

TÜRK TRAKTÖR PROJECT

REQUEST NUMBER: 2015/03

Compliance Review Monitoring Report II – December 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.

Contact information

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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>

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NOTE: Unless otherwise defined, capitalised terms used in this Compliance Review Monitoring Report refer to terms as defined in the PCM Rules of Procedure (2014).

Executive summary

This is the second Compliance Review Monitoring Report of the PCM regarding the Complaint on the Türk Traktör Project in Turkey (the Project). Following a review of the Bank's compliance with its 2008 Environmental and Social Policy (ESP), the Compliance Review Expert made nine findings of non-compliance in respect of the grounds set out in the Complaint, including with respect to working conditions, freedom of association, dismissal of workers and Company grievance mechanism.

The Compliance Review Report contained a number of recommendations consistent with the findings of non-compliance identified in the Compliance Review. EBRD Management subsequently prepared a Management Action Plan in response to the recommendations outlined in the Compliance Review Report.¹ During the first monitoring period that covered April 2017 – February 2018 and considering the implementation update provided by the Management to the PCM in March 2018, the PCM Officer considered five of the nine Management Actions (3, 6, 7, 8, and 9) complete.

During this second monitoring period, that covers March – October 2018, the PCM Officer reviewed the update provided by EBRD Management on implementation of the four remaining Actions (1, 2, 4 and 5) in the Management Action Plan. The PCM Officer reviewed supporting documentation provided by the Bank Management and the comments provided by the Complainants. PCM organised a follow-up call with Complainants on 8 November 2018 and another joint call with Complainants and Bank Management on 11 December 2018 to discuss outstanding concerns related to the Actions therein.

PCM takes note of the efforts taken by the Bank Management to work with the Client to implement the outstanding actions they committed to in their Management Action Plan. Accordingly, PCM considers Actions 1 and 2 under this Complaint closed. PCM will continue to monitor Action 4 and 5 during the next monitoring period.

¹ The Complaints, Compliance Review Report and Management Action Plan are available on the [PCM Register](#).

1. Introduction

This Compliance Review Monitoring Report is prepared pursuant to paragraph 47 of the 2014 Project Complaint Mechanism (PCM) Rules of Procedure. The PCM Officer is mandated to monitor the implementation of a Management Action Plan prepared in response to the findings and recommendations² contained in a Compliance Review Report. The PCM monitors the implementation of Management Action Plans and prepares Monitoring Reports at least biannually or until the PCM Officer determines that monitoring is no longer needed. Monitoring Reports are submitted to the President and Board, and then published in the [PCM Register](#) on the EBRD website.

The PCM reviewed a Complaint entitled *Workers Rights violations in Türk Traktör ve Ziraat Makinalari A.S.* The Complaint was submitted by Birleşik Metal İşçileri Sendikası (United Metalworkers Union), and raised matters connected with EBRD lending in respect of a Project implemented by Türk Traktör v Ziraat Makinalari A.S (Türk Traktör).

The Compliance Review was completed in April 2017. The Compliance Review Expert made nine findings of non-compliance in respect of the grounds set out in the Complaint. In particular:

- EBRD was non-compliant in its application of the Environmental and Social Policy (ESP) general requirements and the requirements of Performance Requirement (PR) 1 in relation to both appraisal and due diligence, and routine monitoring of the Project's compliance with labour and occupational health and safety aspects of PR 2.
- EBRD was non-compliant in its application of the ESP general requirements in relation to monitoring of the Project's compliance with labour and occupational health and safety aspects of PR 2 following the receipt of an initial complaint from the Complainant, and subsequently during the course of the PCM Eligibility Assessment and Compliance Review process.
- EBRD was non-compliant with the general commitments of the 2008 ESP and with PR 10 in relation to routine monitoring with respect to the establishment of an external grievance mechanism.
- EBRD was non-compliant with the general commitments of the 2008 ESP and with PR 2 and PR 10 in relation to monitoring following the submission of a Complaint to the Project Complaint Mechanism with respect to internal and external grievance mechanisms.

