



Independent  
Project  
Accountability  
Mechanism

## Problem Solving Summary

Kozloduy International Decommissioning Support Fund  
Case 2018/01

July 2022

The Independent Project Accountability Mechanism (IPAM) is the European Bank for Reconstruction and Development's (EBRD) accountability mechanism. IPAM independently reviews issues raised by individuals or organisations concerning Bank-financed projects that are believed to have caused or 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 noncompliance with these policies, while preventing future non-compliance by the Bank.

For more information about IPAM, contact us or visit [www.ebrd.com/project-finance/ipam.html](http://www.ebrd.com/project-finance/ipam.html)

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*Unless otherwise indicated, capitalised terms used in this report are those as outlined in the 2019 Project Accountability Policy*

## Abbreviations

<b>Abbreviation</b>	<b>Long Form</b>
<b>Bank (or EBRD)</b>	the European Bank for Reconstruction and Development
<b>Board</b>	the Board of Directors of the European Bank for Reconstruction
<b>CAO</b>	The EBRD's Chief Accountability Officer and head of IPAM
<b>CSO</b>	Civil Society Organization
<b>ESP</b>	the EBRD's Environmental and Social Policy in force at the time of Project approval
<b>KIDSF</b>	the Kozloduy International Decommissioning Support Fund
<b>Kozloduy NPP</b>	The Kozloduy Nuclear Power Plant
<b>IPAM</b>	The Independent Project Accountability Mechanism is the independent grievance mechanism of the EBRD established in 2020 as per the 2019 Project Accountability Policy
<b>Parties</b>	the Requesters; their Representatives, the relevant Bank department, team or unit; the Client; and other Project financiers or other entities responsible for the implementation of a Project
<b>PAP</b>	2019 Project Accountability Policy
<b>PCM</b>	The Project Complaint Mechanism of the EBRD in operation from 2010 to June 2020.
<b>President</b>	the President of the European Bank for Reconstruction and Development
<b>SERAW</b>	the State Enterprise for Radioactive Waste of Bulgaria, a grant recipient under the Kozloduy International Decommissioning Support Fund

## Executive Summary

On 9 February 2018, the EBRD's Project Complaint Mechanism (PCM)<sup>1</sup> received a [Request](#) from a number of civil society representatives from Craiova, Romania. The Requesters raised concerns connected with the construction of a repository for radioactive waste adjacent to the Kozloduy Nuclear Power Plant (KNPP), located in Bulgaria close to the Romanian border. The first stage of the repository construction is funded by a grant to the Bulgarian State Enterprise for Radioactive Waste (SERAW) through the Kozloduy International Decommissioning Support Fund (KIDSF) administered by the EBRD.

The Requesters allege that due to its large storage capacity, the repository would not only accommodate radioactive waste from the decommissioned KNPP units 1 to 4, but may also receive radioactive waste from the operating units 5 and 6, and possibly from another unit in the region. Additionally, they raised concerns around the decision to locate of the near-surface repository for radioactive waste in Radiana close to the Danube River. They fear that the repository will be environmentally adverse to the neighbouring Romanian area, the River, and its associated bio systems. Additionally, they allege that the Romanian population was not properly informed and consulted. The Requesters asked for both Problem Solving and Compliance Review at the time of their submission.

Under the [2014 PCM Rules of Procedure](#), PCM initiated a Problem Solving initiative with the participation of representatives from the Requesters and officials from SERAW, facilitated by the appointed PCM Expert Leonardo D'Urso. The dialogue process started in August 2018 and involved the facilitation of three joint sessions in Craiova and Kozloduy and numerous bilateral meetings, both in person and virtually.

A safe space for dialogue was created for SERAW and the Requesters to discuss the Requesters' concerns and expectations in an attempt to find mutually agreeable solutions. During the process, SERAW shared with Requesters relevant information and documents on the Project, its potential environmental impacts, and the mitigation plan

By August 2021, after extensive consultations with Parties, it became evident to IPAM that the process was not likely to make further progress. Although a decision to terminate was taken at that moment, the PCM expert engaged with the Parties for six more months at their request to finalise the information sharing process and gather feedback. In early 2022, the Requesters confirmed with IPAM their interest to have their request under the compliance function as their concerns persist.

After submitting to the Board of Directors and the President, the Case shall be transferred to the IPAM Compliance function for compliance assessment as per the relevant provisions of the 2019 Project Accountability Policy

This document provides a high-level summary of the process as deliberations are subject to confidentiality as per the agreed ground rules, and is available in the IPAM public registry under [Case file 2018/01](#) in English, Bulgarian and Romanian.

