

Compliance Review Report

Belgrade Solid Waste Public Private Partnership (PPP)

EBRD Project Number 46758

Case 2019/02

December 2020

The Independent Project Accountability Mechanism (IPAM) is the accountability mechanism of the EBRD. It receives and independently reviews concerns raised by individuals or organisations about Bank-financed Projects, which are believed to have caused, or to be likely to cause, harm. The purpose of the mechanism is to facilitate the resolution of social, environmental and public disclosure issues among Project stakeholders; to determine whether the Bank has complied with its Environmental and Social Policy and the Project-specific provisions of its Access to Information Policy; and where applicable, to address any existing non-compliance with these policies, while preventing future non-compliance by the Bank.

IPAM is an independent function, governed outside the Bank's investment operations (i.e. outside of Bank management) with a direct reporting line to the Board of Directors through its Audit Committee.

For more information about IPAM, contact us or visit <https://www.ebrd.com/project-finance/ipam.html>.

<p>Contact information</p> <p>The Independent Project Accountability Mechanism (IPAM) European Bank for Reconstruction and Development One Exchange Square London EC2A 2JN</p> <p>Telephone: +44 (0)20 7338 6000 Email: ipam@ebrd.com</p>	<p>How to submit a complaint to the IPAM</p> <p>Concerns about the environmental and social performance of an EBRD Project can be submitted by email, telephone or in writing, or via the online form at:</p> <p> https://www.ebrd.com/project-finance/ipam.html</p>
---	---

Table of Contents

List of Abbreviations	4
Executive Summary	5
1. Background.....	8
1.1. The Project	8
1.2. The Request	8
2. Case Processing and Compliance Review Methodology.....	9
2.1. Case Processing Prior to the Compliance Review	9
2.2. IPAM Compliance Review Process	9
2.2.1. Objectives.....	9
2.2.2. Scope of the IPAM Compliance Review.....	10
2.2.3. Compliance Review Methodology.....	11
3. Project Development and EBRD involvement.....	12
3.1. Project Context	12
3.2. Overview of EBRD’s Environmental and Social Due Diligence.....	13
4. Compliance Review Framework.....	14
4.1 The Bank’s Obligations in the Application of the 2014 ESP and PRs	14
4.1.1. Performance Requirement 1: Assessment and Management of Environmental and Social Impacts and Issues.....	15
4.1.2. Performance Requirement 3: Resource Efficiency and Pollution Prevention and Control.....	15
4.1.3. Performance Requirement 10: Information Disclosure and Stakeholder Engagement.....	16
5. Analysis of the EBRD’s Compliance with the 2014 ESP	17
5.1 Performance Requirement 1 (PR 1):.....	17
5.1.1. Scope of application.....	17
5.1.2. Issues raised by the requesters	17
5.1.3. Compliance Review Findings.....	17
5.2. PR 3: Resource Efficiency and Pollution Prevention and Control.....	20
5.2.1. Issues raised by the requesters	20
5.2.2. Compliance Reviews Findings.....	20
5.3. Performance Requirement 10: Information Disclosure and Stakeholder Engagement.....	21
5.3.1. Issues raised by the requesters	21
5.3.2. Compliance Review Findings.....	21
6. Conclusions and Recommendations.....	22

List of Abbreviations

Abbreviation	Long Form
AIP	EBRD Access to Information Policy
CDW	Construction and Demolition Waste
CoB	City of Belgrade
CSO	Civil Society Organisation
EAR	Eligibility Assessment Report
EC	European Community
EfW	Energy from Waste
EU	European Union
E&S	Environmental and Social
ESD	EBRD Environment and Sustainability Department
ESDD	Environmental and Social Due Diligence
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESP	EBRD Environmental and Social Policy
GIP	Good International Practice
IESC	Independent Environmental and Social Consultant
IFC	International Finance Corporation
IFI	International Financial Institution
IPAM	Independent Project Accountability Mechanism
Lenders	EBRD and IFC
LARR	Land Acquisition and Resettlement Review
LTA	Lenders Technical Advisor
MSW	Municipal Solid Waste
PAP	Project Accountability Policy
PCM	Project Complaint Mechanism
PCM RPs	2014 Project Complaint Mechanism Rules of Procedure
PPP	Public Private Partnership
PR	Performance Requirement
RFP	Request for Proposal
SEP	Stakeholder Engagement Plan
SIA	Social Impact Assessment
SPV	Special Purpose Vehicle
ToR	Terms of Reference
USD	US Dollars

Executive Summary

The Project:

The [Belgrade Solid Waste PPP](#) Project (46758) (the Project) is located at the site of the existing Vinca waste facility, west of Belgrade, Serbia. The Project involves debt financing in an amount of up to EUR 70 million to Beo Cista Energija d.o.o Beograd (the Client or BCE), a limited liability company established with the sole purpose of operating and financing the Project under a Design, Build, Finance, Operate, Transfer (DBFOT) scheme owned by a consortium integrated by global utility company Suez, S.A., the Japanese conglomerate Itochu Corporation and Marguerite Fund II, a pan-European equity fund. The operation will enable the company to finance, construct and operate landfill and facilities for treatment and disposal of collected residual municipal waste generated in thirteen municipalities of the City of Belgrade for a volume of approximately 510,000 tons/year and treatment of Construction and Demolition Waste (CDW) to a volume of approximately 200,000 tons/year generated in its territory. The Project is also receiving support from the International Financial Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA)

The Project is located at the site of an existing waste dump at Vinca, to the west of Belgrade and envisages

- i. the remediation, closing and aftercare of the existing Vinca landfill;
- ii. the construction of a new landfill; and
- iii. the construction of an Energy-from-Waste Facility (EfW) incineration plant, and Construction and Demolition Waste (CDW) Facility.

The Project was approved by the EBRD Board of Directors on 18 September 2019, as a Category A Project under the EBRD [2014 Environment and Social Policy \(ESP\)](#) and the loan is currently being disbursed.

