



Independent
Project
Accountability
Mechanism

Assessment Report

Kozloduy International Decommissioning Support Fund - Maritza
East Mines
EBRD Project Number KIDS Fund, 48556 and 50221
Case 2021/03

December 2021

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

Contact information

The Independent Project Accountability Mechanism (IPAM)
European Bank for Reconstruction and Development
One Exchange Square
London EC2A 2JN

Telephone: +44 (0)20 7338 6000
Email: ipam@ebrd.com

How to submit a complaint to the IPAM

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:


 <https://www.ebrd.com/project-finance/ipam.html>

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Unless otherwise indicated, capitalised terms used in this report are those as set forth in the 2019 Project Accountability Policy.

LIST OF ABBREVIATIONS

Abbreviation	Long Form
Bank (or EBRD)	the European Bank for Reconstruction and Development
Board	the Board of Directors of the Bank
Case	the consideration of a Request under the Project Complaint Mechanism and, after July 2020, the Project Accountability Policy following its registration
Case Registry	the registry of Cases created in accordance with Section III, Paragraph 3.1 of the Project Accountability Policy, which can be found on the IPAM Webpage
CSO	Civil Society Organization
Environmental and Social Policy	the EBRD's Environmental and Social Policy in force at the time of Project approval
Independent Project Accountability Mechanism (IPAM)	the independent grievance mechanism of the EBRD established as per the 2019 Project Accountability Policy
IPAM Head	the head of IPAM, responsible for the running of IPAM, the implementation of the Project Accountability Policy, and for making the decisions that are the responsibility of IPAM under the Project Accountability Policy
Kozloduy International Decommissioning Support Fund (KIDSF)	a fund 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 of the Kozloduy Nuclear Power Plant and subsequent compensatory measures in the energy sector. The KIDSF is administered by the EBRD
Maritsa East Mines (MME)	a 100% state-owned company, operating the largest open cast lignite coalfield in Bulgaria, a subsidiary of the Bulgarian Energy Holding and a Grant recipient under the Kozloduy International Decommissioning Support Fund
Parties	the individuals, entities and organisations with a direct interest in a Case. Parties may include (but are not limited to): the Requesters; their Representatives, if any; the relevant Bank department, team or unit; the Client; and other Project financiers or other entities responsible for the implementation of a Project
PAP	2019 Project Accountability Policy
PCM	Project Complaint Mechanism
Problem Solving	the function which supports voluntary dialogue between Requesters and Clients to resolve the environmental, social and public disclosure issues underlying a Request, without attributing blame or fault.
President	the President of the Bank

EXECUTIVE SUMMARY

The Request

The [Independent Project Accountability Mechanism](#) (IPAM) received a [Request](#) on 28 October 2021 from six residents of the village of Beli Bryag in Bulgaria who asked for confidentiality. Requesters are supported by CEE Bankwatch, a regional civil society organization, represented by Fidanka Bacheva-McGrath, and Za Zemiata, a local civil society organization, represented by Desislava Stoyanova. Requesters allege that the expansion of the mining activities at the Maritsa East Mines have led to loss of land for the community and economic losses. They allege that EBRD is not fully compliant and is not insuring the compliance of its Clients in relation to the following Projects: Grant to Maritsa East Mines through the [Kozloduy International Decommissioning Support Fund](#), [BEH Bond Issue \(48556\)](#), and [BEH Bond 2018 \(50221\)](#). Requesters have expressed their interest for their Request to be considered for a Compliance Review.

Requesters had filed a Complaint presenting the same concerns with PCM in 2017 which underwent Problem Solving as [Case 2017/09](#) and was closed in August 2020 without an agreement.

