

Progress Report as a Result of Third Joint Meeting

Radnevo Municipality Building, Bulgaria
27 March 2018, 9:00 – 12:30

Facilitators/mediators: Albena Komitova, Constantin-Adi Gavrila

Context of the meeting

The holding of the Third Joint Meeting in the dialogue process between MME EAD (the Company) and the residents of Beli Bryag (the Community) was decided at the Second Joint Meeting among these parties and the mediators, determined under EBRD's PCM.

The parties in the dialogue committed to specific next steps at the end of the Second Joint Meeting in order to continue to make progress in the resettlement process of the community of Beli Bryag in connection with the expansion of the activities of the Company.

At the end of the first joint meeting it was agreed that a representative of Green Partners shall take part in the third Joint Meeting in order to be able to provide answers and clarity on the latest draft of the Resettlement Action Plan (RAP). Community representatives expressed a desire to hold an individual meeting with the Green Partners representative and the Company agreed to this meeting.

The Green Partners representative – Mr. Ciprian Popovici – attended an individual meeting with representatives of the Company and made a presentation of the principles and methodology integrated in the RAP.

Mr. Popovici met with representatives of the Community of Beli Bryag and Za Zemyata Association. This meeting was also attended by PCM team. He responded to all the questions on the latest draft of the RAP prepared by Green Partners, which were raised to him by the meeting participants.

After holding the individual meetings with the Community and the Company, the following Second Joint Meeting topics for discussion and agenda have been prepared and approved with the cooperation of the PCM:

- 1. Approval of Progress Reports from the First And Second Joint Meetings;**
- 2. Review of the implementation of the commitments undertaken to date by the Parties under the PCM;**
- 3. Presentation of the needs assessment findings – Joint Company-Community Task Force**
- 4. Structure and principles of the resettlement process; draft, submitted by the Community members; discussion**
- 5. Resettlement Action Plan; Community feedback; discussion**
- 6. Next steps.**

On 27 March 2018, between 09:00 and 12:30 local time, members of the community of Beli Bryag, representatives of Za Zemiata Association, a representative of Green Partners consulting company,

and representatives of MME EAD took part in the third Joint Meeting on the resettlement of the Beli Bryag village, held with the independent assistance of the PCM.

This Report summarizes the discussions and the next steps discussed at this meeting.

The meeting was opened by the PCM mediation team. All participants in the meeting introduced themselves.

Simultaneous interpreting with the corresponding equipment was once again organized by the PCM.

Approval of Progress Reports on the First and Second Joint Meetings

During PCM's preparatory bi-lateral meetings with the community and the company representatives, it was agreed that joint meeting Progress Reports will be published on the PCM website upon their approval by the parties in joint meeting.

The PCM team apologized for the fact that the Second Joint Meeting Progress Report was not sent to the Company in a timely manner and there was not enough time for the Company to prepare its comments and remarks on it. Moreover, it was noted that the community submitted comments in hard copy one day before the 3rd joint meeting. The PCM mediation team encouraged the parties to share feedback to joint meeting progress reports in time, to allow for sufficient time for exchange, communication and agreement before joint meetings.

The PCM team suggested that, for time efficiency, the discussion of the agreement of the report on the second Joint Meeting be done before the fourth Joint Meeting, when the report will be formally approved together with the report of the 3rd Joint Meeting.

Review of the implementation of the commitments undertaken to date by the Parties under the PCM

A review of the implementation of the commitments undertaken by the Parties during the Second General Meeting was carried out.

- Members of the local community to give feedback on the Resettlement Action Plan – feedback was provided by the Community representatives.
- The Company to state their position on the proposal by the Community for the First Joint Meeting Progress Report to be published on the PCM website and for the email addresses and postal addresses to be used to search for information from the Community and the PCM to be shared – there was agreement for the publication of the Progress Report from the First Joint Meeting and for the sharing of contact information.
- A joint company – community taskforce, supported by PCM, was appointed by the parties to undertake a needs assessment in the community, specifically to discuss with current owners about their preferences and needs related to their resettlement from Beli Bryag – the joint taskforce successfully designed and implemented the needs assessment;
- PCM to prepare a draft progress report and provide it to the Parties for comments prior to its finalization and convene a third Joint Meeting on 27 March 2018.