The Compliance Review Report included recommendations to address the findings of non-compliance, in response to which EBRD Management prepared a Management Action Plan (available on the [PCM Register](#) on the EBRD website).

This is the second Compliance Review Monitoring Report regarding the Türk Traktör Project.

² Pursuant to the PCM Rules of Procedure a Compliance Review Report will include recommendations to:

- a. address the findings of non-compliance at the level of EBRD systems or procedures to avoid a recurrence of such or similar occurrences; and/or
- b. address the findings of non-compliance in the scope of implementation of the Project taking into account prior commitments by the Bank or the Client in relation to the Project; and
- c. monitor and report on the implementation of any recommended changes.

2. Context

The PCM received a Complaint entitled *Workers Rights violations in Türk Traktör ve Ziraat Makinalari A.S.* The Complaint was submitted by Birleşik Metal İşçileri Sendikası (United Metalworkers Union), and raised matters connected with EBRD lending in respect of Türk Traktör v Ziraat Makinalari A.S (Türk Traktör). The Complaint was registered by the PCM Officer on 11 September 2015 in accordance with paragraphs 11-13 of the PCM Rules of Procedure, and was subsequently posted in the PCM Register, pursuant to paragraph 20 of the PCM RPs. The Complaint sought a Problem-solving Initiative, and if that were not possible, Compliance Review.

The allegations within the Complaint raised EBRD compliance with the ESP in relation to matters concerning:

- Due diligence and monitoring carried out by EBRD in respect to the implementation of the Project at the Ankara factory;
- Respect for freedom of association;
- The consistency of the dismissal of twenty workers following the May 2015 industrial action with relevant national and international standards;
- Wages, benefits and conditions of work (including in particular occupational health and safety issues, wages, and overtime);
- Stakeholder engagement and grievance mechanisms.

Following an Eligibility Assessment, which concluded that the Complaint was eligible for Compliance Review and ineligible for a Problem-solving Initiative, a Compliance Review was initiated in January 2016. PCM Expert Halina Ward was appointed by the PCM to undertake the Compliance Review.

The PCM Compliance Review included a review of project information in the public domain, EBRD internal documents, and documents provided by Türk Traktör and the Complainant. Face to face meetings and conference call meetings and discussions were held with the Relevant Parties, including with EBRD Environment and Sustainability Department (ESD) staff, with the EBRD's Operation Leader for lending to Türk Traktör, with the Complainant and Dutch-based non-governmental organisation acting as an advisor to the Complainant, and with managers at Türk Traktör.

The Compliance Review Expert also sought the input of a number of external experts and other interested parties. These included discussions with representatives of Koç Holding. Additionally, during a PCM visit to Turkey in February 2016, meetings were held with a group of long-standing workers and separately with elected trade union representatives at Türk Traktör's Ankara factory site; a representative of Türk Traktör's employer's union MESS; two former workers at the Türk Traktör Ankara factory; three Turkish academics specialising in Turkish labour law and/or industrial relations; and a lawyer representing former workers at the Türk Traktör Ankara factory in ongoing reinstatement and compensation proceedings.

During the course of the Compliance Review the Compliance Review Expert was also in contact with the International Labour Organisation (ILO) Freedom of Association Committee Secretariat, with the office of the World Bank Group's CAO, and with a UK-based labour expert with prior experience working in Turkey and with the CAO.

The Compliance Review Expert found:

- EBRD non-compliant in its application of the 2008 ESP general requirements and the requirements of PR 1 in relation to both appraisal and due diligence, and routine monitoring, of the Project's compliance with labour and occupational health and safety aspects of PR 2.
- EBRD non-compliant in its application of the ESP general requirements in relation to monitoring of the Project's compliance with labour and occupational health and safety aspects of PR 2 following the receipt of an initial complaint from the Complainant, and subsequently during the course of the PCM Eligibility Assessment and Compliance Review process.
- EBRD non-compliant with the general commitments of the 2008 ESP and with PR 10 in relation to routine monitoring with respect to the establishment of an external grievance mechanism.
- EBRD non-compliant with the general commitments of the 2008 ESP and with PR 2 and PR 10 in relation to monitoring following the submission of a Complaint to the Project Complaint Mechanism with respect to internal and external grievance mechanisms.