The Projects

Three EBRD operations have been cited in the Request: two bond issues where the Client is the Bulgarian Energy Holding EAD (BEH), a holding company 100% owned by the Ministry of Energy of Bulgaria, which consolidates some of the largest energy companies in the country in the areas of electricity generation, transmission and trading, gas supply and coal mining, among others. BEH is also the public supplier of both electricity and gas in Bulgaria. Eventually, one non-reimbursable grant to Maritsa East Mines, a 100% state-owned company, operating the largest open cast lignite coalfield in Bulgaria, a subsidiary of BEH.

1. A grant to Maritsa East Mines with funding from the [Kozloduy International Decommissioning Support Fund](#). The non-reimbursable grant, approved in December 2013, has been provided to finance equipment replacement at Maritsa East Mines (the Client). The grant aims to increase the security of supply and reduce the energy intensity of mining activities through the replacement of three excavators with a more efficient bucket-wheel excavator and an excavator for the secondary removal of 50 million m³ overburden from the internal dump sites.
2. [BEH Bond Issue \(48556\)](#). The Bank invested EUR 80 million in the five year senior unsecured bond issuance by BEH on July 26th 2016. The bonds have been traded on the Irish Stock Exchange since 2 August 2016. The funds have been used to refinance a bridge loan incurred by BEH whose proceeds support the commercial liabilities of BEH's key subsidiary Natsionalna Elektricheska Kompania (NEK) as part of a comprehensive reform plan aiming to restore the financial viability of the electricity sector and to promote electricity market liberalisation in Bulgaria. The Project was approved for funding on 20 July 2016 as a category B project under the EBRD's 2014 Environmental and Social Policy. A derogation from the Environmental and Social Policy was approved by the Board. The Project is currently complete.
3. [BEH Bond 2018 \(50221\)](#). The Bank invested a total of EUR 100 million in the seven year EUR 550 million senior unsecured bond issuance by BEH on 26 June 2018. BEH placed the bonds on 21 June 2018 (EUR 400 million) and on 24 July 2018 (EUR 150 million). The bonds started trading on the Euronext Dublin on 28 June 2018 and were expected to start trading on the Bulgarian Stock Exchange in August 2018. The funds would be used to refinance the EUR 500m BEH bond issued

by the Company in 2013, which matures in November 2018. The bond will thus support improving the financing structure for BEH, which is the central actor in the Bulgarian energy sector. The Project was approved for funding on 20 June 2018 as a category B project under the EBRD's 2014 Environmental and Social Policy. A derogation from the Bank's Environmental and Social Policy, Performance Requirement 1, was granted by the Board. The Project is currently active.

IPAM Process

The Request was registered by IPAM on 1 December 2021 under [Case number 2021/03](#) and the Assessment stage was initiated immediately after. An expedited assessment was undertaken by IPAM as Problem Solving could not be considered as per the provisions of the IPAM Project Accountability Policy (PAP) and the Requesters had expressed their interest for a Compliance Review. Based on this, IPAM determined that the Request was to be transferred to the Compliance Function to initiate appraisal under the Compliance Assessment Stage.

Conclusion and Next Steps

IPAM will transfer the Request to Compliance Assessment once this Assessment Report is submitted for information to the Board and the President and made available to Requesters, Bank Management and the Client. The Report will be disclosed to the public in English and Bulgarian in the [Case Summary Page](#) in the IPAM [Case Registry](#). The Compliance Assessment Stage will initiate immediately after these actions.

1. Background

1.1. The Projects and their Current Status

Requesters are connecting their concerns to three EBRD projects: [Grant to Maritsa East Mines through the Kozloduy International Decommissioning Support Fund](#); [BEH Bond Issue \(48556\)](#), and [BEH Bond 2018 \(50221\)](#). Maritsa East Mines is a 100% state-owned company, operating the largest open cast lignite coalfield in Bulgaria, a subsidiary of the Bulgarian Energy Holding.

