affected by the project cancellation and proceeded as planned.

The PCM Expert Graham Cleverly completed the CR concluding with a finding of non-compliance in respect of only one of the grounds set out in the complaint. The CR determined that the Bank's approval of the project in advance of the completion of a conclusive biodiversity assessment amounted to non-compliance with the requirements of PR6 (Biodiversity Conservation and Sustainable Natural Resource Management) of the 2008 ESP. The CR Report was posted on the PCM Register on 3 January 2014 and the complaint was closed.<sup>8</sup>

---

**Paravani Hydro Power Plant, Georgia**

*Sector: Power and energy*

*Environmental category: A*

*EBRD finance: US\$52 million loan and US\$5 million equity*

*Client: Georgian Urban Energy*

*Project Board approval: 14 June 2011*

*Complaint registered: 4 January 2012*

*CR completed in 2013*

*Current PCM review status: complaint closed*

*Finding: non-compliance*

The project is financing the construction of a hydropower plant on the Paravani River

---

<sup>7</sup> PSD:

[www.ebrd.com/english/pages/project/psd/2011/42219.shtml](http://www.ebrd.com/english/pages/project/psd/2011/42219.shtml)

<sup>8</sup> The text of the complaint, full EA and CR

Reports are available on the PCM Register:

[www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)

and a 35km transmission line connecting to the national grid. The HPP will divert water from the Paravani River through a 14.2 km tunnel to a powerhouse on the Mktvari River, with the water released 1.5km upstream of the Mktvari/Paravani confluence, some 700m upstream of the village of Khertvisi.<sup>9</sup>

The complaint was submitted by the local NGO Association Green Alternative, Georgia. It alleged that the project failed to comply with the EBRD's 2008 ESP on six grounds related to biodiversity impacts, risk of flooding of the Khertvisi village, access to pastures by the local population during the project construction, assessment of alternative renewable energy options and the Environmental and Social Impact Assessment (ESIA) disclosure.

The PCM Expert Susan Wildau completed an Eligibility Assessment (EA) in October 2012 finding the complaint eligible for a CR. The PCM *ad hoc* Expert Glen Armstrong completed a CR concluding with a finding of non-compliance on three of the six elements of the complaint: PR 1 (Environmental and Social Appraisal and Management), PR 6 (Biodiversity Conservation and Sustainable Natural Resource Management) and PR 10 (Information Disclosure and Stakeholder Engagement). The Expert made recommendations to address underlying weaknesses which have resulted in these specific non-compliances. The CR Report was posted on the PCM Register on 3 January 2014 and the complaint was closed.<sup>10</sup>

---

### **Recommendations on the findings of non-compliance**

The PCM Experts working on the three complaints described above made findings of non-compliance following a detailed and comprehensive review process that included several meetings with various representatives of the Bank's management, the clients and the complainants, and an examination of a large number of project documents. In their reports, the PCM Experts made recommendations which would aim to address the findings of non-compliance at the level of EBRD systems or procedures, in the scope or implementation of the projects and for monitoring and reporting on the implementation of any recommended changes. To address the findings, the Bank's management carried out assessments of the Experts' recommendations and agreed Management Action Plans (MAP). The implementation of the MAPs will be monitored by the PCM Officer, and monitoring reports will be issued at least biannually, or until the PCM Officer determines that all implementation issues have been addressed.

---

<sup>9</sup> PSD:  
[www.ebrd.com/pages/project/psd/2010/38940.shtml](http://www.ebrd.com/pages/project/psd/2010/38940.shtml)

---

<sup>10</sup> The text of the complaint, full EA and CR reports are available on the PCM Register:  
[www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)

---

**Rivne Kyiv High Voltage Line, Ukraine**

*Sector: Power and energy*

*Environmental category: A*

*EBRD finance: €150 million*

*Client: Ukrenergo*

*Project Board Approval: 6 November 2007*

*Complaint registered: 17 January 2012*

*CR completed in 2013*

*Current PCM review status: complaint closed*

*Finding: compliance*

---

The project is financing the construction of a new power transmission line and is intended to help Ukraine harmonise its electricity network with the European electricity transmission system, optimise generating capacity, reduce emissions and increase network reliability.<sup>11</sup>

The complaint was submitted by the National Ecological Centre of Ukraine – a Ukrainian NGO. It alleged that the project failed to comply with the EBRD's 2003 Environmental Policy on two grounds, claiming that the Bank failed to ensure an adequate Environmental Impact Assessment and disclosure and meaningful public consultation in respect of Parts C and D of the project.