The Request:

The [Request](#), submitted to the Project Complaint Mechanism on 12 September 2019, was presented by civil society organisations, Ne Davimo Beograd (Serbia) and CEE Bankwatch (Regional) as Requesters. raises concerns regarding (i) the robustness of the Project's environmental and social impact assessment (ESIA) - citing the adequacy of the alternatives analysis conducted; (ii) alleging an absence of attention in the Project design to municipal waste prevention and non-incineration alternatives; (iii) the alignment of Project due diligence with the 2014 ESP Policy commitments; (iv) concerns surrounding the public access and disclosure period for the Environmental and Social Impact Assessment (ESIA) studies relating to the incinerator and landfill gas facility components of the Project; (v) the absence of baseline data and projections to be considered in the Project design; (vi) coverage of the landfill rehabilitation component of the Project design; (vii) alleged non-compliance with EU pollution control standards; and (viii) indirect social impacts to informal waste collectors residing in and around the waste management site, alleging a lack of assessment of potential impacts on these groups .

The Requesters asked PCM to undertake a Compliance Review to address the issues raised in their Request so as to determine "...whether the EBRD has acted in accordance with its own policies".

Compliance Review Scope and Methodology:

The Compliance Review process initiated in June 2020 with the hiring of the *ad hoc* PCM Expert. Due to the expected Policy transition of the Case in July 2020, the compliance review was undertaken from the start under a collaborative approach by the now IPAM team and the *ad hoc* PCM Expert. As per the 2019 PAP, IPAM undertook a series of fact-finding activities as described below:

- **Document review:** the Compliance Review involved an extensive, in-depth review of Project documents and secondary sources of information. The Project document review covered the ESIA documentation made available to the public, internal Bank and Client documents as well as other public documents relating to the Project. Also closely analysed were the Request and responses from the Bank and the Client. Reviewed documents are referenced as appropriate throughout the Compliance Review Report, in line with the EBRD's 2019 Access to Information Policy (AIP).
- **Engagement with the Parties:** the Compliance Review included numerous exchanges with the relevant Parties via written communications, as well as virtual meetings. IPAM engaged with the Requesters; the EBRD; and the Client. The Requesters and Bank Management were given equivalent opportunities to engage with IPAM.
- **Expert inputs:** The assigned to this Compliance Review continued providing technical expertise to the IPAM team after the transition.
- **Site visit:** No site visit took place during the compliance review period due to the travel restrictions imposed by the COVID-19 pandemic. However, as an early site visit had taken place in December 2019, the information and insights gathered at the time were used to support and complement the desk review investigation.

The Compliance Review process was finalised in December 2020, within the 140 business day period provided by the PAP for completion of draft compliance reports.

Conclusions and Recommendations:

This Compliance Review finds that in relation to the the issues presented in Request 2019/02 pertaining to the **Belgrade Solid Waste Public Private Partnership Project**, that the Bank has complied with the general provisions set in the 2014 Environmental and Social Policy (ESP), and the relevant Performance Requirements (PR), specifically PR1, PR3 and PR10. There is also evidence that EBRD has, through its actions, sought to ensure the Project's compliance with relevant Serbian Legislation and current EU Directives.

The Project is of great relevance for the rehabilitation of the Vinca landfill which if left in its current state presents a significant environmental liability. The support of the Bank will generate important environmental and related health benefits once in operation. However, considering the timing of the initiative and the lifespan of the Project, greater benefits could have been reaped if EBRD had taken due consideration of:

- The Project contribution to the medium and long-term city and national waste management targets.
- Ongoing revisions of EU directives and best practices for waste management and waste incineration.
- Ongoing revision of World Bank Group EHS Guidelines for Waste Management Facilities.

In a forward looking manner, it is IPAM's that by adopting a wider approach particularly at the appraisal stage would not only strengthen the overall sustainability of the Bank's portfolio, but also increase the additionality of EBRD's funding in this sector.

Following careful consideration, IPAM makes the following recommendations to Bank Management:

- For future waste management projects in Serbia, ensure that cumulative impact assessments are performed with due consideration of the contribution of this Project so that the EBRD funding portfolio in the sector continues to effectively support Serbia in reaching EU targets.
- Promote early and full disclosure of relevant studies during the scoping stage, to ensure timely and robust engagement with stakeholders.
- For the Belgrade EfW PPP component of the Project, the Bank should continue promoting active stakeholder engagement, particularly in relation to the implementation of mitigation measures related to the operation stage and their outcomes.
- As established in several Project documents, promote robust monitoring to ensure that the Project performs as planned.
- Maintain a dynamic environmental and social assessment approach to address variations of actual impacts vis-à-vis estimated and ensure the Client manages them in accordance with EBRD ESP and EU requirements

As per paragraph 2.7.2 of the 2019 Project Accountability Policy that establishes the process to be followed if IPAM finds the Bank to be Compliant, IPAM will submit the final Compliance Review Report to the President and the Board for information and close the case. After this, IPAM will share the final Compliance Review Report with the Parties and publish it on the Case Registry.

1. Background

1.1. The Project

The [Belgrade Solid Waste PPP](#) Project (46758) (the Project) is located at the site of the existing Vinca waste facility, west of Belgrade, Serbia. The Project involves debt financing of an amount up to EUR 70 million to Beo Cista Energija d.o.o Beograd (the Client or BCE), a limited liability company established with the sole purpose of operating and financing the Project under a Design, Build, Finance, Operate, Transfer (DBFOT) scheme owned by a consortium integrated by global utility company Suez, S.A., the Japanese conglomerate Itochu Corporation and Marguerite Fund II, a pan-European equity fund. The operation will enable the company to finance, construct and operate landfill and facilities for treatment and disposal of collected residual municipal waste generated in thirteen municipalities of the City of Belgrade for a volume of approximately 510,000 tons/year and treatment of Construction and Demolition Waste (CDW) to a volume of approximately 200,000 tons/year generated in its territory. The Project is also receiving support from the International Financial Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA).

The Project is located at the site of an existing waste dump at Vinca, to the west of Belgrade and envisages

- i. the remediation, closing and aftercare of the existing Vinca landfill;
- ii. the construction of a new landfill;
- iii. the construction of an Energy-from-Waste Facility (EfW) incineration plant, and Construction and Demolition Waste (CDW) Facility.

The Project was approved by the EBRD Board of Directors on 18 September 2019, as a Category A Project under the EBRD [2014 Environment and Social Policy \(ESP\)](#) and the loan is currently being disbursed.