Grant to Maritsa East Mines through the Kozloduy International Decommissioning Support Fund:

In December 2013, the Assembly of Contributors of the Kozloduy International Decommissioning Support Fund approved financing in the form of a non-reimbursable grant to replace equipment at Maritsa East Mines. The Project aims to increase the security of supply and reduce the energy intensity of mining activities through the replacement of three aged and obsolete bucket-wheel excavators with a more efficient, new, bucket-wheel excavator as well as purchase of a new excavator for the secondary removal of 50 million m³ overburden from the internal dump sites.

BEH Bond Issue (48556): The EBRD has invested EUR 80 million in the five year senior unsecured bond issuance by BEH of July 26th 2016. The bonds have been traded on the Irish Stock Exchange since 2 August 2016. The operation will support the implementation of key power sector reforms and will enable BEH to restructure debt on its balance sheet, improving the long term financial sustainability of the power sector in Bulgaria. The Project was approved for funding on 20 July 2016 as a category B project under the EBRD's 2014 Environmental and Social Policy. Due to the nature of and rules for capital market transactions, the Bank was not in a position to undertake detailed or specific environmental and social due diligence in accordance with the Bank's Environmental and Social Policy before the bond issuance. Given this, the Board approved a derogation from the Environmental and Social Policy. The Project is currently complete.

BEH Bond 2018 (50221): The EBRD has invested a total of EUR 100 million in the seven year EUR 550 million senior unsecured bond issuance by BEH on 26 June 2018. BEH placed the bonds on the 21 June 2018 (EUR 400 million) and on 24 July 2018 (EUR 150 million). The bonds started trading on the Euronext Dublin on 28 June 2018 and were expected to start trading on the Bulgarian Stock Exchange in August 2018. The operation will further support the implementation of key power sector reforms and will reinforce BEH's balance sheet going forward. The Project was approved for funding on 20 June 2018 as a category B project under the EBRD's 2014 Environmental and Social Policy. Due to the nature of and rules for capital market transactions, the Bank has not been in a position to undertake detailed or specific due diligence in accordance with the Bank's Environmental and Social Policy before the bond issuance. Given this, a derogation from the Bank's Environmental and Social Policy, Performance Requirement 1, was requested and granted by the Board. The Project is currently active.

1.2. The Request¹

On 28 October 2021, six Requesters from Beli Bryag village in Bulgaria who asked for confidentiality submitted a [Request](#) to IPAM with the support of a CEE Bankwatch, a regional civil society organization, represented by Fidanka Bacheva-McGrath, and Za Zemiata, a local civil society organization, represented by Desislava Stoyanova. Requesters allege that the expansion of the mining activities of the Maritsa East Mines have led to loss of land for the community and economic losses. They allege that EBRD has not complied with the Environmental and Social Policy (ESP) through the three Projects. Requesters ask for a Compliance Review and are raising the following allegations:

- Loss of real estate property – dwelling, adjoining land and agricultural land;
- Loss of homes, which for some owners and households are the only ones;
- Damage or demolition to dwellings due to the proximity of the mine;
- Economic losses, livelihood losses and economic displacement due to loss of basic and additional income;
- Loss of extra income due to loss of pastures and yard gardens;
- Health problems for residents due to mine approaching;
- Lack of clear and transparent method for compensation as part of the resettlement; and
- Lack of plan to move the cemetery considered as cultural heritage for the community.

A similar complaint was filed with the Project Complaint Mechanism (predecessor of IPAM) in October 2017 with a request for Problem Solving. The complaint was found eligible for Problem Solving in December 2017 and the initiative was conducted between December 2017 - August 2020. In July 2020, the Problem Solving initiative was terminated without an agreement. (See [Case 2017/09](#) for further information)

1.3. IPAM Processing to Date

a) Registration of the Request

The Request was registered on 1 December 2021 as it met the criteria for Registration established in Section 2.2 (b) of the PAP, and none of the exclusions set in Section 2.2 (c) of the PAP applied. The registration of a Request represents an administrative step², acknowledging that it meets the registration criteria, none of the exclusions apply, and its processing under IPAM would not duplicate or interfere with any other processes. In this case:

- All mandatory information has been provided;
- The Request raises issues related to specific obligations of the Bank under the ESP;
- The Request relates to a Project that has been approved and the Request was submitted within 24 months of the date that the Bank ceases to have a financial interest in the Project;
- None of the exclusions that prevent registration are met; and
- The Request does not duplicate or interfere with or is impeded by other processes.