The PCM Expert Walter Leal found the complaint eligible for a CR on conclusion of the EA in November 2012. The *ad hoc* PCM Expert Geert Van Calster carried out the CR in 2013, upon which he found that Parts C and D of the project were

---

<sup>11</sup> PSD:

[www.ebrd.com/pages/project/psd/2007/37598.shtml](http://www.ebrd.com/pages/project/psd/2007/37598.shtml)

justifiably not included in the 2007 ESIA and, on that basis, declined to find that the EBRD failed to comply with the Environmental Policy 2003. The CR Report was posted on the PCM Register on 10 September 2013 and the complaint was closed.<sup>12</sup>

---

**Sostanj Thermal Power Plant, Slovenia**

*Sector: Power and energy*

*Environmental category: A*

*EBRD finance: €200 million in corporate and syndicated loans*

*Client: Termoelektrarna Sostanj*

*Project Board Approval: 20 July 2010*

*Complaint registered: 24 January 2012*

*CR completed in 2013*

*Current PCM review status: complaint closed*

*Finding: compliance*

---

The project financing is towards the modernisation programme for the Termoelektrarna Sostanj, aimed at improving efficiency and reducing CO2 emissions.<sup>13</sup>

The complaint was submitted by three NGOs – Focus Association for Sustainable Development, Environmental Legal Service and CEE Bankwatch Network. It alleged that the project failed to comply with the EBRD's 2008 ESP on two grounds: (i) failing to ensure proper application by the client of the criteria established in the European Union (EU)

---

<sup>12</sup> The text of the complaint, full EA and CR reports are available on the PCM Register: [www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)

<sup>13</sup> PSD:

[www.ebrd.com/pages/project/psd/2009/40417.shtml](http://www.ebrd.com/pages/project/psd/2009/40417.shtml)

Carbon Capture and Storage (CCS) Directive; and (ii) failing to ensure the project's compliance with the relevant EU climate goals, thereby breaching the provisions of the ESP.

The PCM Expert Susan Wildau found the complaint eligible for a CR on conclusion of the EA in January 2013 and PCM Expert Owen McIntyre carried out the CR in 2013. The CR Expert determined that the assessment of CCS readiness did meet the EU Directive requirements and was adequate for the purpose of the ESP. He further determined that the EU climate goals did not amount to a "relevant EU environmental requirement" for the purpose of the ESP and, therefore, could not comprise a requirement with which the Bank was required to comply. On this basis, the Expert declined to examine the latter ground and made a finding of compliance in respect of each of the grounds set out in the complaint. The CR Report was posted on the EBRD web site on 23 September 2013 and the complaint was closed.<sup>14</sup>

---

**EPS Kolubara Environmental Improvement, Serbia**

*Sector: Power and energy*

*Environmental category: A*

*EBRD finance: €80 million*

*Client: Elektroprivreda Srbije (EPS)*

*Project Board Approval: 26 July 2011*

---

<sup>14</sup> The text of the complaint, full EA and CR reports are available on the PCM Register: [www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)

*Complaint registered: 31 August 2012*

*EA: completed in 2013*

*Problem-solving Initiative: ineligible*

*Current PCM review status: CR*

---

The project provides financing for the purchasing of equipment and a coal management system aimed at improving the efficiency of EPS' mining operations and quality of the lignite at two specific fields of the Kolubara basin. The improvements are also designed to contribute to the reduction of air emissions associated with coal extraction and help achieve national air emissions targets.<sup>15</sup>

The complaint was made by two civil society groups – Ecological Society "Vreoci" and The Council of the Local Community of Vreoci. It alleges that the Bank failed to comply with the terms of the ESP 2008 by defining the project scope and the area of influence too narrowly, thus excluding environmental and social impacts on the settlement of Vreoci. The impacts, they claim, include problems in resettling the affected households and the local graveyard, limiting access to public services and exposing the affected population to significant pollution from the mining operations.