The Compliance Review Expert made 28 project-level recommendations and wider recommendations on improvements to EBRD internal systems and procedures. EBRD Management was requested to prepare a Management Action Plan, including a timetable and estimate of the human and financial resources required to implement the recommendations considered appropriate. The Management Action Plan included actions to address the recommendations at the project level and the level of EBRD systems and procedures. The Complainant submitted comments on the Management Action Plan. The final Compliance Review Report and Complainant's comments were submitted for information to the EBRD's Board of Directors, along with the Management Action Plan, which was submitted for acceptance. The Board accepted the Management Action Plan, and the Compliance Review Report, Management Action Plan and Complainant's comments were publicly released on 11 April 2017.

3. Current monitoring period

The PCM Officer reviewed an implementation update on the Management Action Plan regarding the Türk Traktör Project for the period March – October 2018, which was provided by EBRD Management in October 2018. The PCM Officer also invited the Complainants to provide comments regarding Management's implementation of the Management Action Plan. Such comments were considered in the preparation of this report. PCM organised a follow-up call with Complainants on 8 November 2018 to discuss Complainants comments on the management implementation update.

The PCM Officer reviewed several documents referenced by Management in the implementation update, namely:

- Clients' documentary evidence about overtime tracking, including confirmation that workers' annual overtime does not exceed the maximum 270 hours per year as permitted by law;
- Clients' occupational health and safety presentation, including comparative data about occupational health and safety incidents in 2016 and 2017; and
- Clients' annual environmental and social report addressed to EBRD for the period of January 2017 – December 2017.

Additionally, upon request of the Complainants, the PCM Officer shared this list of documents to provide context for Management's approach to implementing the commitments made in the Management Action Plan.

This monitoring period concluded with a joint call convened by the PCM on 11 December 2018 between Complainants, PCM team and Bank Management, to discuss Complainants' concerns regarding the implementation of individual Actions of the Management Action Plan.

4. PCM observations

In light of information received to date, and in accordance with the scope of the PCM Officer's monitoring role, the PCM Officer has made observations regarding the implementation of the Actions of the Management Action Plan (MAP) concerning the Türk Traktör Project.

In the discussion below, the Actions as set out in the MAP are included, with the accompanying information drawn from Management's implementation update. The PCM's comments are also provided.

In this second Monitoring Report PCM takes note of the actions of the Bank's Management and the efforts taken to work with the Client to implement the actions they committed to in their Management Action Plan. Accordingly, PCM considers Actions 1 and 2 under this Complaint closed. PCM will continue to monitor Action 4 and 5 during the next monitoring period.

Action 1. Overtime	Implementation update
<p>EBRD has already requested further information from Türk Traktör and has been in dialogue with them in relation to the overtime policies and procedures to ensure compliance with Turkish legal requirements. The company reports that a new system will be established in March 2017 to control overtime policies and to ensure compliance with national law. EBRD will review these new systems against the requirements of the Bank when they are introduced.</p> <p>Projected deadline: mid 2017. If the review indicates areas for improvement, EBRD will seek agreement with TT to implement those and will continue to monitor the practical implementation of the agreed measures.</p>	<p>EBRD has discussed in detail with TT the revised policies and procedures implemented and have reviewed the updated overtime system. EBRD is pleased to report that the policies, procedures and systems have been developed in line with best practice and meet EBRD's PR2 in full. Starting from March 2017, with implementation of the new electronic tracking system which is integrated into SAP, the overtime work is now strictly controlled by the Company management to ensure no worker's annual overtime exceeds the maximum 270 hours per year permitted by law at all units. As a result, the Company managed to reduce overtime rates by 77.45% in 2017 compared to 2015.</p> <p>Action complete</p> <p>2018 Update: documentary evidence has been provided to PCM for review in support of the above.</p>
<p>PCM comments:</p>	<p>The PCM reviewed supporting information from Management to confirm the steps taken in respect of the committed Action. Documentary evidence was provided to PCM related to workers working time tracking, confirming that workers' annual overtime do not exceed the maximum 270 hours per year as permitted by law. PCM received the Bank's confirmation that workers at Turk Traktor are given enough flexibility to accept or decline overtime free from disciplinary sanctions. The Action has been completed. The PCM considers no further monitoring is required</p>