¹ The request is available at : <https://www.ebrd.com/work-with-us/projects/ipam/2021/03.html>

² Registration of a request does not involve a judgement on the merits, truthfulness or correctness of its content. Nor does it have the effect of suspending the Bank's interest in the Project.

b) Assessment of the Request

The Registration of a Request initiates the Assessment process which is established in para. 2.3 of the 2019 PAP, and is intended to:

- develop a clear understanding of the issues raised in the Request;
- discuss the Problem Solving and Compliance Review functions with the Parties, their scope and possible outcomes;
- assess the Parties' willingness to engage in each function, while taking Requesters' preference among functions into account;
- consider the updated status of other grievance resolution efforts, if applicable; and
- make a final determination with three alternatives open to IPAM:
 - a. the Case will proceed to Problem Solving, based on the agreement of the Requesters and the Client; or
 - b. the Case will be transferred to Compliance Assessment, if no agreement to pursue Problem Solving is reached and Requesters have expressly asked for this; or
 - c. the Case will be closed.

The Assessment stage has a standard duration of 40 business days from the date of Request registration which might be extended to ensure robust processing or if translation of documents is required. IPAM initiated the Request Assessment on the 1st of December 2021 and completed it at the end of December 2021 by issuing this Assessment Report which describes the outcome of the assessment process.

2. Assessment Approach

Upon case registration and to avoid a long and duplicative process, IPAM decided to undertake an expedited approach for assessing the Request as:

- a. per the PAP provisions, the Request could not be considered under the Problem Solving function as Requesters had participated in a Problem Solving initiative under the PCM from December 2017 to August 2020 (Case 2017/09 Maritsa East Mines) to address the same concerns raised in the current Request (para 2.2 c) iii. of the PAP Scope and Exclusions³) and;
- b. the Requesters expressed their interest to have their Request considered under the Compliance function.

3. Summary of the Views from Relevant Parties

Engagement with the Relevant Parties will be undertaken during the Compliance Assessment stage.

4. Assessment Determination

Based on the analysis undertaken and the content of the Request, IPAM determined that **the Case cannot be considered for the Problem Solving function** as a previous Request was already

³ A Request cannot be considered by IPAM if it relates to matters in respect of which a Request has already been processed by IPAM or its predecessors (the Project Complaint Mechanism or the Independent Recourse Mechanism), unless new evidence or circumstances not known at the time of the previous Request are submitted;

processed through a Problem Solving initiative that was terminated with no agreement in August 2020. The **Request is to be transferred to the Compliance function** for the relevant team to commence the **Compliance Assessment** process to determine if the Request meets the criteria for initiating a Compliance Review.

In relation to the EBRD projects that would be analysed the following determinations are made by IPAM after reviewing if the Request meets the Registration criteria based on the review of Project documents and engagement with Bank Management:

IPAM confirms that the Request meets the registration criteria in relation to the Grant provided to Maritsa East Mines through the [Kozloduy International Decommissioning Support Fund](#); and [BEH Bond 2018 \(50221\)](#)

The Request **does not meet the registration criteria** for [BEH Bond Issue \(48556\)](#)

5. Conclusion and Next Steps

IPAM will transfer the Request to Compliance Assessment once this Assessment Report is submitted for information to the Board and the President and made available to Requesters, Bank Management and the Client. The Report will be disclosed to the public in English and Bulgarian in the [Case Summary Page](#) in the IPAM [Case Registry](#). The Compliance Assessment Stage will initiate immediately after these actions.