1.2. The Request

The [Request](#), submitted to the Project Complaint Mechanism on 12 September 2019, was presented by civil society organisations, Ne Davimo Beograd (Serbia) and CEE Bankwatch (Regional) as Requesters. It raises concerns regarding (i) the robustness of the Project's environmental and social impact assessment (ESIA) - citing the adequacy of the alternatives analysis conducted; (ii) alleging an absence of attention in the Project design to municipal waste prevention and non-incineration alternatives; (iii) the alignment of Project due diligence with the 2014 ESP Policy commitments; (iv) concerns surrounding the public access and disclosure period for the Environmental and Social Impact Assessment (ESIA) studies relating to the incinerator and landfill gas facility components of the Project; (v) the absence of baseline data and projections to be considered in the Project design; (vi) coverage of the landfill rehabilitation component of the Project design; (vii) alleged non-compliance with EU pollution control standards; and (viii) indirect social impacts to informal waste collectors residing in and around the waste management site, alleging a lack of assessment of potential impacts on these groups .

The Requesters asked PCM to undertake a Compliance Review to address the issues raised in their Request so as to determine "...whether the EBRD has acted in accordance with its own policies".

2. Case Processing and Compliance Review Methodology

2.1. Case Processing Prior to the Compliance Review

The Request was registered on 11 October 2019 at which time the 2014 Project Complaint Mechanism (PCM) Rules of Procedure were in effect. In accordance with them, the case was processed as per the timeline below:

- Request registered: October 2019
- Eligibility Expert assigned: November 2019
- Bank/Client Responses received: November 2019
- Eligibility Assessment Report (EAR) published: April 2020.
- PCM Expert appointed: May 2020.

On 1 July 2020, the 2014 PCM Rules of Procedure were superseded by the 2019 Project Accountability Policy (PAP). As per Section V literal (c) of the PAP, the IPAM determined that the processing of this case would be subject to the PAP provisions¹.

2.2. IPAM Compliance Review Process

2.2.1. Objectives

The 2019 Project Accountability Policy (PAP) establishes in section 2.7 that the objective of the Compliance Review is to determine whether the Bank, through its actions or inactions, has failed to comply with the Environmental and Social Policy (ESP) or the Project-specific provisions of the Access to Information Policy, in respect of an approved Project. It further clarifies that the Compliance Review does not assess the compliance or performance of the Client

The Bank will be found to be non-compliant if it is determined that, through its actions or inactions, the Bank has failed to comply with any provisions of the ESP (including any provision requiring the Bank to monitor Client commitments). Where non-compliance is identified, the purpose of the Compliance Review is to recommend Project-specific and systemic/procedural remedial actions, to bring the Bank into compliance in respect of the project, and address the harm associated with the findings of non-compliance.

¹ Section V literal (c) on Ongoing Compliance Reviews establishes that the IPAM Head will, at their discretion, determine whether a Compliance Review commenced but not yet completed under the PCM Rules of Procedure will be completed by the assigned PCM Expert or whether they will be subject to the provisions of this Policy [PAP], taking into account, inter alia, the extent of the Review already carried out (and its duration) and whether the PCM Expert has already reached any conclusion. Any such determination, and the reasons for it, will be published on the Case Registry.

The PAP further establishes that IPAM will process the Case on the basis of the terms of reference referred to in Paragraph 2.6(d). Given that this Case transitioned from PCM to IPAM, the scope of this Compliance Review and its Terms of Reference are those presented in the [Eligibility Assessment Report](#).

2.2.2.Scope of the IPAM Compliance Review

The scope of this Compliance Review is defined in the Eligibility Assessment Report issued by PCM on April 2020, which consider the relevant provisions of 2014 ESP to address the issues raised in the Request and establish the following investigative questions:

With respect to general requirements under the 2014 ESP:

- Did the Bank seek within its mandate to ensure, through its environmental and social appraisal and monitoring processes, that the Project was designed for implementation and operation in compliance with applicable regulatory requirements? In particular, did the Bank apply the mitigation hierarchy in line with para B.6?
- Did the Bank engage in meaningful dialogue with stakeholders during the Lender-led ESIA process, in accordance with the Bank's Public Information Policy (as outlined in para. B.15 of the ESP)?
- During the environmental and social impact assessment process, did the Bank promote good practices in stakeholder engagement and information disclosure to its Client, in accordance with ESP B.15, and PR 10.2?
- Did the Bank seek to ensure that the Project achieves outcomes consistent with the ESP PRs as they relate to livelihood restoration and/or the resettlement of informal wastepickers, even if the outcomes are dependent upon the City of Belgrade as a third party?
- Did the Bank require the Client to collaborate with the City of Belgrade during the environmental and social due diligence process to achieve outcomes consistent with ESP PR 5 where relevant, and within the scope of their influence, as per para C.39?

With respect to requirements established in **PR 1: Assessment and Management of Environmental and Social Impacts and Issues** and **PR 3: Resource Efficiency and Pollution Prevention and Control**.

- Did the Bank ensure that the environmental and social assessment process was based on recent emission and solid waste baseline data at an appropriate level of detail, as part of the assessment of air quality and waste levels, in line with PR 1.7?
- Did the Bank satisfy itself that the assessment of climate (GHGs), air quality and socioeconomic impacts was commensurate with and proportionate to the potential impacts and issues associated with the Project, and that it covered, in an integrated manner, all relevant direct and indirect environmental and social impacts and issues at the operations stage of the Project cycle, in line with PR 1.8?
- With respect to the analysis of waste management alternatives, did the Bank confirm that the environmental and social assessment process:
 - included an examination of technically and financially feasible alternatives, documenting the rationale for selecting the course of action proposed (PR 1.10);and

- considered technically, financially feasible and cost-effective options for waste management, to avoid or minimise Project-related greenhouse gas emissions during the operation of the Project (PR 3.14)?
- Through the environmental and social assessment process, did the Bank support the Client in adopting technically / financially feasible and cost effective measures to recover and reutilise waste materials in implementing the Project, in line with PR 3.6 and its objective of resource efficiency?
- Did the Bank seek to ensure that the Client’s environmental and social assessment process determined the appropriate pollution prevention and control methods, technologies and practices to be applied to the Project, best suited to avoid or minimise adverse impacts to human health and environment, taking into consideration the characteristics of the planned Project facilities and operations, the Project’s geographical location and local ambient environmental conditions, in line with PR 3.8?
- Did the Bank promote, and seek to confirm, that the Client structured the Project to meet substantive EU environmental standards in effect (namely, the Waste Framework Directive, the Environmental Impact Assessment Directive, and the Industrial Emissions Directive), where these can be applied at the Project level, in line with PR 3.9 and B.7?