---

<sup>15</sup> PSD: [www.ebrd.com/pages/project/psd/2011/41923.shtml](http://www.ebrd.com/pages/project/psd/2011/41923.shtml)

The PCM Expert Susan Wildau completed an EA in August 2013 finding the complaint eligible for a CR, but not for a Problem-solving Initiative. Among other factors, there was not a consensus between the parties about the value of a problem-solving dialogue – the PCM Expert therefore decided that a problem-solving exercise was not likely to be successful. In determining eligibility for a CR, the question of whether the complaint “related” to the EBRD’s Kolubara Environmental Improvement project posed the main issue.<sup>16</sup> The Eligibility Assessor noted that the complaint raised overarching policy questions, including the responsibility of the EBRD for the accumulated impacts from projects funded through multiple loans to a particular recipient, which carry significant implications for the Bank’s approach to appraisal and mitigation activities, meaningful stakeholder engagement, and the structure of the due diligence process itself. Therefore, the Assessor concluded that the complaint did meet the threshold requirements and the intent of paragraph 19(a) of the PCM Rules of Procedure to the extent necessary to be eligible for a

---

<sup>16</sup> In accordance with the PCM RPs paragraph 19(a): “To be held eligible for a CR, the complaint must: (a) relate to a project that has either been approved for financing by the Board or by the Bank committee which has been delegated authority to give final approval to the Bank financing of such project...”

CR. The EA report was completed in August 2013 and posted on the PCM Register.<sup>17</sup>



Glen Armstrong was appointed as *ad hoc* PCM Expert in September 2013 to commence the CR. It will examine whether the project, including its scope and the area of influence, was adequately defined, according to the terms and intent of the EBRD’s ESP 2008.<sup>18</sup> In particular, it will look into whether the project should be assessed as part of a broader investment programme, linked to prior investments and possible future financing; whether the project was structured in a way that unreasonably reduced the obligations of the Bank and the client with regard to conducting due diligence, appraising and addressing its social and environmental impacts; whether the EBRD’s rationale for

---

<sup>17</sup> The text of the complaint and full EA report are available on the PCM Register:

[www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)

<sup>18</sup> See the EA report (pages 31-35) for the CR Terms of Reference:

[www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)



defining the community of Vreoci as not associated with and outside the area of influence was reasonable and consistent with the EBRD's policies; whether the Bank properly consulted the community of Vreoci on the project according to its relevant policies; whether the project assessment was consistent with the EBRD's transition mandate; and whether the Bank properly considered the implications of greenhouse gases in its assessment. The relevant provisions of the ESP for the purpose of the CR are PR 1 (Environmental and Social Appraisal and Management), PR 3 (Pollution Prevention and Abatement), PR 4 (Community Health, Safety and Security), PR 5 (Land Acquisition, Involuntary Resettlement and Economic Displacement), PR 10 (Information Disclosure and Stakeholder Engagement), Paragraph A (Purpose), B (EBRD's Commitment), C (Integrating environmental and social considerations into the project cycle: EBRD's role and responsibilities) and E (Promoting investments with high environmental and social benefits).

*A new complaint on three projects in the Kolubara mining basin – EPS Emergency Power Sector Reconstruction Loan, EPS Power II and EPS Kolubara Environmental Improvement, was filed in October 2013 by the NGO CEKOR, Serbia. As a result, the CR on this complaint was put on hold subject to the outcomes of the EA on the complaint registered on 29 October 2013.<sup>19</sup>*

<sup>19</sup> See page 17 of this report.

---

## **Energy Resources Phase II and Oyu Tolgoi, Mongolia**

*Sector: Natural resources*

*Environmental category: A*

*Complaint registered: 2 August 2013*

*Current PCM review stage: EA*

### **Energy Resources Phase II**

*EBRD finance: \$180 million*

*Client: Energy Resources LLC*

*Project Board Approval: 23 March 2010*

### **Oyu Tolgoi**

*EBRD finance: \$1.4 billion in loan and syndicated loan*

*EBRD client: Oyu Tolgoi LLC*

*Project Board Approval: 26 February 2013*

---



## **Energy Resources Phase II project<sup>20</sup>**

comprises financing towards the expansion of the existing Ukhaa Khudag coal mine and related infrastructure, including development and construction of a coal-handling and preparation plant, coal-fired power generation facilities, a groundwater abstraction field, a railway and an airstrip,

---

<sup>20</sup> PSD:

[www.ebrd.com/pages/project/psd/2010/39957.shtml](http://www.ebrd.com/pages/project/psd/2010/39957.shtml)

and the expansion of worker accommodation facilities. Ukhaa Khudag coal mine is located in the Umnogovi aimag of the South Gobi region of Mongolia, approximately 90km east of the provincial capital Dalanzadgad, 540km from the capital city Ulaanbaatar and 220km from the Mongolia-China border. It lies 150km from the Oyu Tolgoi copper-gold deposit. The coal-handling and preparation plant will be built in line with the latest international best practices, bringing the highest environmental standards to Mongolia's mining sector. It will enable Energy Resources to increase exports and boost its competitiveness in both international and domestic markets. In addition, as part of the project, the company will support small and medium businesses, thus contributing to the sustainable development of the Mongolian mining sector.