Action 2. Occupational health and safety	Implementation update
<p>EBRD has requested a summary of occupational health and safety performance at the Ankara facility and agreed reporting requirements for future EBRD monitoring. This data has now been received and is subject to review against the recommendations of the PCM compliance report. The EBRD has also received all outstanding OHS reports.</p>	<p>H&S data has been reported to the Bank and EBRD has had detailed discussion with TT regarding reporting procedures and minimising H&S incidents. TT has developed a strong H&S culture and the reporting statistics are in line with expected figures for the industry. Examples of OHS statistics provided by the Company are as follows:</p> <ul style="list-style-type: none">- OHS incidents reduced by 21% compared to 2016.

EBRD has also discussed the allegations on muscular-skeletal injuries with the Client and is in the process to clarify how these issues will be monitored in the future. Opportunities for improvements may be discussed as necessary based on findings.

Projected deadline: mid 2017.

- No fatalities happened since 2015;
- LTI rate was reduced to 0.36 from 0.79 in 2015;
- Number of OHS trainings increased by 222% compared to 2015;
- No incident was reported related with muscular-skeletal injuries in 2017 however there were 11 MSDs requests raised through Medical Centre. The company conducted detailed ergonomics assessment for each posture and revised the MURI rating for that posture with the involvement of doctors and health and safety specialists. Relevant corrective actions were undertaken based on the outcome of the ergonomics assessment for all 11 cases;
- TT also initiated an Occupational Health and Safety Competition (OHS league) at their facilities to identify and award the continuous improvement efforts by workers. This programme has resulted in significant achievements including improving TT's ability to detect risks at their workplace, improving number of UA/UC/NACM report cards, reducing the LTI and FAI rates and in general raising OHS culture at the Company. This programme has been awarded by the Turkish Employers' Association of Metal Industries (MESS), in 2017.

Action Complete

2018 update: documentary evidence has been provided to PCM office for review in support of the above.

PCM comments: The PCM has received and reviewed documentation confirming occupational health and safety incident reporting by the Client for 2016 and 2017. The Action has been completed. The PCM considers no further monitoring is required.

Action 4. Dismissals	Implementation update
<ul style="list-style-type: none"> - EBRD has reviewed the Client's process for dismissals and clarified legal requirements in Turkish law, under the CBA, and the EBRD requirements on this issue. EBRD is currently in discussion with the Client to seek their agreement to implement additional measures, if not already done so. Projected Deadline: mid 2017. - The Bank is commissioning an analysis on the differences between Turkish Law and the provisions of the aspects of ILO core conventions. EBRD will discuss the issue with other IFIs and clarify the role of IFIs in situations where there may be gaps between ILO Conventions and national law. In general, where gaps are identified between core ILO Conventions and national law, these will be reflected in the normal EBRD/Country Strategy process and discussion held on the Bank's potential policy dialogue with the country. Projected deadline: end 2017 for the analysis. 	<ul style="list-style-type: none"> - EBRD discussed the reasons for dismissals and complaints related to the 20 workers out of thousands who joined the sector wide strike in 2015. The reports and evidences provided to the courts and to EBRD are generally related with violation of code of conduct and labour contract conditions (as documented and certified by the official reports and minutes issued by labour inspector and the notary public including the camera recordings), which were also verified by independent labour experts assigned by the Court. Court processes for all 20 cases have now been completed in favour of the Company including the appeal process at the Supreme Court. - EBRD has engaged ILO Turkey to discuss the gaps in legislations and practices in Turkey on Freedom of Association and Collective Bargaining against ILO standards. It was understood that ILO Turkey has been implementing a "social dialogue" project funded by EU, which includes a detailed gap analysis between Turkish Legislation and practices against ILO standards. Instead of duplicating

Following the conclusion of the judicial hearings relating to the dismissals, EBRD will commission an independent review of the process against the provisions of the ILO conventions and EBRD's requirements.