All tasks agreed upon have been successfully fulfilled.

Presentation of the needs assessment findings – Joint Company-Community Task Force

Mrs. Desislava Stoyanova (Za Zemiata Association) read the results of the survey for assessing the needs of property owners.

Representatives of 24 out of 27 households were interviewed. She stressed that it is important for the village people to live together and preserve their livelihood. For some people it is important to be with their close relatives. For the families with children it is important to be close to educational facilities.

Two households have said they needed help with moving out and repairing the dwellings where they will be accommodated.

There was a discussion about the cemetery resettlement that came as a priority for the community. Mr. Leonid Ganozliev provided information that in 2011 the Company, the Ministry of Energy and the Municipality of Radnevo had concluded a contract for the extension of the cemetery in the town of Radnevo. It envisages 150 places for urns and 1450 burial sites allocated in 15 plots. The second stage is to build a road and power supply, and the third one – to build a home of the deceased. Currently, Stage 2 is underway and a public procurement procedure has been initiated to build a road. The development of the cemetery has been included in this year's investment program of the Company.

Mr. Evelin Petkov proposed that a map with the location of the plots in the cemetery be placed in the building of the town hall of the village, so that the residents are informed.

During the discussion on the cemetery, it was decided that additional meetings should be held, including representatives of the municipality of Radnevo, who would have to be informed about the needs of the residents of the village of Beli Bryag, and provide information about the prospects for the cemetery and its resettlement.

Structure and principles of the resettlement process; Draft, submitted by the Community members

Regina Koleva, attorney-at-law from Za Zemiata Association presented the principles the resettlement process should be based on, namely:

- Mitigation of the adverse social and economic impacts of the land acquisition and improvement of the living conditions of physically displaced persons such as:
 - Providing compensation for the loss of property at replacement cost; or
 - Providing adequate housing with security of ownership at the places of resettlement.
- Transparency of the process by ensuring that the resettlement activities are accompanied by appropriate disclosure of information, advice and informed participation of those affected.
- Restoration or, if possible, improvement of the livelihoods and living standards of resettled persons to resettlement levels.
- Drawing up special provisions to assist disadvantaged people or vulnerable persons or groups who may be more adversely affected by the displacement than others, and who may be limited in their ability to take advantage of the resettlement assistance and the benefits for related thereto.

Regarding the principle of “Restoring or, if possible, improving the livelihood and standard of living of the resettled persons to pre-resettlement levels”, indicated in ESP of EBRD dated 2014, a discussion emerged on which starting date and period should be taken as a benchmark. The community members explained that the process of reducing the standard of living of the residents of the village of Beli Bryag has been going on since 2005, and that they would provide more accurate information about this before the Fourth Joint Meeting.

A discussion was also held on the value and type of compensation and how it could be determined.

Mr. Ganozliev pointed out that when properties are valued, the Company complies with Article 32 of the State Property Act and read it out loud. Attorney Koleva indicated that this compensation method was valid under a forced expropriation hypothesis, while in this particular case, in community’s view, such a process is not yet underway.

Mr. Ciprian Popovici made a presentation¹ of the main goals and principles of Green Partners' RAP, stressing that the plan was not a strict document but flexible and could be modified and adapted. He pointed out that the flexibility of the RAP is depicted in three respects: 1. Including new opportunities when they are accepted as legal; 2. Determining individual packages where a combination of options can be made or adapt existing measures to the needs of the particular household; 3. Determine the manner through which the measures shall be applied - also according to the needs of the particular household. The Bulgarian legislation doesn’t include a legal framework for resettlement, and so new options could be envisaged. The RAP should be discussed and different options should be examined, but all these options should be in line with the legislation currently in force. He described schematically the basis, principles and stages considered in the RAP.