With respect to requirements established in **PR 10 - Information Disclosure and Stakeholder Engagement**

- Did the Bank make reasonable efforts to confirm that the national-level EIA consultation process met the applicable requirements, procedural and substantive, arising under Serbian environmental impact assessment laws, in line with PR 10.24?

2.2.3. Compliance Review Methodology

The Compliance Review process was initiated in June 2020 with the hiring of the PCM Expert. Due to the expected Policy transition of the Case in July 2020, the compliance review was undertaken from the start using a collaborative approach by the now IPAM team and the PCM Expert. As per the 2019 PAP, IPAM undertook a series of fact-finding activities as described below:

- **Document review:** the Compliance Review involved an extensive, in-depth review of Project documents and secondary sources of information. The Project document review covered the ESIA documentation made available to the public, internal Bank and Client documents as well as other public documents relating to the Project. Also closely analysed were the Request and responses from the Bank and the Client. Reviewed documents are referenced as appropriate throughout the Compliance Review Report, in line with the EBRD’s 2019 Access to Information Policy (AIP).
- **Engagement with the Parties:** the Compliance Review included numerous exchanges with the relevant Parties via written communications, as well as virtual meetings. IPAM engaged with the Requesters; the EBRD; and the Client. The Requesters and Bank Management were given equivalent opportunities to engage with IPAM.
- **Expert inputs:** The PCM Expert assigned to this Compliance Review continued providing technical expertise to the IPAM team after the transition.
- **Site visit:** No site visit took place during the compliance review period due to the travel restrictions imposed by the COVID-19 pandemic. However, as an early site visit had taken place in December

2019, the information and insights gathered at the time were used to support and complement the desk review investigation.

The Compliance Review process was finalised in December 2020, within the 140 business day period provided by the PAP for completion of draft compliance reports.

3. Project Development and EBRD involvement

3.1. Project Context

The City is administratively divided into 17 municipalities, 10 urban and 7 suburban, with a total estimated population of 1.7 million inhabitants. On average, 1,800 tonnes of household waste is generated daily in 17 Belgrade municipalities, which accounts for approximately 657,000 tonnes of waste per annum. Around 85 per cent of the population is covered by waste collection services.

Belgrade's city landfill is located in Vinča, now a suburb of the City of Belgrade (CoB). It was established as a waste receiving landfill in 1977 and is currently one of Europe's largest untreated landfills. In project documentation reviewed, frequent references are made to the significant negative environmental, health and safety impacts and concerns posed against this site. In addition, the identified risk of pre-existing unstable geotechnical conditions at the Vinca site supported arguments suggesting parts of the landfill mass could result in a potential landslide.

According to the ESIA ² the Local Waste Management Plan 2011-2020, adopted by the City Assembly of Belgrade in 2011, envisaged the improvement of waste collection and transport practices, an increase in waste re-use and recycling, the construction of waste treatment (including energy from waste) facilities, the remediation of the existing landfill and the creation of a new sanitary landfill at Vinča. For that purpose, the CoB approached EBRD with a request for assistance in structuring and financing the construction and operation of a new landfill and associated management facilities. At that time, the CoB was considering project structure options, including that of a Public-Private Partnership.

The City of Belgrade decided that Project would be delivered as a Design-Build-Finance-Operate-Transfer (DBFOT) scheme under a Public Private Partnership (PPP) contract awarded by the CofB) to the winning company with a 25-year concession for operations and maintenance (O&M) of the project facilities from the date of completion of EfW and LFG facilities.

On 21 August 2015, the City of Belgrade (the "City") launched a two-stage competitive dialogue tender for a PPP project for the treatment and disposal of residual municipal waste ("RMW") generated in 13 (out of the 17) municipalities of the City for a volume of approximately 510,000 tons/year and treatment of construction and demolition waste ("CDW") generated in its territory (approximately 200,000 tons/year).

As part of the PPP bid tendering process, an Environmental & Social Scoping Study was commissioned by the City of Belgrade at that time. The study included Terms of Reference (ToR) for a detailed ESIA, a Land Acquisition and Resettlement Review (LARR) and a revision of the Stakeholder Engagement Plan (SEP) earlier prepared by the City.

The Scoping Study outlined a detailed project solution to the rehabilitation of the existing facility and introduction of a future waste management solution including either a burn incineration plant and/or a

² Vinca Energy for Waste Facility, Construction of the New Landfill and Remediation of the Existing Landfill, Environmental and Social Impact Assessment, Version 4, EGIS

mechanical- biological treatment plant as an energy for waste (EfW) facility, in addition to a controlled landfill. Further, the study defined as one of the objectives of the project, the need to close the existing Vinča landfill and to introduce a modern waste management system as soon as possible. It further stated the objective as to treat mechanically and/or thermally the maximum quantities of residual municipal solid waste (MSW) remaining after the City of Belgrade's recycling efforts, and thereby contribute to Serbia meeting the requirements of the EU Waste Framework Directive and the Landfill Directive 1999/31/EC on recovery requirements and reducing biodegradable MSW going to landfill.

A Request for Proposal (RFP) was circulated to selected entities and a Competitive Dialogue Process conducted. During this process, the City and the Bidders assessed the Project alternatives also taking into account the E&S Scoping Study.

As a result of the Competitive Dialogue Process, the Project was decided to be located at the existing Vinča landfill site and reducing the capacity of the thermal treatment facility from 500,000 t/a (as considered in the 2016 Environment and Social Scoping Study) to 340,000 t/a. Following this, an amendment to the scoping study was issued in April 2017 to address the changes in the scope and the environment and social implications of these changes.