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<sup>1</sup> From July 2020, the Independent Project Accountability Mechanism (IPAM) replaced the PCM and is responsible for the management of this case under the 2019 Project Accountability Policy.

## 1. Background

### 1.1 The Request

On 9 February 2018, the EBRD's PCM received a [Request<sup>2</sup>](#) from several civil society organisations from Craiova, Romania, represented initially by Mr Lucian Sauleanu, president of ARC NGO Craiova. The Requesters later decided to change representatives and authorised Ms Luminita Simoiu from the Civic Association for Life Craiova, to represent them in the PCM process in substitution of Mr. Sauleanu. The Request raised concerns about adverse impacts to the environment due to construction of a repository for radioactive waste adjacent to the Kozloduy Nuclear Power Plant located 4 km from the Danube River near the Romanian border.

The concerns raised were the following:

- The near surface repository for radioactive waste, at Radiana was too close to the Danube River and the Romanian border, thus generating a series of risks to the environment and for the population living in the Southern part of Romania;
- The land where the repository is being constructed is sandy and loamy and located on a high slope which involves risks of landslides;
- The repository may not only store radioactive waste from the Kozloduy Nuclear Power Plant's units 1 to 4 that have been decommissioned, but may also store radioactive waste from the units 5 and 6 that are currently operational;
- The repository may in addition store radioactive waste coming from another nuclear power plant announced to be constructed in the region;
- The EBRD, by supporting the construction of the repository, is indirectly supporting nuclear energy activities and the risks associated with that, when the global trend is to renounce on nuclear sources of energy in favour of renewable sources of energy, which are harmless to the population and the environment;
- The Romanian population living in the area potentially affected by this Project were not properly informed nor consulted on the construction of the repository, in contravention to the Espoo Convention on Environmental Impact Assessment and the Aarhus Convention regarding citizens' rights to access information.

The Requesters stated their interest for both Problem Solving and Compliance.

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<sup>2</sup> The Request and all case documents produced to date are available in the virtual case file at <https://www.ebrd.com/work-with-us/projects/ipam/2018/01.html>

## 1.2 The Project and its current status

The Request relates to a non-reimbursable grant to the State Enterprise for Radioactive Waste of Bulgaria (SERAW), by the [Kozloduy International Decommissioning Support Fund](#), for the construction of Phase 1 of a near-surface nuclear waste repository, accepting low and intermediate-level radioactive waste from the decommissioning process of units 1 to 4 of the Kozloduy Nuclear Power Plant. The construction of the facility began in 2017 and expected to start operation in 2024.

The KIDSF<sup>3</sup>, administered by the EBRD, was established in June 2001 as an assistance programme of the European Commission and other European contributors to help the Bulgarian government cope with the early closure and decommissioning of the four units and subsequent compensatory measures in the energy sector.



## 1.3 Case Processing: registration and eligibility

The PCM Officer registered the Request on 15 March 2018 in accordance with Paragraphs 11-13 of the [2014 PCM Rules of Procedure](#) and Mr Leonardo D'Urso, was appointed *ad hoc* PCM Expert to conduct the eligibility and later as the expert facilitator responsible for the problem solving initiative.

During the Eligibility Assessment, Requesters confirmed that their immediate priority was to pursue Problem Solving and only consider the Compliance function if was not successful. In July 2018, the Eligibility Assessors determined that the Request was eligible for both Problem Solving and Compliance<sup>4</sup>; and that the Problem Solving would take precedence.

On 27 July 2018, the EBRD President [approved](#) the PCM's recommendation to proceed with the Problem Solving and re-appointed Mr Leonardo D'Urso as PCM Problem Solving Expert.

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<sup>3</sup> EBRD Project description available at: <https://www.ebrd.com/what-we-do/sectors-and-topics/nuclear-safety/kozloduy.html>

<sup>4</sup> For further detail on the eligibility process and determination, the [Eligibility Assessment Report](#) is available in the case registry.

## 2. The Problem Solving Initiative

The Problem Solving initiative started formally in August 2018 with the participation of the Requesters' representative and SERAW officials as main Parties to the process, and was terminated by IPAM in August 2021 as no agreement could be reached. Here below a summary of the actions undertaken during the process, under the facilitation of Mr. Leonardo D'Urso.