This will be completed in Q4 2017.

efforts, ILO agreed to share the findings with EBRD and other IFIs and disclose the results through a workshop when the study is completed in 2018.

- The EBRD has updated its Labour profile for Turkey since the completion of the PCM compliance report. The Labour profile and the new PR2 toolkit (discussed further below) specifically identify issues associated with the implementation of ILO conventions in Turkish Law. These documents will be used to inform the EBRD's Country Strategy for Turkey when it is next reviewed in 2019.

In addition, an updated labour risk assessment procedure has been developed for screening projects during the due diligence phase and monitoring. EBRD recommends that this item be closed.

Action Complete

2018 update: documentary evidence has been provided to PCM office for review in support of the above.

PCM comments:

The PCM looks forward to receiving the gap analysis in respect of Turkish law and ILO standards and updates from management on next steps to be taken by EBRD on how the findings of the gap analysis will be taken into account in its own policies. Accordingly, the PCM will continue to monitor implementation during the next monitoring period.

Action 5. Grievance mechanisms

Implementation update

EBRD has reviewed the Client's internal and external grievance mechanisms and how records related to the receipt and response to grievances are collected. Based on this, EBRD is currently agreeing reporting requirements with Türk Traktör for the AESR to the Bank. In particular, the Bank will review how workers, their representative organisations and the public are made aware of the grievance mechanisms and the process for raising concerns or comments.

Projected deadline: mid 2017.

The Company have improved both its external grievance and internal grievance mechanisms in the last two years:

- For external stakeholders - In addition to contact numbers and addresses, they added a new section on their website which allows third parties to contact directly with Turk Tractor. http://www.turktraktor.com.tr/tt_iletisim_formu.aspx
- Employee Grievances - TT has an Ethical policy and Code of Conduct where the complaints management process is described. Workers can raise complaints through various mechanisms through the union, Call Centre, Web Site (updated this year), E-Mail accounts, Phone, Face to Face discussions, Hardcopy Letter etc.
- Email accounts were set up for all employees including blue collar workers to enable direct and systematic communication with the workers in 2017 and allow workers to raise their complaints and demands to the management directly. The Company provided IT support for all workers to set up the outlook programme on their smart phones and computers. The rate of use of these email accounts is 95% (by November 2017) which is higher than any other Koç group companies. TT is regularly sharing information on HR policy practices, Company activities and news etc. and also asking feedback from employees on various issues through these emails; i.e. surveys were sent

to ask workers' feedback on transport services, catering services etc. Through these email accounts they can now reach to thousands of workers and receive their feedback in a short time.

The existing complaint mechanism is found to be sufficient in line with EBRD PR 2 requirements. Effective implementation of the complaints will be monitored as part of AESR.

Action Complete

2018 update: documentary evidence has been provided to PCM office for review in support of the above.

PCM comments:

The PCM looks forward to reviewing supporting information from Management to confirm the effectiveness of the Client grievance mechanism. PCM expects receiving information regarding the nature of complaints submitted by workers to the Client's grievance mechanism and the actions undertaken by the client to respond to grievances raised. Accordingly, the PCM will continue to monitor implementation during the next monitoring period.

5. Conclusions and next steps

Actions 3, 6, 7, 8 and 9 were completed during the first monitoring period. In this second monitoring report, Bank Management reported on efforts undertaken by the Bank and the Client in relation to the completion of the remaining Actions (1, 2, 4 and 5) and considers Action 1 and 2 closed. The PCM Officer will continue to monitor implementation of Action 4 and 5 during the next monitoring period.

The next Compliance Review Monitoring Report is expected to be issued in May 2019.