



## Problem Solving Summary

**MHP Corporate Support Loan and MHP Biogas  
EBRD Project Numbers 47806 & 49301  
Case 2018/09**

**October 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](http://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 <a href="#">IPAM Webpage</a>
CAO	the office of the Compliance Advisor Ombudsman of the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA) by the World Bank Group
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
MHP	MYRONIVSKY HLIBOPRODUCT PrJSC, a leading vertically integrated poultry/grain/fodder producer in Ukraine
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 Rules of Procedure	2014 Project Complaint Mechanism Rules of Procedure
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

On 5 June 2018, the EBRD's Project Complaint Mechanism (PCM) received a [Complaint](#) from community members (Complainants, or Requesters) from Olyanitsa, Zaozerne and Kleban villages in Vinnytsia Oblast of Ukraine. In the document, the Complainants asserted they had been adversely impacted by the activities of the EBRD investments in MHP (the Company, or the Client): the [MHP Corporate Support Loan \(47806\)](#) and the [MHP Biogas \(49301\)](#) .

Representatives of local and international civil society organizations (EcoAction Centre for Ecological Initiatives, CEE Bankwatch and Accountability Counsel) supported the Complainants. The Complainants indicated their preference for their concerns to be addressed through Problem Solving and if no agreement was reached, to move on to Compliance.

In September 2018, the PCM's Eligibility Assessors determined that the Complaint was eligible for both Problem Solving and Compliance Review in accordance with the [PCM Rules of Procedure](#). In the [Eligibility Assessment Report](#) the PCM's Eligibility Assessors recommended that the Problem Solving should be conducted in the first instance and the scope of any Compliance Review be considered at a later stage, pending the outcomes of the Problem Solving and following consultations with Parties.

A similar Complaint was submitted to the International Finance Corporation's Compliance Advisor Ombudsman (CAO). In order to avoid duplication of efforts, the Parties agreed for a co-facilitated process by PCM and CAO (the facilitation team).

The Problem Solving initiative was undertaken between September 2018 and August 2021. Overall, the Parties held 23 joint meetings with the support of the facilitation team, who also organised several bilateral meetings over the course of three years.

A safe space for dialogue was created for the Client and the Requesters to discuss the community concerns and expectations. During the process, Requesters and their Advisers received information on the status of the two MHP Projects, the potential environmental impacts and MHP's established mitigation measures.

During the process a range of positive outcomes were obtained, including partial understanding on certain matters of joint concern, such as: road traffic, communication protocol, use of pesticides, land lease, and others. The Parties' capacity to engage effectively in the dialogue process and communicate constructively was strengthened, supporting future opportunities for constructive engagement. Notwithstanding this, Parties have expressed at different moments that these gains have failed to meet their expectations.

However, by August 2021 it became evident to the Parties that the Problem Solving Initiative could not assist further in the construction of trust, so they informed the facilitation team of their decision to withdraw from the initiative as they considered that no further progress could be made within that dialogue space.

Therefore, the process was terminated as per Paragraph 2.4 c) ii of the Project Accountability Policy<sup>1</sup>. This document provides a high-level summary of the process as the Parties had requested for the process and its outcomes to be confidential.

A draft version was shared with the Parties and their comments were considered by IPAM in finalising the final version of the Summary. Once the Problem Solving Summary is submitted for information to the EBRD Board and the President, it will be made available to Parties and published on [Case 2018/09 Web Summary](#) in the [IPAM Public Registry](#) in both English and Ukrainian.

Following this, the Problem Solving stage will be closed and, at the request of the Requesters, the Case will be transferred to the IPAM Compliance function to assess if it meets the Project Accountability Policy criteria to undertake a Compliance Review.

#### **Notification to IPAM Compliance team**

Please note that the Requesters in Case 2018/09 have raised repeatedly the fear of retaliation and have been granted confidentiality. It would be recommended to undertake a risk assessment at the start of the compliance stage and adopt a mitigation plan to ensure safe and continued access to the mechanism.

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<sup>1</sup> On 1<sup>st</sup> of July 2020, the Independent Project Accountability Mechanism took over the Case from the PCM and continued its processing now under the 2019 Project Accountability Policy, which superseded the 2014 PCM Rules of Procedure on that date.