¹ See flipchart pictures below

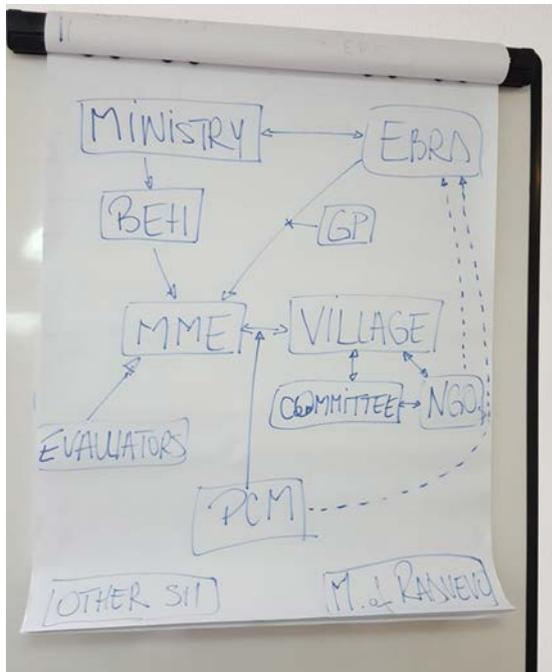


Figure 1 – Stakeholder map

SHI	ROLE IN RAP	
	DEVELOPMENT	IMPLEMENT
1. MINISTRY		
2.		
3.		
etc		

Figure 2 – Roles of stakeholders

Mr. Popovici underlined that the involvement of all stakeholders in the process of setting up and implementing the RAP was very important and useful. The plan is a box full of possibilities, and anything that is not restricted by the legislation can be applied as an option. According to the Green Partners representative, valuation is the key topic in the RAP. To the questions asked by the Community he replied in the following manner:

1. Valuation of the properties – how and using what methodology the latter shall be executed in a manner not detrimental to the people, yet – in compliance with the law.
2. Valuation of the moral damages – to this question asked by Community representatives, Mr. Popovichi also answered with a question - how to determine these damages, is there a legal basis and methodology for their calculation, and if so, let the community present it for consideration.