**The Oyu Tolgoi project**<sup>21</sup> is financing the development, construction and operation of an open pit and underground mine and ore processing facility at the Oyu Tolgoi copper, gold, silver and molybdenum deposit. The deposit is located in the Umnogovi aimag of the South Gobi region of Mongolia, approximately 220km from the provincial capital Dalanzadgad, 600km south of the capital city Ulaanbaatar and

80km north of the Mongolia-China border. The project is expected to have a material positive economic impact and is anticipated to increase national GDP by 30 per cent by 2020. The project will adopt best transparency standards through compliance by the project company with the Extractive Industries Transparency Initiative (EITI) requirements and serve as an example to other private sector investors in the Mongolian mining industry. In addition, the project will act as a catalyst for the development of supporting infrastructure and will contribute to the development of the necessary vocational skills in the country.

The complaint raises concerns about the unpaved dirt roads connecting the mine sites of both projects, Ulaanbaatar and the Mongolia-China border. According to the complaint, the roads cut through and fragment pastures of nomadic pastoralists of the Umnugobi aimag. When used by heavily loaded trucks, the roads raise considerable levels of dust causing severe health damage to the nomads living along the roads and their livestock. Additionally, the complaint raises issues related to access to water. The complaint requests health assessment to be carried out as part of the social impact assessment with emphasis on livelihood through loss of pastures, claiming that the project's

---

<sup>21</sup> PSD:

[www.ebrd.com/pages/project/psd/2012/41158.shtml](http://www.ebrd.com/pages/project/psd/2012/41158.shtml)

existing sustainable pasture management and livelihood plans do not allow for the ancient tradition of nomadic pastoralist lifestyle to continue.

The complaint was submitted by a number of representatives of the local population, including nomadic herders, and two NGOs – OT Watch and Shuteen Gaviluut.

The PCM Expert Susan Wildau was appointed in August 2013 to carry out an EA, which is currently in progress and to date involved the PCM Officer and the PCM Expert meeting with the relevant members of the EBRD operations staff, and travelling to Mongolia to meet the complainants, other representatives of the local communities and representatives of both clients. The full text of the complaint is available on the PCM Register.<sup>22</sup>



---

<sup>22</sup> PCM Register:  
[www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)



---

## **EPS Power II, Serbia**

*Sector: Power and energy*

*Environmental category: A*

*EBRD finance: €50 million*

*Client: Elektroprivreda Srbije (EPS)*

*Project Board Approval: 15 July 2003*

*Complaint registered: 23 August 2012*

*Current PCM review stage: EA*

---

The EPS Power II project<sup>23</sup> comprises financing for the modernisation of equipment installed at the Tamnava West lignite mine and upgrade of the Power System Control and internal communications – both components identified as priority investments by EPS, as well as modernisation of mine management and control of the existing Tamnava West mining field to increase lignite production. The proposed operations led to the increase of the operational area at Tamnava West, thus requiring partial or total resettlement of four nearby villages, inhabited by

approximately 1300 people. In addition to residential land and property, the proposed mining operations required the compulsory purchase of approximately 2000 hectares of agricultural and/or uncultivated land.

The complaint was filed by the Serbian NGO CEKOR representing two individuals, and requested both functions of the PCM – a CR and a PSI. The complainants claim that during the land acquisition process their land plots were expropriated forcefully and without appropriate compensation. Furthermore, the complainants claim that the client lacked an appropriate grievance mechanism, offering no recourse to the affected population. The full text of the complaint is available on the PCM Register.<sup>24</sup> The PCM Expert Graham Cleverly was appointed in September 2013 to carry out an EA, which is currently in progress.