In May 2017, the City published a call for submission of final bids and on 28th August 2017, Suez-Itochu was awarded the PPP Contract, which was signed on 29th September 2017. Once signed, an environmental and social impact assessment (ESIA) was commissioned to the Egis Group.

3.2. Overview of EBRD's Environmental and Social Due Diligence

As evidenced by Project documents and EBRD Management's Response, the Bank conducted its environmental and social appraisal of the Project over a number of years, with an initial scoping visit to Belgrade in November 2015.

On December 2017, the mandate letter with BCEO was signed, confirming the interest of the EBRD to participate in the financing of the Project subject to appraisal. Conditions to be appraised would include among others, compliance with the Bank's public consultation procedures.

On 26 July 2018, as part of the due diligence process the Lenders hired ARUP CONSULTING as the Independent Environmental and Social Consultant (IESC) to assess the environmental and social risks and impacts associated with the Project. Among the tasks assigned to ARUP CONSULTING was the revision of the ESIA package³ and in particular to check its compliance with Lender and Serbian Legislation requirements, identify gaps and provide guidance to BCE to address them.

The Bank categorised the Project as 'A,' given the significant environmental and social impacts that may be expected, and along with other Lenders required the Client to develop a full Environmental and Social Impact Assessment in line with EBRD and IFC standards.⁴ The ESDD report found no major gaps regarding ES risks and negative impacts management, but minor adjustments were suggested to ensure full compliance with EBRD, EU, IFC and Serbian legislation standards.

³ The ESIA package included the ESIA, the Resettlement Action Plan, the Stakeholder Engagement Plan and the Non-Technical Summary

⁴ Appendix 2 of the 2014 ESP describes some examples of category A projects as follows – "examples of project that could result in potentially significant adverse future environmental and/or social impacts and therefore require an environmental and social impact assessment..... (9) Waste-processing and disposal installations for the incineration, chemical treatment or landfill of hazardous, toxic or dangerous wastes; (10) Large-scale waste disposal installations for the incineration or chemical treatment of non-hazardous wastes

The ESIA (2018), the Non-Technical Summary (NTS), the Stakeholder Engagement Plan (SEP), the Resettlement Action Plan (RAP) and the Project Environmental and Social Action Plan (ESAP) were disclosed for a 60-day comment period starting on 12 October, 2018. The implementation of the SEP and its updating is the responsibility of the City of Belgrade through the City Secretariat for Environmental Protection with support from BCE

The Project was approved by the EBRD on 18 September 2019 and the legal agreement signed on 1 October 2019. According to project documents, the new sanitary landfill is expected to be finalised by the end of 2020, while project completion and full commercial operations are expected in 2022.

4. Compliance Review Framework

The IPAM Compliance Review mandate is to determine whether the Bank, through its actions or inactions, has failed to comply with the Environmental and Social Policy and/or the Project-specific provisions of the Access to Information Policy, in respect of an approved Project.

EBRD's investment in the Belgrade Solid Waste Public Private Partnership (PPP) was structured in the context of the 2014 Environmental and Social Policy. It is within this framework that IPAM has undertaken its Compliance Review.

4.1 The Bank's Obligations in the Application of the 2014 ESP and PRs

The 2014 ESP outlines the way in which the environmental and social impacts of Bank Projects should be addressed through the project cycle, by defining the respective roles and responsibilities of both the EBRD and its Clients in designing, implementing and operating projects. Particularly, the 2014 ESP provides general guidance on the EBRD's role as an international financial institution committed to environmental and social sustainability as a fundamental aspect of achieving outcomes consistent with its transition mandate.

As such, all projects financed by the EBRD need to be structured to meet the requirements of the Policy. For that purpose clients are expected to manage the environmental and social issues associated with projects so as to meet the Performance Requirements (PRs) over a reasonable period of time.

During the appraisal stage, the Bank, within its role, reviews the environmental and social impacts of the proposed project and establishes with the Client the mitigation measures that will need to be implemented to address the risks. In this process, the Bank applies the mitigation hierarchy⁵, whereby the intention is to avoid creating environmental or social impacts, and if this is not possible, minimise, mitigate, offset and/or compensate any adverse impacts. The appraisal will assess whether the project is capable of being implemented in accordance with this Policy and its PRs and include the assessment of the potential financial, legal and reputational risks as well as identify potential environmental or social opportunities. In this process, the EBRD may seek third party expertise. The scope of the appraisal is defined on a case by case basis.

Once the Project is approved, EBRD monitors implementation to ensure compliance with the conditions agreed and the EBRD policies and standards.

⁵ The mitigation hierarchy comprises measures of taken to avoid creating environmental or social impacts from the outset of development activities, and where this is not possible, to implement additional measures that would minimise, mitigate, and as a last resort, offset and/or compensate any potential residual adverse impacts.

Projects are expected to meet GIP related to environmental and social sustainability. To help clients and/or projects to achieve this, the Bank has defined specific PRs for key areas of environmental and social sustainability.

In relation to the current compliance review, the relevant performance requirements as established in the Terms of Reference are:

4.1.1. Performance Requirement 1: Assessment and Management of Environmental and Social Impacts and Issues

The objectives of this PR are to identify and evaluate environmental and social impacts and issues of the project; adopt a mitigation hierarchy approach to address those impacts; promote the effective use of management systems for improved E&S performance and; develop an Environmental and Social Management System (ESMS) tailored to the nature of the project. To accomplish this the Project will require to:

- Base the environmental and social assessment process on recent information, including an accurate description and delineation of the project and the associated activities, and social and environmental baseline data.
- Identify the project's stakeholders and design a plan for engaging with them in a meaningful fashion taking their views and concerns into consideration in planning, implementing and operating the project in accordance with PR10.
- For Category A projects, the client will be required to carry out a comprehensive Environmental and Social Impact Assessment (ESIA). The ESIA will include an examination of technically and financially feasible alternatives to the source of such impacts, including the non-project alternative, and document the rationale for selecting the particular course of action proposed. It will also identify potential improvement opportunities and recommend any measures needed to avoid, or where avoidance is not possible, minimise and mitigate adverse impacts⁶.