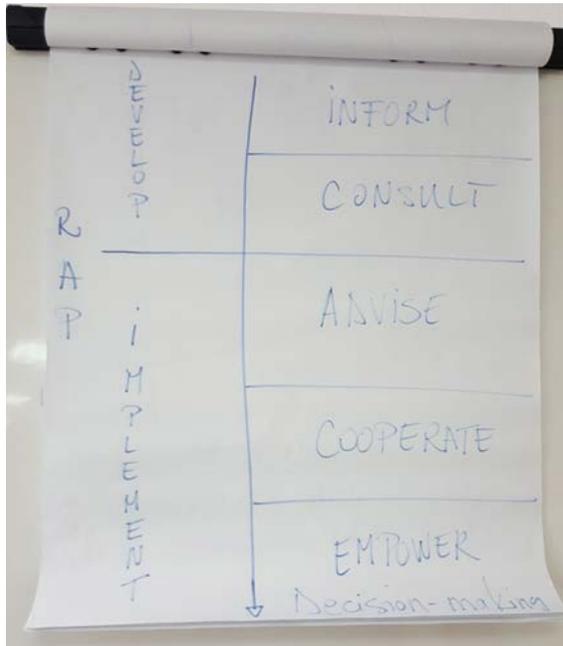


Figure 3 – Stages of RAP development

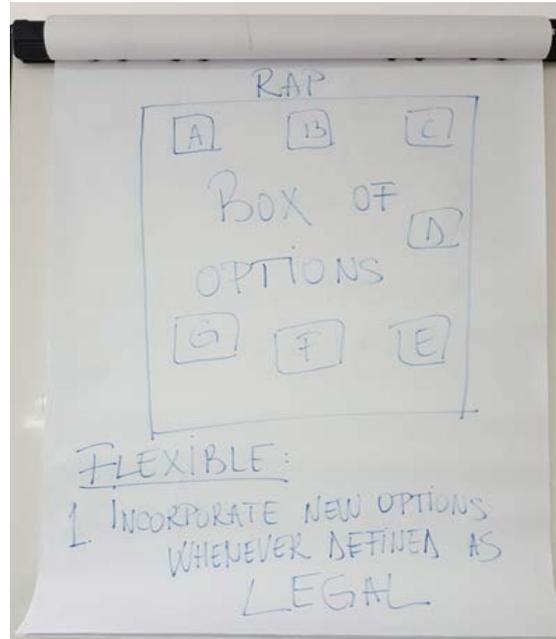


Figure 4 – RAP's main characteristics

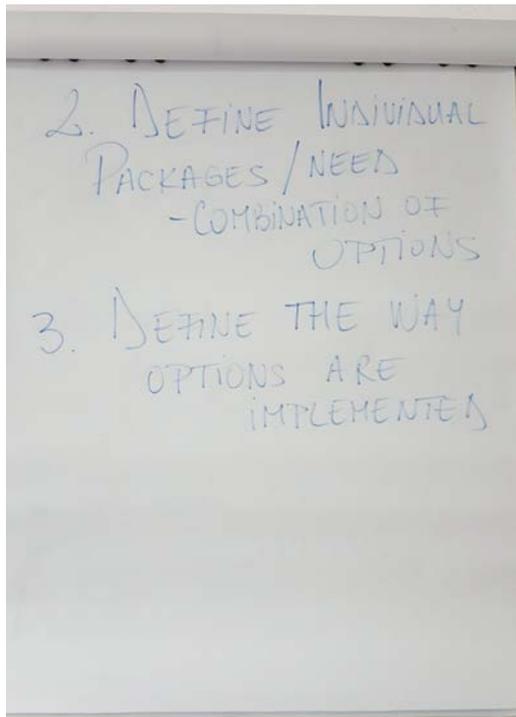


Figure 5 – RAP's main characteristics (cont)

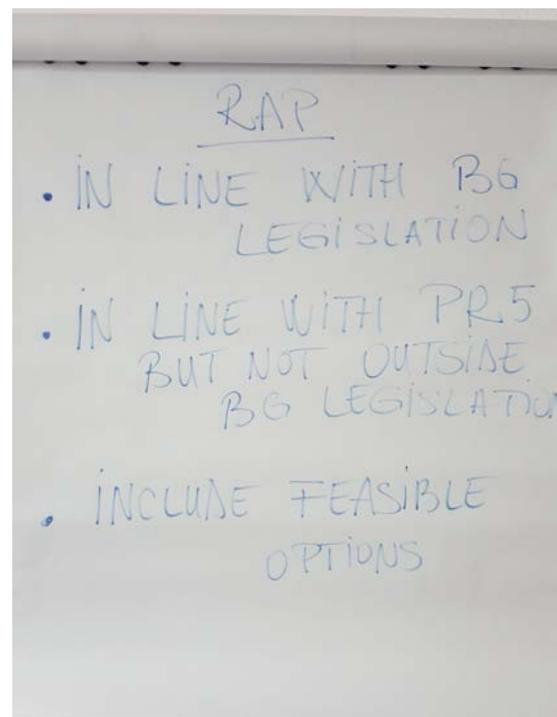


Figure 6 – RAP's main characteristics (cont)

Mr. Popovici drew attention to the fact that the resettlement process taking place in the village of Beli Bryag was the first such project for Bulgaria and that it could be implemented in the future for other villages. He also noted that the RAP should be approved in order to have a basis for the discussion.

Resettlement Action Plan; Community feedback; discussion

Attorney Regina Koleva (Za Zemiata Association) and Mr. Genadi Kondarev presented the feedback and comments on the RAP on behalf of the Community. They pointed out that the following inaccuracies can be highlighted among the main community concerns regarding the RAP thus proposed:

1. The term “full replacement value” required by the EBRD in their ESP is not used everywhere and has accidentally or selectively been replaced by similar but not overlapping concepts, which as a minimum result in one being “lost in translation”.
2. The RAP of MME only proposes the use of property valuation methods that rely on the market price in the region and which the EBRD expressly denies within its policies of determining the amount of compensation when there is no active property market. The Company is not accepting the legitimate and preferred by the affected owners “cost method”. In the community’s opinion, there is no legal impediment limiting the Company to apply precisely this method.

Community representatives indicated that there were a number of specific cases in the village, indicative of what the costs are of people who sold their property and moved to a new location. In one of these cases a property consisting of a two-storey house, with outbuildings and a 4-decare yard was sold for BGN 29 thousand. Until now, the cost for building a one-storey house in a yard of about 1 decare (i.e. 4 times smaller property) has been over BGN 100 thousand for new construction, or the person had costs exceeding the compensation received for his property by about 250%.