## 1. BACKGROUND

### 1.1 THE PROJECTS AND THEIR CURRENT STATUS

In the Complaint addressed to the PCM on 5 June 2018, community members from the villages of Olyanyatsa, Zaozerne, and Kleban in Vinnytsia Oblast, Ukraine refer to two EBRD investments in the Myronivsky Hliboproduct (MHP, the Company or Client), a leading vertically integrated poultry/grain/fodder producer in Ukraine:

#### [MHP Corporate Support Loan \(47806\)](#)

The MHP Corporate Support Loan of US\$85 million to PJSC MHP in Ukraine was approved on 28 October 2015 as a category B Project in accordance with the EBRD's 2014 Environmental and Social Policy. The purpose of the loan was to support the agricultural working capital needs of MHP associated with the growing of grains and oilseeds and the processing of these grains and oilseeds into raw material for fodder production. Particularly the loan would support the purchase of new agricultural equipment for crop farming as well as oilseed processing activities after the launch of a new soy processing plant.

According to public information, the project status appears as completed and MHP has fully repaid this loan.

#### [MHP Biogas \(49301\)](#)

A EUR25 million loan Project was approved on 13 December 2017 as a category B Project under the 2014 EBRD Environmental and Social Policy. The purpose of the MHP Biogas Project was to support MHP construct a Greenfield 10 MW biogas plant in Vinnitsa region of Ukraine. In addition, it would support MHP Group's strategy to improve the energy efficiency and environmental footprint of its operations.

According to public information, the Project's current status is under repayment by the MHP.

### 1.2 THE REQUEST

On 5 June 2018, the PCM received a Complaint connected with the two transactions described above. Community members from Olyanytsya, Zaozerne and Kleban villages in Vinnytsia Oblast of Ukraine, who asked for their identities be kept confidential, submitted the Complaint. Complainants are supported by local and international CSOs, namely EcoAction Centre for Ecological Initiatives, CEE Bankwatch and Accountability Counsel.

Complainants alleged impacts on the environmental and social conditions in the communities and limited access to information about MHP's activities and EBRD's investments in accordance with their obligations under the Bank's Environmental and Social Policy. The Complainants requested that a Problem Solving Initiative be undertaken by the PCM and, if not successful, a Compliance Review.

In summary, the Complainants asserted that:

- The construction and operation of MHP agribusiness activities in the local area, namely its interrelated Vinnytsia Poultry Farm and Zernoproduct Farm activities, caused continuous odour and dust impacts from a significant and growing number of facilities surrounding the three villages and from the application of manure on nearby fields. They further proposed that the planting of a vegetation barrier around the chicken houses might serve to mitigate the smell and potential environmental impacts;
- Project activities led to a drastic increase in heavy vehicle traffic through the villages, resulting in damage to roads and nearby residences, as well as additional impacts from dust, noise and foul odours for residents along major MHP thoroughfares;
- Community consultation processes were poor, based on inadequate disclosure of information, and involved pressure from Company representatives to support the Project and suppress any dissent;
- Complainants feared additional impacts from the Project, including pollution of air, water and soil. Water levels in some local wells had been noticeably depleted in recent years, and Complainants fear that this is caused by MHP's local operations;
- Complainants feared that the planned expansion of the Vinnytsia Poultry Farm, which will double its operations and involve construction of a new biogas plant, will also cause additional impacts;
- Complainants asserted that MHP failed to provide them with basic information that would allow them to understand the full extent of these and other impacts and be assured that the Company's activities will not negatively affect their environment and health; and
- Finally, Complainants raised a number of concerns about working conditions at Project facilities and employees' health and safety<sup>2</sup>

The Request raised risk of retaliation which has remained a concern of the Requesters during the processing of the Case under Problem Solving.

### 1.3 PROCESSING TO DATE

The PCM Officer registered the Complaint on 21 June 2018 in accordance with Paragraphs 11-13 of the [PCM Rules of Procedure](#).

On 29 June 2018, Mr Constantin-Adi Gavrilă was appointed as *ad hoc* PCM Expert to conduct the Complaint Eligibility Assessment jointly with the PCM Officer, in accordance with Paragraph 22 of the PCM Rules of Procedure.

During Eligibility, PCM held virtual meetings with Complainants, Bank staff and the Client during July 2018 and in-country consultations together with the CAO on a visit to the country in the week of 10-15 August 2018.