---

<sup>23</sup> PSD:

[www.ebrd.com/pages/project/psd/2002/27005.shtml](http://www.ebrd.com/pages/project/psd/2002/27005.shtml)

---

<sup>24</sup> PCM Register:

[www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)



**EPS Emergency Power Sector  
Reconstruction Loan;  
EPS Power II;  
EPS Kolubara Environmental  
Improvement, Serbia**

*Sector: Power and energy*

*Client: Elektroprivreda Srbije (EPS)*

*Complaint registered: 29 October 2013*

*Current PCM review stage: EA*

**EPS: Emergency Power Sector  
Reconstruction Loan<sup>25</sup>**

*Environmental category: B*

*EBRD finance: €100 million*

*Project Board Approval: 23 October 2001*

**EPS Power II<sup>26</sup>**

*Environmental category: A*

*EBRD finance: €50 million*

*EBRD Board Approval: 15 July 2003*

**EPS Kolubara Environmental  
Improvement<sup>27</sup>**

*Environmental category: A*

*EBRD finance: €80 million*

*Project Board Approval: 26 July 2011*

---

<sup>25</sup> PSD:

[www.ebrd.com/english/pages/project/psd/2001/17829.shtml](http://www.ebrd.com/english/pages/project/psd/2001/17829.shtml)

<sup>26</sup> PSD:

[www.ebrd.com/pages/project/psd/2002/27005.shtml](http://www.ebrd.com/pages/project/psd/2002/27005.shtml)

<sup>27</sup> PSD:

[www.ebrd.com/pages/project/psd/2011/41923.shtml](http://www.ebrd.com/pages/project/psd/2011/41923.shtml)

The complaint was submitted by the Serbian NGO CEKOR. It concerns the EBRD's investments in the Kolubara Mining basin over the last twelve years, as illustrated by the three projects, and alleges that the Bank's involvement lacked a serious analysis of its cumulative environmental and social impact on the whole Kolubara lignite mine complex. Issues in this complaint are closely related to those raised in the complaint registered in August 2012<sup>28</sup>, but concentrate on the overall environmental impacts, which, according to the complaint the EBRD measured too narrowly. Similarly to the previous complaint, it also alleges that the Bank's excessively narrow drawing of its project boundaries resulted in the exclusion of the resettlement of the local population from the project scope and from assessment. For the purposes of the current case, the complaint focuses on the

---

<sup>28</sup> See page 11 of this report.

EBRD's project appraisal for the 2011 Kolubara Environmental Improvement project and requests an assessment of compliance with the EBRD's 2008 ESP, in particular PR 1 (Environmental and Social Appraisal and Management), PR 3 (Pollution Prevention and Abatement), PR 4 (Community Health, Safety and Security), PR8 (Cultural Heritage) and PR 10 (Information Disclosure and Stakeholder Engagement). The full text of the complaint is available on the PCM Register.<sup>29</sup>

The PCM Expert Owen McIntyre was appointed in November 2013 to carry out an EA, which is currently in progress.

## **COMPLAINTS SUSPENDED FOR REGISTRATION**

In 2013, the PCM received six complaints that were suspended for registration because the projects concerned had not yet reached the appropriate stage in the Bank's approval process or the complainants did not previously attempt to bring their concerns to the attention of the client or the relevant operations team(s) in the Bank. In all of these cases, the registration of these complaints was postponed and the complaints were forwarded to the relevant Bank team for action. The complainants were provided an opportunity to resubmit their complaints should they feel their

concerns remained unresolved or until and if the project passed the relevant stage of the approval process.

## **INELIGIBLE COMPLAINTS**

A further 13 letters or complaints received were determined to be ineligible for consideration by the PCM. Issues raised in these complaints included fraud and corruption, procurement and contractual disputes and were forwarded to the relevant departments in the EBRD.

---

<sup>29</sup> [www.ebrd.com/pages/project/pcm/register.shtml](http://www.ebrd.com/pages/project/pcm/register.shtml)

# Review of the PCM Rules of Procedure

The review of the PCM Rules of Procedure (RPs) was launched in 2013, in parallel with the reviews of the EBRD's Environmental and Social Policy (ESP) (last reviewed in 2008) and Public Information Policy (PIP) (last reviewed in 2011). The purpose of the review of the PCM RPs is to assess the mechanism's efficiency, functionality and effectiveness, taking into account lessons from experience, changes in international best practice, and the views of various stakeholders. The review comprises two stages – information gathering and formal public consultations. The initial stage of the review ran from March to June 2013 and included a solicitation of comments on the existing PCM RPs from internal and external stakeholders and a benchmarking exercise, which compared the PCM to other IFIs' mechanisms.