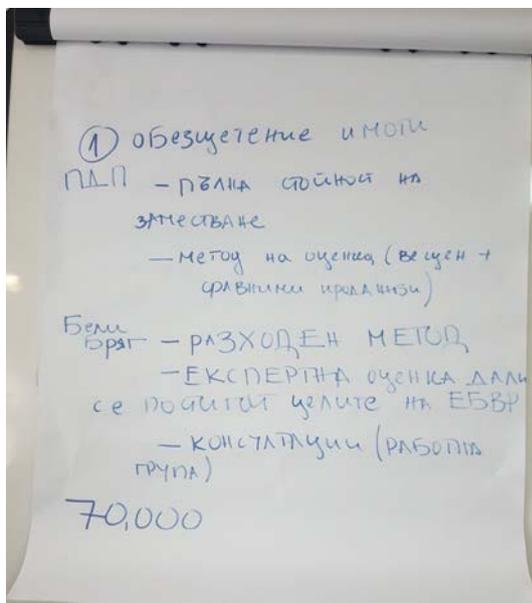


Figure 7 - Compensation property

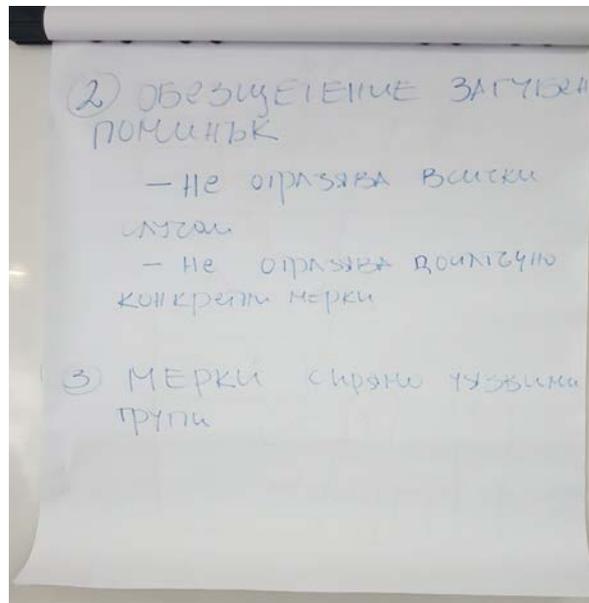


Figure 8 - Compensation lost livelihood

There was a discussion on the feedback presented that focused on the way property valuation is done. Different points of view were presented on what is meant by “Full Replacement Value” and how and whether a “Cost Method” can be applied for valuation.

Representatives of MME explained that according to the law on public procurement, a licensed appraiser is assigned to evaluate a particular property. The evaluation (evaluator’s report) indicates

the normative basis of this assessment, and it is important to compare comparable things in community examples given by the MME, i.e. to take into account the category of the settlement, construction date of the building and its condition. The representatives of the Company also explained that the currently used methods: the method of the comparable sales and the method of the real value are widely used in Bulgaria for determining the price of properties. Moreover, these are the two methods that give the highest price of the property. Previously, a third method was used - the liquidation value method - but after discussions between MME and the evaluators with a request to find a legal way to increase the amount of the compensation, the evaluators decided not to use the liquidation value method pursuant to which lowest property values were achieved, and now only uses the two above-mentioned methods that are most favourable to the seller.

It is important for the community to comply with the EBRD's ESO and to recover the housing and property value, not to compare the category of the settlement and how old the building was and in what condition it is.

The Community representatives expressed the view that the lowered prices of their properties were a consequence of the activity of the mines and the change in land designation from 2010 adopted by the municipal administration of Radnevo. The representatives of the Company noted that the categorization of the settlements in Bulgaria is made on the basis of the Law on Administrative and Territorial Structure of the Republic of Bulgaria according to which the settlements are categorized by criteria and indicators, determined by the Council of Ministers. They pointed out that the method of "full replacement value" is provided for an inactive property market, according to the EBRD policy, and they are exactly in this hypothesis. Lawyer Regina Koleva stressed that it is necessary to make an expert analysis - which evaluation method will best achieve the goal so that the people of the village of Beli Bryag are fairly compensated and it is not clear what the legal obstacles are to applying a different way of evaluation.