### 2.1 Process design and ground rules

During the early engagement, Parties shared their concerns with PCM, and confirmed their willingness to engage in a facilitated dialogue. Notwithstanding this, a series of challenges were identified that had to be addressed to ensure a constructive space for dialogue:

- The Requesters limited information about the Project, its potential impacts and the role of the EBRD
- The Parties' limited understanding of the PCM mandate, and the Problem Solving process, its objectives and limitations;
- Complainants' interest in achieving a change of location for the repository, or stop the funding through the Problem Solving initiative;
- The large number of people and civil society organizations from both Romania and Bulgaria represented in the process;
- The challenges in communicating and exchanging documents in three different languages (English, Romanian and Bulgarian);
- The lack of effective communication channels and low level of trust between the Parties;
- The Parties' unsuccessful attempts to communicate effectively in the past.

Therefore, from August to November 2018, the Parties engaged virtually to design the dialogue process and establish the conditions to engage effectively. As an outcome of this engagement, the Parties signed a confidential Framework Agreement (December 2018) that established the agreed principles of engagement and ground rules. In particular, the Framework Agreement included provisions on decision-making and format of the engagement. Furthermore, the Parties agreed for the process to be confidential and that joint statements would be issued throughout it to share progress on the initiative.

The confidentiality of the process would later become an issue of concern by the Requesters and asked for a change in the ground rules to make the process more transparent. However, SERAW was not amenable to this change.

### 2.2 Main activities undertaken

#### Joint Meetings

After the signature of the Framework Agreement for Problem Solving ground rules in December 2018, the facilitated dialogue and exchange of information started. Overall, three joint dialogue meetings were facilitated by the PCM in Craiova and Kozloduy, as well as 16 bilateral meetings (a



combination of in-person and virtual engagements). In addition, an extensive exchange of email communications and documents took place in between meetings.

From March 2020, due to COVID-19 travel and social gathering restrictions, all engagement took place virtually.

### Joint Statements

The PCM assisted the Parties in drafting and disclosing joint statements through the process. In February 2019, the Parties issued a first Joint Statement and agreed to a second one in July 2019. However, the Requesters decided not to disclose in their website the second document.

They were also disclosed in SERAW's website and disseminated through local media in Romania and Bulgaria.

In addition, after the third dialogue session, Parties agreed to disclose a short summary of the meeting outcomes and agreed next steps.

These documents were made available in English, Bulgarian and Romanian and disclosed in the PCM case registry. Currently they are available in the three languages in the IPAM [virtual case file](#).

### Final bilateral meetings

After the third dialogue session held in February 2020, Parties were not able to meet again in person. The virtual engagement slowed down the dialogue process that was already facing difficulties due to Parties' limited trust and divergent perspectives. During this period, the Parties were engaged in negotiating an amendment to the Framework Agreement to allow for greater transparency, but as already mentioned were unable to agree on the change proposed.

Despite that, Parties remained committed to continue exchanging information. During the spring and summer of 2021, Requesters reviewed all pending concerns and submitted a list of 31 questions to SERAW. After due consideration, SERAW provided written answers to the questions raised accompanying them with supporting documents.

### Termination process

In August 2021, after extensive consultations, it became obvious that the process could not contribute any further so that Parties could reach an agreement. Thus, the Problem Solving was terminated by IPAM as per Paragraph 2.4 c) i of the Project Accountability Policy.

## 2.3 Topics of discussion

The nine topics discussed during the Problem Solving initiative and their status at the end are listed here:

- 1) **Financing.** Requesters received all the publicly available information in relation to financing of the repository.
- 2) **Location.** Detailed information on the site selection process, the geological and hydrogeological characteristics of the site were made available to Requesters. Notwithstanding this, the Requesters concerns regarding the soil characteristics of area and the closeness of the repository to the Danube River remained. They strongly reiterated that the repository should be relocated to a site far from the Danube River.