4.1.2. Performance Requirement 3: Resource Efficiency and Pollution Prevention and Control

The objectives of this PR are to identify project-related opportunities for energy, water and resource efficiency improvements and waste minimisation; adopt the mitigation hierarchy approach to address adverse impacts on human health and the environment arising from resource use and pollutants released from the project, and promote the reduction of project-related greenhouse gas emissions. To achieve this, the Project will be required to:

- Assess the environmental and social assessment process and identify opportunities and alternatives for resource efficiency relating to the project in accordance with GIP. In doing so, the

⁶ The assessment of environmental and social impacts will consider potential direct, indirect and cumulative impacts related to the project, as well as potential transboundary impacts, where relevant.

client will adopt technically and financially feasible⁷ and cost effective⁸ measures for minimising its consumption and improving efficiency in its use of energy, water and other resources and material inputs, as well as for recovering and re-utilising waste materials in implementing the project.

- The environmental and social assessment process will determine the appropriate pollution prevention and control methods.
- Clients will structure the projects to meet relevant EU substantive environmental standards where these can be applied at the project level.
- Projects involving new facilities and operations are expected to meet EU substantive environmental standards (as applicable at the project level) or other agreed environmental standards, and national regulatory requirements from the outset. Certain projects that, due to their nature and scale, would be subject to the EU Industrial Emissions Directive and will be required to meet EU Best Available Techniques (BAT) and related emission and discharge standards, regardless of location.
- In respect of projects located in the EU member states and the EU acceding, candidate and potential candidate countries which involve the rehabilitation of existing facilities and/or operations and where relevant EU substantive environmental standards have been identified, the time frame to achieve compliance with these standards should take into account any nationally agreed time frames.

4.1.3. Performance Requirement 10: Information Disclosure and Stakeholder Engagement

The objectives of this PR are to outline a systematic approach to stakeholder engagement that will help clients build and maintain a constructive relationship with their stakeholders, in particular the directly affected communities; promote improved environmental and social performance of clients through effective engagement with the project's stakeholders; promote and provide means for adequate engagement with affected communities throughout the project cycle on issues that could potentially affect them and to ensure that meaningful environmental and social information is disclosed to the project's stakeholders; and ensure that grievances from affected communities and other stakeholders are responded to and managed appropriately. Achieving this will require:

- The development and implementation of a Stakeholder Engagement Plan (SEP). If stakeholder engagement is the responsibility of the relevant governmental authorities, the client will collaborate and complement as needed to achieve outcomes.
- Project information to be disclosed in a timely, accessible and culturally appropriate manner.
- Category A projects will require the client to carry out a formalised, participatory ESIA process.

⁷ Technical feasibility is based on whether the proposed measures and actions can be implemented with commercially available skills, equipment, and materials, taking into consideration prevailing local factors such as climate, geography, infrastructure, security, governance, capacity and operational reliability. Financial feasibility is based on commercial considerations, including relative magnitude of the incremental cost of adopting such measures and actions compared with the project's investment, operating and maintenance costs.

⁸ Cost-effectiveness is determined according to the capital and operational cost and financial benefits of the measure considered over the life of the measure. For the purpose of this PR, a resource efficiency or GHG emissions reduction measure is considered cost-effective if it is expected to provide a risk-rated return on investment at least comparable to the project itself.

- The client will disclose the Environmental and Social Action Plan (ESAP) to the affected parties.
- The client must keep the ESIA in the public domain throughout the life of the project, but it may be amended, from time to time, with additional information, or archived following project completion, as long as it is available on request in a timely manner

5. Analysis of the EBRD's Compliance with the 2014 ESP

5.1 Performance Requirement 1 (PR 1): Assessment and Management of Environmental and Social Impacts

5.1.1. Scope of application

This PR applies to all projects directly financed by the EBRD. The client will, as part of its environmental and social assessment process, identify the relevant requirements of this PR, and how they will be addressed and managed through the project design, construction, operations, and decommissioning or closure and reinstatement.

'For the purposes of the PRs, the term "project" refers to the defined set of business activities for which EBRD financing is sought by a client, or where EBRD financing has already been committed, the set of business activities defined in the financing agreements, and as approved by the EBRD Board of Directors or other decision-making body'

Projects involving new facilities or business activities should be designed to meet the PRs from the outset. Where the project relates to existing facilities, or where the project does not meet the PRs from the outset, the client will be required to develop and implement an Environmental and Social Action Plan (ESAP).

5.1.2. Issues raised by the requesters

The **Requesters** questioned the robustness of environmental and social impact assessments, alleging that the Bank has failed to apply the mitigation hierarchy and stating there has been no assessment of alternatives. From their perspective the waste hierarchy, enshrined in the EU Waste Framework Directive should have been applied, prioritising other forms of waste management that might generate more savings in energy and resources. Additionally, they state that the Project does not include any element of municipal waste prevention, re-use or recycling, thus skipping the "avoid" and "minimise aspects of the mitigation hierarchy.

Additionally, they question the compliance of the Project with EU pollution control standards and potential direct and indirect social impacts to informal waste collectors. In particular, Requesters questioned the decision to opt in favour of the one including a waste incinerator instead of other waste management alternatives that would, in their consideration, be more energy efficient.

5.1.3. Compliance Review Findings

In line with the Category A assigned to the Project, the Bank required the Client to develop an Environmental and Social Assessment to international standards as the Serbian EIA was recognised as not being of sufficient scope or detail to meet the requirements of international lenders for the Project. The EGIS-Group was commissioned by the Client to prepare the ESIA to international lender standards (i.e. Serbian laws and regulations, the EBRD's 2014 ESP and associated PRs, the IFC's 2012 ESP and

PSs, Equator Principles, the World Bank Group's general and sector-specific EHS Guidelines for waste facilities⁹) and substantive European Union (EU) Directives.

The Lenders commissioned ARUP CONSULTING as the independent environmental and social consultant, to review the ESIA and other relevant documents to ensure their compliance with EBRD requirements. The IESC confirmed that, with minor gaps to be addressed through the ESAP and robust monitoring, the ESIA and other documents were in compliance with EBRD requirements.