The Community pointed out that in case of an inactive property market, "Full Replacement Value" method should be applied according to the EBRD policy, and that they were exactly in this hypothesis. Attorney Regina Koleva stressed that it was necessary to make an expert analysis – which valuation method would best achieve the goal, so that the people of the village of Beli Bryag are fairly compensated, and that it was not clear what the legal obstacles were to applying a different way of valuation.

MME responded that the property market in the region was active and presented samples of real estate websites for the region of Radnevo, Stara Zagora and Yambol, from which a comparison can be drawn for the property prices not only in the region but also in other places not affected by mining activities.

At the end of the discussion, the Parties united around the need to provide a legal and economic justification of the possibility of applying a different method of assessing the compensation the property owners in the village of Beli Bryag are due.

Next steps

- Community members:
 - Sharing the issues concerning the cemetery with the PCM in writing;
 - Proposed valuation methodology; written proposal by 20 April, tentatively (legal basis, terms of reference and annex) on the proposed valuation methodology;
 - Confirmation of the final document for publication from the First Joint Meeting;
 - Sharing comments on the Second Joint Meeting Progress Report;

- Sharing comments on the Third Joint Meeting Progress Report.

- The Company:
 - Drafting and sharing feedback upon receipt of the Community's written proposal on the application of a different valuation methodology;
 - Confirmation of the final document for publication from the First Joint Meeting;
 - Sharing comments on the Second Joint Meeting Progress Report;
 - Sharing comments on the Third Joint Meeting Progress Report.

- The PCM:
 - Will share questions about the cemetery, as per the Community instructions;
 - Will share the Community's proposed valuation methodology with the Community, GP and the EBRD project team;
 - Will provide the First Joint Meeting Progress Report for approval before publishing;
 - Will summarize the comments and finalize the Second Joint Meeting Progress Report for parties agreement before approval at the 4th joint meeting;
 - Will prepare the progress report from the Third Joint Meeting and provide it for comments and agreement before approval at the 4th joint meeting;
 - Will convene a Fourth Joint Meeting on 11 May 2018 at the same place with the following tentative agenda:
 - Welcome and introductions;
 - Approval of the Second And Third Joint Meeting Progress Reports;
 - Review of the implementation of the commitments undertaken to date by the Parties/PCM;
 - Presentation of the needs and priorities of the Company;
 - Discussion of the “social package” (*including the relocation of the cemetery, if the parties wish so*); presentation by the Company; feedback from the Community;
 - Compensation valuation methodology proposed by the Community;
 - Status of the RAP approval process; feedback from the Company and comments of the Community on the RAP;
 - Next steps.

Green Partners will provide written comments on the valuation methodology proposed by the Community. They will include some of the comments and suggestions already made in the RAP.

Appendices

- Needs assessment analysis
- Comparative analysis of property valuation

LIST OF PARTICIPANTS

1. **Slavina Slavova** – Community of Beli Bryag;
2. **Rumen Yovchev** – Community of Beli Bryag;
3. **Petar Ivanov Tenev** – Community of Beli Bryag;
4. **Yanko Yankov** – Community of Beli Bryag;
5. **Genady Kondarev** – Za Zemiata NGO;
6. **Zhelyazko Zhelyazkov** – Community of Beli Bryag;
7. **Zhivko Zhelyazkov** – Head of Occupational Safety and Health Department, Company;
8. **Anna Turlakova** – Head of Secretariat and Communications Department;
9. **Leonid Ganozliev** – Head of Investments Department;
10. **Stefan Zhelev** – Chief Legal Adviser, Legal Department;
11. **Daniela Zheleva** – Real Estate Trade Expert, Investments Department;
12. **Krasimira Ilieva** – International Programmes and Projects Expert , EU-Funded Projects Unit, Investments Department;
13. **Regina Koleva** – attorney-at-law, Za Zemiata;
14. **Albena Komitova** – PCM, Facilitator/Mediator;
15. **Constantin-Adi Gavrila** – PCM, facilitator;
16. **Ciprian Popovici** – Green Partners;
17. **Desislava Stoyanova** – Za Zemiata;
18. **Danka Doneva** – Community of Beli Bryag;
19. **Evelin Petkov** – Community of Beli Bryag.