- 3) **Design and technology.** SERAW emphasised that the nuclear regulatory authority in Bulgaria reviewed the site and design safety assessments, and all necessary permits and licenses had been obtained (i.e. site and design had been approved, and the construction permit issued). SERAW were confident that all steps followed during construction have been undertaken in compliance with national legislation, international safety standards and good international practice. In spite of this, the Requesters doubted that the cellar storage facility was the safest possible and feared that concrete steal in combination with the conditioned radioactive waste could cause cracks on the walls of the containers.
- 4) **Storage capacity and lifespan.** The Requesters considered that current design has more storage capacity than is necessary to store waste from the four decommissioned units. SERAW explained that the repository is designed for the disposal of radioactive waste under the parameters set in the Environmental Impact Assessment Study. They also explained that the EBRD financing was for the first phase of the repository that will only host waste from those four units. SERAW further informed that the estimated volume of radioactive waste to be stored was based on forecasts and depended on a number of factors, which is one of the reasons for its modular construction format in three stages. In order to clarify the scope of the KIDSF project, the Requesters proposed to rename the repository so that the name would clearly reflect that it would only accept waste from the decommissioned units 1 to 4. SERAW responded that it was not within its authority to change the name of the facility.
- 5) **Type of waste.** The Requesters stressed the need for a transparent monitoring system to control the type of waste stored during the operation of the facility and after its closure. In addition to this, the Requesters recommended for the EBRD to limit its assistance to support only the storage of low and intermediate radioactive waste resulting from the decommissioning of nuclear units 1 to 4. SERAW assured Requesters that only low and intermediate level waste coming from the decommissioned units 1-4 would be disposed in this first section of the repository.
- 6) **Potential impacts.** SERAW assured the Requesters that there were no grounds for their concerns about the repository's construction, operation and closure. In addition, SERAW stated that the Environmental Impact Assessment completed for the Project had not identified any potential negative impacts on the environment or the community. Notwithstanding these assurances, the Requesters expressed fear of a potential radioactive event on the Danube River and its associated ecosystems.
- 7) **Emergency plan.** The Requesters wondered if there was an emergency plan in place to protect the Bulgarian and Romanian populations in case of a nuclear accident and were interested in knowing how the relevant authorities from both countries would collaborate in such an event. SERAW explained that emergency plans were in place and relevant authorities from both countries were collaborating as per their responsibilities.
- 8) **Collaboration between Bulgarian and Romanian authorities.** The Requesters considered it essential that environmental and nuclear regulatory authorities from Bulgaria and Romania improved their cross-border cooperation in relation with the repository construction and its operation. SERAW agreed with Requesters that closer cooperation between relevant authorities from Bulgaria and Romania could contribute building confidence.

- 9) **SERAW's communication with local communities.** The Requesters expressed concerns around SERAW's communication and stakeholder engagement in Bulgaria and Romania. SERAW explained that building trust with all stakeholders through transparent and open communication is one of their core values. It confirmed that they are open to various forms of dialogue and outreach activities to increase public awareness about the repository.

## 2.4 Outcomes and Limitations

The purpose of Problem Solving is to facilitate dialogue between Parties so that they can explore possible solutions to address the issues in a Request, and ultimately to identify mutually agreeable solutions to them. The current process did not reach this stage given a number of pre-existing situations that the process could not address effectively as well as some external events that limited the process. In spite of those limitations, the Parties managed to engage and generate some positive outcomes. We wish to acknowledge the commitment of the Parties and the work of the PCM expert for the achievements obtained.

### Outcomes

**Common ground was established.** Despite their very polarized views, the Parties were able to work together and identify nine topics of common interest that were discussed in detail during the process.

**Information was shared. During the process both SERAW and EBRD** answered queries posed by Requesters and provided information on the Project, the role of the EBRD, the financial contributions made, expected environmental impacts and mitigation measures.

**Communications bridges were built.** Before the Problem Solving, Parties were not able to communicate. The facilitated process provided bridges to discuss, brainstorm and exchange views on issues of mutual concern within a safe space. Parties openly shared their concerns and expectations, proposed alternative solutions and overall strengthened their relationship.

**Parties have strengthened their engagement capacities.** The Parties acknowledged that the process strengthened their capacity to engage and communicate constructively.

### Limitations

**Polarised views.** Parties held very divergent and irreconcilable positions from the start and were reticent to journey away from them. Particularly, the Requesters remained opposed to the selected location despite the information provided by SERAW regarding the safety requirements that it met.

**Lack of trust.** Although the process established communication channels between the Parties, it did not manage to build the trust needed to reach an agreement. The lack of trust had been identified from the start and remained as a constant through the process.

**Changing Representatives.** Throughout the initiative, the representatives from the Requesters side changed continuously. Due to other commitments, some Requesters left the process and others joined the process while the dialogue was well underway. This meant that the facilitator had to work continuously in building the capacity of the newcomers, generated delays in some of the planned activities affecting the continuity of the process.

**Third Parties.** The Requesters found that the process should have included representation from other decision-making bodies as well as the participation of technical experts from both Bulgaria and Romania.

### 3. Feedback and Lessons learned

#### 3.1 Feedback from Parties

IPAM requested Parties for feedback on the Problem Solving initiative to assess its effectiveness. This section presents a summary of the responses received from Requesters and SERAW (the Client).

##### Requesters

The Requesters expressed their appreciation for the Problem Solving as this helped to **build their capacity to engage** in the facilitated dialogue related to the EBRD-funded project. They also recognised how the Mechanism had strived to **level the playing field**, providing time to Requesters to consult amongst themselves and ensuring accessibility by the provision of translation and interpretation services.