- **Mitigation Hierarchy Approach**

In relation to the mitigation hierarchy, the ESIA provides mitigation measures for the identified environmental and social impacts as confirmed by the Environmental and Social Due Diligence Report: “[it] provides details on identified risks and impacts throughout the whole project cycle and explains the mitigation hierarchy developed to avoid, reduce, and where necessary, remedy the adverse E&S effects”. The mitigation hierarchy is established within the framework of the Project as per the 2014 ESP.

As regards the mitigation hierarchy approach, the Requesters state that “in the case of any waste management project, avoiding adverse impacts must start with the application of the waste hierarchy, enshrined in the EU Waste Framework Directive, which prioritises those forms of waste management that save the most energy and resources. Thus the first step must be waste prevention, followed by preparing for re-use, then recycling, and only then energy recovery and disposal”. Thus the concerns presented in the Request are focused on the decisions made by the CoB regarding the inclusion of EfW incineration in the Project Scope and the implications this Project might have in the management of waste for Serbia in the coming years.

The 2014 ESP establishes environmental and social requirements to the projects funded by the EBRD and IPAM independently reviews issues raised concerning Bank-financed projects¹⁰. From this perspective, notwithstanding the relevance of the concern, the application of the EU Waste Framework Directive to determine the adequacy of the Project is not within the remit of this compliance review.

The IPAM review finds that the Bank complied with the requirements of the 2014 ESP in relation to implementing the mitigation hierarchy approach to the Project.

⁹ The 2007 World Bank Group EHS Guidelines for Waste Management Facilities are currently in the process of being reviewed with a first consultation having taken place at the end of 2019.

¹⁰ As per paragraph 2 of the 2014 ESP: “For the purposes of the PRs, the term “project” refers to the defined set of business activities for which EBRD financing is sought by a client, or where EBRD financing has already been committed, the set of business activities defined in the financing agreements, and as approved by the EBRD Board of Directors or other decision-making body”)

- **Use of recent information**

PR1 requires the environmental and social assessment process to be based on recent information, including an accurate description and delineation of the project and the client's associated activities, and social and environmental baseline data at an appropriate level of detail.

The Scoping Report provided the first baseline assessment to determine the number and scale of additional baseline and technical studies required for the ESIA. The baselines included in the first versions of the ESIA utilised data from 2015 and 2016. Currently, the revised ESIA includes a section (pp. 217-469) detailing environmental and social baseline data from 2016, 2017 and 2018 for air pollution.

- **Assessment of Climate (GHGs), Air Quality and Socioeconomic Impacts**

The findings of this Compliance review confirm that the level of detail outlined in the ESIA was appropriate for assessing air emissions. The waste projections that have been used to determine the Project alignment with the EU Waste Management Directive of 65% recycling in 2035, or 2040, also forms the commercial baseline for the PPP modality and have been updated several times. Projections are at best estimates built on assumptions of population growth and household waste as functions of GDP. These estimates should change and be updated as the available information gets updated and monitoring plans adjusted accordingly.

According to current Project documents, the projection forecasts that it will be possible to meet the EU directive regarding recycling with an operational 340 ktpa EfW facility as part of a wider national waste management strategy. However, the effects on the recycling rate of a waste management solution without an EfW was not assessed as part of EBRD's appraisal and public consultation process. Alternative waste management solutions were identified and assessed in scoping studies pre-dating the lenders ESIA, leading to the project modality decided years prior to EBRD Board approval of the Project. In general the IPAM's review finds that other alternatives were considered not to be financially viable.

- **Resettlement Plan and Livelihood Restoration**

As per the ESDD, several surveys had been undertaken in relation to the informal settlement on the landfill where 17 households have established permanent residence and which would require relocation.

Both the Scoping Report and the ESDD establish the need to develop a Resettlement Action Plan that complied with national legislation but also addresses IFI requirements by including the socio-economic survey of the affected communities, entitlement matrix and compensation.

The RAP has been adopted by the CoB City Council and Assembly and has been published as per Serbian legislation in the Official Gazette of the City of Belgrade 86/2018.

Finally the ESAP contains provisions related to the effective implementation of the RAP and appointment of an independent consultant to conduct periodic evaluation of the resettlement process and the effectiveness of the implemented measures to successfully restore the livelihoods of waste pickers.

5.2. PR 3: Resource Efficiency and Pollution Prevention and Control Issues raised by the requesters

The Requesters allege non-compliance with EU pollution control standards: stating that the incinerator component of the project is not in line with the new EU Waste Incineration BREF¹¹ standards (approved on 17th June 2019) and further to this that there has been a lack of consideration in the EBRD ESIA and the EIA published by the Serbian authorities of the BREF as a standard requirement to be followed in project design¹².

5.2.2. Compliance Reviews Findings

In specific, the ESIA states that “the environmental and social impact assessment study (ESIA) is structured to meet relevant Serbian and EU substantive environmental standards, including (but not limited to) the pertinent requirements of the EIA Directive (as updated in 2014), Industrial Emissions Directive (EU Directive 2010/75/EC on industrial emissions - IED - Industrial Emissions Directive), Waste: Directive 2008/98/EC (Waste Framework Directive), Landfill Standards: EU Directive 1999/31/EC (Landfill Directive), except for the stipulation of BMW diversion) and Birds and Habitat Directives. When Serbian regulations differ from EU substantive environmental standards, the Project will meet whichever is the more stringent¹³.”

According to the ESDD, baseline air quality studies against the Air Quality Standards (ARQs) established by the EU were carried out in early 2018. Additionally, the ESIA provides information on an air dispersion study conducted to determine the air quality impact during the operational phase of the Project. The results showed that the design solutions and mitigation measures would keep air quality at satisfactory levels. Additionally, monitoring of the ambient air quality is also foreseen within the ESIA and is planned to be conducted both during construction and operation phase.

Project documents state that the Project was designed so as to meet the current Industrial Emissions Directive (IED) 2010/75/EU emission limits; and at the time of ESIA preparation the adopted official BREF for Waste Incineration was from August 2006; and the same version remained valid. Therefore it may be concluded that in the EISA a comparison with emission limit values from the 2006 Waste Incineration BREF was presented.