Over 15 external individuals and organisations made submissions in response to the on-line invitation to comment on the current PCM RPs. A number of individual meetings with civil society representatives also took place at the EBRD's Headquarters, while a special session was held during the Civil Society Programme at the 2013 EBRD Annual Meeting in Istanbul, Turkey. The PCM held meetings with the EBRD's operations staff, conducted a survey of those EBRD

clients whose projects were subjects of PCM review and organised meetings with some of the complainants. Overall, the initial feedback showed that there was satisfaction with the PCM. Feedback from stakeholders included comments on the mandate of the PCM, its independence and reporting lines, and its role in the Bank; the timeliness of the complaint process; staffing and efficiency; accessibility; requirements for registration of complaints; and suggestions on reaching out to local communities. The PCM's accessibility was recognised for the opportunity it gives NGOs and affected populations to file complaints, and the provisions of PCM contact details in all project summary documents (PSDs). It was suggested that the PCM expands its work to encompass a wider range of EBRD policies and considers looking into complaints about the economic viability of projects. Concerns included more outreach to affected populations, in particular those in remote areas and without access to the internet, as well as the need for solutions to problems raised via the PCM's Problem-solving Initiative rather than the CRs. The PCM also sought suggestions on the outreach in the southern and eastern Mediterranean (SEMED) region.



The benchmarking exercise compared the PCM to the accountability mechanisms of the International Financial Corporation (IFC), the World Bank (WB), African Development Bank (AfDB), Asian Development Bank (ADB), European Investment Bank (EIB) and the Inter-American Development Bank (IADB). This exercise was based on several normative principles – namely accessibility, efficiency, effectiveness and credibility – and examined the number of cases reviewed by each mechanism, staffing and appointment of experts, reporting lines, policy standards for compliance reviews and advisory functions. In comparison to other mechanisms, the PCM has similar functions, except for the advisory function present in the IFC and currently being considered in other IFIs’ mechanisms. The PCM is one of the youngest of the mechanisms and has fewer cases than some of its counterparts under review. However, given the complexity of the complaints to date and the considerably smaller staffing resources, the PCM is on par with others in terms of the time it takes to review cases. The benchmarking also revealed that the PCM has the most restricted policy coverage, but it was noted that the EBRD does have other governance mechanisms that cover issues outside of the PCM’s remit. The benchmarking was a

timely exercise given that many of the other mechanisms were also under review at the same time. The year 2014 will see the PCM RPs undergo the second stage of the review – a formal public consultation period of 45 days on the new draft PCM RPs, with public consultation meetings in Casablanca, Kiev, Tbilisi, Almaty, Moscow, Sofia and London in February. All gathered comments will be reviewed and the final PCM RPs prepared for the approval by the Board of Directors and for later posting on the EBRD web site ([www.ebrd.com](http://www.ebrd.com)).

With the adoption of new PCM RPs, further work to increase the awareness and outreach of the PCM will be carried out in 2014. In continuation of its efforts to raise awareness of the PCM among EBRD clients, the PCM has published an on-line booklet, *Guide for EBRD clients*.<sup>30</sup>



<sup>30</sup> [www.ebrd.com/pages/project/pcm.shtml](http://www.ebrd.com/pages/project/pcm.shtml)

## Cooperation with other IFIs

In September 2013, the PCM Officer participated in the 10th Annual Meeting of the Network of Accountability Mechanisms of IFIs (IAM Network), organised and hosted by the World Bank's Inspection Panel in Washington. The aim of the meeting was to share best practices, discuss challenges and identify common



goals for cooperation. The event gathered compliance practitioners from a variety of financial institutions working in development investments, experts and academics. Issues discussed included the expansion of the Network, cooperation in jointly financed projects, methodologies for

compliance reviews, mediation and advisory work, engagement with executive directors in the respective institutions, review and evaluation of the accountability mechanisms, exploring links between “harm” and non-compliance, and human rights and development.