Requesters underscored the **importance of their visit** to the Project site. Their views and concerns were confirmed by the visit and made them decide to go ahead with the compliance process.

They had hoped for a resolution during Problem Solving and regretted not achieving it. They considered the representatives from SERAW, serious professionals, who unfortunately did not have decision-making power on the matters raised. From the Requesters perspective, **decision makers should have been included** in the process.

The Requesters found the negotiation required to issue joint public statements very long and onerous. They reiterated the need for greater transparency and that the media should participate in dialogue sessions.

##### The Client

SERAW representatives commented that the Problem Solving process had met their expectations. They were pleased it had not affected the Project's objectives, timeline, or funding. In addition, they considered that it allowed them to directly engage with Requesters and provide clarifications on difficult topics in an accessible format.

From their perspective, the initiative helped them to improve their capacity to engage with project affected people and civil society from both Bulgaria and Romania.

They appreciated that the Problem Solving process offered the opportunity to share with Requesters relevant information on the Project and to receive feedback on their work. However, although the Client acknowledged that projects related to management of radioactive materials are a cause of public concern, they had expected greater understanding from the Requesters.

Finally, SERAW commented on the importance of ensuring that participating representatives remained throughout the process to allow for continuity and increase the effectiveness of the process.

### 3.2 Lessons Learned

Every case managed by IPAM is an opportunity to learn and improve. In the current case, IPAM has identified several areas where its work can become more effective in promoting mutually agreeable outcomes that address the concerns raised.

#### The role of IPAM and the Problem Solving function

In this case, it is now clear that the mechanism should have invested more time in the early stages explaining the mandate of the mechanism and scope of the problem solving function. A clear understanding by all stakeholders allows them to establish realistic expectations, decide whether the process addresses their needs and know how to maximise the opportunity.

#### Co-design and the purpose of Ground Rules

Ground Rules had been agreed by the Parties early in the process, but Parties found that their purpose, scope and enforceability had not been clear. IPAM needs to work with Parties early in the process to explain the methodology used in dispute resolution where it is fundamental for Parties to engage in designing the process and agreeing on how the engagement is to take place. Ground rules are the result of the co-design process and are agreed by the Parties, not imposed to them. The ground rules are a tool to support a respectful dialogue and thus can be revised if needed. However, based on the voluntary principle of IPAM's problem solving, this requires that all Parties involved agree.

#### Representing large diverse groups of complainants

Representation of a large diverse group of complainants is a big challenge, as it is common to find a wide diversity amongst the group regarding concerns, potential solutions and capacities. The diversity also adds another level of complexity in the design of a dialogue process as the representatives should have the capacity, commitment and authority to participate, present concerns and make decisions on behalf of the group. For this purpose, when assessing the viability of a problem solving initiative, IPAM needs to engage with all complainants and their representatives to assist them in defining their common objectives and agreeing on who should be participating in the dialogue sessions in addition to the person who was originally authorised by the group to represent them in the IPAM process. As representation is time-consuming, the processes should be time-bound and respectful of the work-life commitments of participants.

#### Actions to be taken by IPAM

Based on the above, IPAM will do the following:

1. Develop materials explaining the function and consult relevant stakeholders so as to ensure that they are a useful tool.
2. During the assessment stage of all cases registered:
  - a. Hold an initial session with each Party to review the scope and process as established in the Policy and ensure that all share the same understanding.
  - b. Develop a mapping of stakeholders and their linkage to the concerns and the project
3. For large requester groups, engage during assessment with all and assist them in defining interests and identifying potential representatives.

## 4. Conclusion and Next Steps

In August 2021 the process was terminated by IPAM as per Paragraph 2.4 c) i of the Project Accountability Policy. After this decision was taken, the PCM expert engaged with the Parties several times at their request to finalise the information sharing process and gather feedback. This document provides a high-level summary of the process as the Parties had agreed that deliberations would be confidential. Prior to disclosure, a draft version was shared with the Parties and their comments were considered by IPAM in finalising this report.

As part of the closing of the Problem Solving phase, the document will be submitted for information to the EBRD Board of Directors and the President. Following these actions, the Parties will be notified of its disclosure in the virtual case file ([Case 2018/01](#)). The document will also be available in Romanian and Bulgarian.

With these actions, the Problem Solving stage will be closed and, as per the Requesters' decision, the Case transferred to the IPAM Compliance function for compliance assessment as per the relevant provisions of the 2019 Project Accountability Policy.