It is further stated that as the Project construction advances, as well as that of the EfW, if other emission limit values/BREF are in force, the project will take necessary steps to comply with such new requirements as the Government of Serbia may decide to transpose and enforce into the Serbian regulation.

The Bank promoted, and confirmed, that the Project was structured to meet substantive EU environmental standards in effect (namely, the Waste Framework Directive, the Environmental Impact Assessment Directive, and the Industrial Emissions Directive), as applicable at the Project level, in line with PR 3.9 and B.7. This Compliance Review confirms that it is evident in the legal documentation, that the substantive EU environmental standards are required to be met at the Project level. The Project, as pre-defined by the Client, was scoped in the 2016 and 2017 Environment and Social studies with clear references to the aforementioned substantive EU standards.

¹¹ The BREFs are a series of reference documents covering, as far as is practicable, the industrial activities listed in Annex 1 to the EU's IPPC Directive.

¹² The revised BREF for Waste Incineration was issued on 20 December 2019.

(https://eippcb.jrc.ec.europa.eu/sites/default/files/2020-01/JRC118637_WI_Bref_2019_published_0.pdf)

¹³ ESIA, Section B.4, pag 49.

5.3. Performance Requirement 10: Information Disclosure and Stakeholder Engagement

5.3.1. Issues raised by the requesters

The Request raised concerns surrounding the public access and disclosure period for technical studies used to assess the environmental and social impacts of the Project.

5.3.2. Compliance Review Findings

During the compliance review process, IPAM reviewed how the Bank ensured that a systematic approach to stakeholder engagement took place during the Project cycle to date. PR10 requires the Client to conduct stakeholder engagement on the basis of providing local affected communities and other relevant stakeholders with access to timely, relevant, understandable and accessible information, in a culturally appropriate manner. If the engagement is the responsibility of the relevant governmental authorities, the client will collaborate and complement as necessary. Further, for Category A project, a formalised, participatory ESIA process is required.

The City of Belgrade was responsible for the formulation of a Stakeholder Engagement Plan through the Secretariat for Environmental Protection and its implementation is the responsibility of the Client.

The disclosure of the ESIA package took place on October 2018 and included the ESIA, the SEP, the Resettlement Action Plan (RAP), the Environmental and Social Action Plan (ESAP) and the Non-Technical Summary. These documents were made available to stakeholders through the websites of the City of Belgrade website, the Client's, the Municipality of Grocka, EBRD and the IFC. Additionally hard copies were made available at the Secretariat for Environment the Grocka Municipality, the EBRD RO and the entrance gate of the Vinca landfill site.

As per the 2014 ESP Bank obligations, the ESIA and related documentation were disclosed in 2018, and the related consultations, followed the procedural requirements of EBRD in meeting the ESP requirements. However, the scoping studies and the earlier consultation conducted by the CoB, as well as documentation and information shared with bidders, including waste projections, that could be considered relevant, did not form part of the information package shared by EBRD during its formal consultation process.

During the period between disclosure and Board approval, the Bank only received comments from *Ne davimo Beograd*, one of the Requesters. According to the Bank, as a result of the engagement some sections of the ESIA were updated to provide additional clarifications and ensure that the English and Serbian versions were aligned. The updated version was uploaded on September 2019.

With regard to responding to a broader contextual engagement in relation to the Serbian waste management strategy, IPAM finds that this is not within the scope of the Project and therefore abstains from commenting.

Finally, the Bank sought to ensure due diligence in regard to the livelihood restoration and resettlement aspects by requiring a specific Resettlement Action Plan be developed. The Plan is owned by the City of Belgrade and makes specific references to EBRD's PR 5 as a governing requirement.

Based on the compliance review findings, IPAM finds that the Bank complied with the requirements set in the 2014 ESP and PR10. The Bank promoted and demonstrated good practice in stakeholder engagement and information disclosure in relation to the Project and its impacts. It has also continued to engage with stakeholders as required and responded to concerns as per its role in the current project.

6. Conclusions and Recommendations

This Compliance Review finds that in relation to the the issues presented in Request 2019/02 pertaining to the **Belgrade Solid Waste Public Private Partnership Project**, that the Bank has complied with the **general provisions set in the 2014 Environmental and Social Policy (ESP), and the relevant Performance Requirements (PR), specifically PR1, PR3 and PR10**. There is also evidence that EBRD has, through its actions, sought to ensure the Project's compliance with relevant Serbian Legislation and current EU Directives.

The Project is of great relevance for the rehabilitation of the Vinca landfill which if left in its current state presents a significant environmental liability. The support of the Bank will generate important environmental and related health benefits once in operation. However, considering the timing of the initiative and the lifespan of the Project, greater benefits could have been reaped if EBRD had taken due consideration of:

- The Project contribution to the medium and long-term city and national waste management targets.
- Ongoing revisions of EU directives and best practices for waste management and waste incineration.
- Ongoing revision of World Bank Group EHS Guidelines for Waste Management Facilities.

In a forward looking manner, it is IPAM's that by adopting a wider approach particularly at the appraisal stage would not only strengthen the overall sustainability of the Bank's portfolio, but also increase the additionality of EBRD's funding in this sector.

Following careful consideration, IPAM makes the following recommendations to Bank Management:

- For future waste management projects in Serbia, ensure that cumulative impact assessments are performed with due consideration of the contribution of this Project so that the EBRD funding portfolio in the sector continues to effectively support Serbia in reaching EU targets.
- Promote early and full disclosure of relevant studies during the scoping stage, to ensure timely and robust engagement with stakeholders.
- For the Belgrade EfW PPP component of the Project, the Bank should continue promoting active stakeholder engagement, particularly in relation to the implementation of mitigation measures related to the operation stage and their outcomes.
- As established in several Project documents, promote robust monitoring to ensure that the Project performs as planned.
- Maintain a dynamic environmental and social assessment approach to address variations of actual impacts vis-à-vis estimated and ensure the Client manages them in accordance with EBRD ESP and EU requirements

As per paragraph 2.7.2 of the 2019 Project Accountability Policy that establishes the process to be followed if IPAM finds the Bank to be Compliant, IPAM will submit the final Compliance Review Report to the President and the Board for information and close the case. After this, IPAM will share the final Compliance Review Report with the Parties and publish it on the Case Registry.