



Project  
Complaint  
Mechanism

**COMPLAINT: SOUTHEAST EUROPE EQUITY FUND II**

REQUEST NUMBER: 2017/05

**ELIGIBILITY ASSESSMENT REPORT (PROBLEM-SOLVING INITIATIVE) – February 2018**

The Project Complaint Mechanism (PCM) is the independent accountability mechanism of the EBRD. PCM provides an opportunity for an independent review of Complaints from one or more individual(s) or organisation(s) concerning an EBRD Project which allegedly has caused, or is likely to cause, harm. PCM may address Complaints through two functions: Compliance Review, which seeks to determine whether or not the EBRD has complied with its Environmental and Social Policy and/or the Project-specific provisions of the Public Information Policy; and Problem-solving, which has the objective of restoring a dialogue between the Complainant and the Client to resolve the issue(s) underlying a Complaint without attributing blame or fault. Affected parties can request one or both of these functions.

For more information about PCM, contact us or visit [www.ebrd.com](http://www.ebrd.com).

### Contact information

Inquiries should be addressed to:

The Project Complaint Mechanism (PCM)  
European Bank for Reconstruction and Development  
One Exchange Square  
London EC2A 2JN  
Telephone: +44 (0)20 7338 6000  
Fax: +44 (0)20 7338 7633  
Email: [pcm@ebrd.com](mailto:pcm@ebrd.com)

 <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism.html>

### How to submit a Complaint to the PCM

Complaints about the environmental and social performance of the EBRD can be submitted by email, telephone or in writing at the above address, or via the online form at:

 <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/submit-a-complaint.html>

## I. BACKGROUND

1. This Eligibility Assessment Report is an extension of the [Eligibility Assessment Report \(Compliance Review\)](#) prepared in reference to a Complaint regarding the Southeast Europe Equity Fund II Project (the Project). Specifically, the Complaint relates to the American Hospital in Kosovo which is ultimately financed by the Fund.<sup>1</sup> This Report focuses only on the Complaint's eligibility for a Problem-solving Initiative with regards to the Project. Additional Complaint information, EBRD Management's response and the response of the Fund manager are annexed to the earlier Eligibility Assessment Report.
2. The determination of eligibility is based upon a videoconference call with each of the parties and email exchanges in February 2018.

## II. KEY DEVELOPMENTS

3. In early February 2018, the Eligibility Assessors considered they had enough information to make a determination on eligibility for Compliance Review and, accordingly, concluded an Eligibility Assessment Report regarding Compliance Review. At that time, the Assessors believed that additional communication with the parties was needed, to ensure each had a thorough understanding of the PCM's problem-solving function as well as a clear idea of the implications of any decision to engage in a facilitated process under the auspices of the PCM.
4. During the discussions with the Complainant and the Fund manager, both parties indicated a willingness to participate in direct dialogue on aspects of the Complaint without the assistance of the PCM.

## III. DETERMINATION OF ELIGIBILITY FOR A PROBLEM-SOLVING INITIATIVE

5. The provisions on eligibility for problem-solving are set out in paragraph 24, 25, 26 and 28 of the PCM Rules of Procedure. As a once employee of a company owned by the Fund, the PCM Eligibility Assessors accept that the Complainant is a Project-affected person in accordance with paragraph 24(a)(i). Further, the requirements of paragraph 24(a)(ii) are met in that issues raised relating to working conditions fall within the scope of a Relevant Policy, namely the 2003 Environmental Policy.
6. As concluded in the earlier Eligibility Assessment Report, the Complainants provided relevant information as described in paragraph 25, and none of the limitation provisions set out in paragraph 28 are triggered.
7. As described in paragraph 26 of the PCM Rules, a main question for eligibility for the PCM problem-solving function is, *might a problem-solving initiative assist in resolving the dispute, or is it likely to have a positive result?* The Assessors are to consider, *inter alia*, whether the issues have been raised with a Project grievance mechanism, other accountability mechanism, court or other dispute resolution mechanism.
8. In February 2016 the Complainant initiated legal proceedings against the American Hospital in Kosovo for not respecting the terms of his labour contract and for material and non-material damage.<sup>2</sup>

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<sup>1</sup> Complaint Number 2017/05, available at <http://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html> and annexed to this report.

<sup>2</sup> *Ibid.*

9. As noted above, each of the parties has stated a willingness in principle to engage in direct dialogue on aspects of the Complaint at an appropriate future juncture. The Assessors have concluded in these circumstances that a PCM-facilitated process is unlikely to assist in resolving the dispute or have a positive result in the sense that it is unnecessary.
10. The PCM Eligibility Assessors wish to take this occasion to thank the parties for their openness and thoughtful consideration of the opportunity for direct dialogue.