The 10th IAM meeting coincided with the twentieth anniversary of the establishment of the World Bank's Inspection Panel, the first independent accountability mechanism of a multilateral development bank, created to respond to concerns of people affected by World Bank-funded projects. This set an important precedent and similar accountability mechanisms have subsequently been established in other IFIs across the globe, including in the EBRD in 2008 the creation of the PCM's predecessor, the Independent Recourse Mechanism. These mechanisms came together ten years ago and formed an "IAM Network" to foster cooperation and share ideas and best practices in the work of accountability and development. To mark this important anniversary, the Inspection Panel hosted a public event entitled *“Citizen-Driven Accountability for Sustainable Development: giving voice to affected people – Twenty years on”* in conjunction with the 10th IAM Annual Meeting. The event began with opening keynote presentations by Hon. Barney Frank, United States House of Representatives (retired) and World Bank President Jim Yong Kim, and was introduced by

the Chairperson of the Inspection Panel, Eimi Watanabe. These presentations were followed by a panel discussion featuring experts, activists and senior officials in the fields of development, community rights, and accountability. The discussants gave examples of how accountability mechanisms have made substantial contributions to the evolution of the IFI's social and environmental performance by pursuing issues of compliance and responsible application of standards, and how their work created opportunities for improvements in the design of development projects by giving affected communities a voice, and ensuring their concerns are heard and acted upon by IFI management, local and national decision makers, and public and private sector operators. Twenty years of experience among the IAMs has produced a solid body of independent findings spanning multiple regions, development activities, cultures, and environments around the world and provides important examples of ways to strengthen the effective implementation of sustainable development going forward.

In September 2014 the PCM hosts the annual IAM Network event at EBRD Headquarters in London.



In accordance with the PCM RPs paragraph 65, the PCM Officer, in consultation with the Chief Compliance Officer, prepares the annual budget indicating the level of resources required for the forecasted activities of the PCM for the coming year.<sup>31</sup> In discussion with management on the 2014 budget, it was proposed to increase the level of PCM expenditure to accommodate the recruitment of a new staff member on a two-year contract, and to allow the appointment of *ad hoc* experts.

As in previous years, expenses over and above the amount budgeted for the PCM are expected to be met out of the Bank's management reserve fund.

---

<sup>31</sup>PCM RPs paragraph 65: "Budget. The Bank will provide budgetary resources to the PCM sufficient to allow all of the activities permitted by these Rules to be carried out. The PCM Officer, in consultation with the CCO, will prepare the annual budget indicating the level of resources required for the forecasted activities of the PCM for the coming year and will be responsible for determining the allocation of resources."



### PCM Rules of Procedure

The PCM RPs set out the rules about how a complaint may be filed and how it will be processed. They also set out the requirements relating to timelines, reports, disclosure of and access to information, training, outreach and other issues relevant to the administration of the PCM. The current RPs of the PCM were approved by the EBRD Board of Directors in May 2009.

PCM RPs: [www.ebrd.com/pages/project/pcm/about.shtml](http://www.ebrd.com/pages/project/pcm/about.shtml)<sup>32</sup>

### Environmental and Social Policy

The ESP details the commitments of the Bank's Founding Agreement "to promote in the full range of its activities, environmentally sound and sustainable development" and guides the environmental and social appraisal, monitoring and stakeholder engagement in projects. The Policy was approved by the EBRD Board of Directors in May 2008.

Bank-financed projects are expected to meet good international practice related to sustainable development. To help clients and/or their projects achieve this, the EBRD has defined specific PRs for key areas of environmental and social issues and impacts as listed below:

PR 1: Environmental and Social Appraisal and Management

PR 2: Labour and Working Conditions

PR 3: Pollution Prevention and Abatement

PR 4: Community Health, Safety and Security

PR 5: Land Acquisition, Involuntary Resettlement and Economic Displacement

PR 6: Biodiversity Conservation and Sustainable Natural Resource Management

PR 7: Indigenous Peoples

PR 8: Cultural Heritage

PR 9: Financial Intermediaries

PR 10: Information Disclosure and Stakeholder Engagement

2008 Environmental and Social Policy:

[www.ebrd.com/pages/research/publications/policies/environmental.shtml](http://www.ebrd.com/pages/research/publications/policies/environmental.shtml)<sup>31</sup>

### Public Information Policy

The PIP sets out how the EBRD discloses information and consults with its stakeholders so as to promote better awareness and understanding of its strategies, policies and operations. The Policy was approved by the EBRD Board of Directors in July 2011.

Public Information Policy: [www.ebrd.com/pages/about/policies/pip.shtml](http://www.ebrd.com/pages/about/policies/pip.shtml)<sup>31</sup>

---

<sup>32</sup> PCM RPs, ESP and PIP were all under periodic reviews in 2013. New Policies are expected to be approved by the EBRD Board of Directors in May 2014. These will come into force six months following approval and will be available on their respective web pages as indicated.