During the engagements, community members confirmed that their immediate priority was to pursue Problem Solving; the Compliance Review function could be considered at a later stage if the Problem Solving initiative was not successful. In these meetings, both Complainants and the

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<sup>2</sup> Request 2018/09, available in English and Ukrainian at: [2018/09 Request ENG](#) and [2018/09 Request UKR](#) .



Client confirmed their interest in having PCM and CAO provide a forum for facilitated dialogue, through which to discuss and seek to resolve the issues underlying the Complaint.

In September 2018, the [Eligibility Assessment Report](#) was disclosed in the PCM public registry. In the Report, the Eligibility Assessors determined that the Complaint was eligible for both Problem Solving and Compliance. However, given the preference of Complainants, Assessors recommended that Problem Solving should take precedence, and at a later stage, subject to its outcomes, determine the scope of a Compliance Review if relevant.

In October 2018, Mr. Roman Koval, a local Facilitator from Ukraine, was appointed by the Board to serve as PCM Problem Solving Expert. Simultaneously, the CAO appointed Tatsiana Bialiayeva as regional Facilitator for the CAO case. As agreed with the Parties, the Problem Solving initiative would be undertaken by PCM and CAO under a co-facilitating methodology.

On 1 July 2020, the Project Accountability Policy (PAP) came into effect superseding the PCM Rules of Procedure, and the Independent Project Accountability Mechanism (IPAM) replaced the PCM. As the Problem Solving initiative was ongoing, the Case was transferred to IPAM in line with the provisions set in the PAP for management of ongoing PCM cases. From that moment, the management of the Case continued under the supervision of the IPAM Head (Section V, literal b) as per the PAP.

## **2. THE PROBLEM SOLVING**

### **2.1 PROCESS DESIGN AND GROUND RULES**

In October 2018, the facilitation team, comprised by the PCM Problem Solving Expert and the CAO facilitator, conducted the first site visit. They met bilaterally with the Parties to introduce themselves and provide detail on the scope of the Problem Solving process. The facilitation team listened to each Parties' concerns, and confirmed their willingness to engage in a facilitated dialogue.

During the early engagement period, the PCM-CAO facilitation team identified a series of challenges that would require addressing to ensure a safe constructive space conducive to dialogue:

- The Parties' limited understanding about the Problem Solving process and its objectives;
- A low level of trust between the Parties due to different factors: a historical dispute, strong polarised positions, a series of unsuccessful attempts to engage in a facilitated dialogue and broken communication lines;
- The fear of retaliation amongst community members, etc.

Regarding the issues raised in the Complaint, the Complainants expressed an urgent need for assurances that the Client would consider and address them in a manner satisfactory to the community. However, from the Client's perspective some of the allegations were not grounded on facts.

Based on these findings, this first period (October 2018 to February 2019) focused on the design of the process, drafting of ground rules and the designation of representatives. On 18 February 2019, the Parties signed a confidential memorandum of understanding (the MOU) establishing the

ground rules and principles of engagement, the format to use in the process and how the Parties would make decisions, among other procedural matters that would guide the initiative.

In order to address the challenges identified, after due consultation with the Parties, a series of measures were introduced as safeguards to the process:

### **Capacity to engage**

As limitations on how to engage fruitfully in a Problem Solving initiative were identified as a challenge, the facilitation team offered training in collaborative negotiation, conflict resolution and effective communication. The Requesters and their Advisors took up the offer. When asked for feedback, they stated that these trainings helped them to engage more effectively and constructively in the Problem Solving process and make informed decisions about both the process and its outcomes.

### **Confidentiality**

To ensure the confidentiality of the process, the Parties agreed that in addition to already existing provisions under the MOU (mentioned above) some additional commitments were required:

- Signing of a non-disclosure agreement in relation to the Requesters' identities and the use of personal, information;
- Signing of a declaration through which Parties committed to refrain from instigating, carrying out or contributing to any form of retaliation or threat against each other.

As the risk of reprisals was an issue of concern from the community, Parties were informed of the institutional policies and practices in relation to retaliation.

## **2.2 COLLABORATION WITH THE IFC'S COMPLIANCE ADVISOR OMBUDSMAN**

In June 2018, a similar [Complaint](#) was submitted by the same group of Complainants to the Compliance Advisor Ombudsman (CAO) of the International Financial Corporation (IFC) of the World Bank Group. As per the 2014 PCM Rules of Procedure, PCM informed the CAO of the Registration of the Complaint. In order to avoid duplication of efforts and disturbance to common Parties, the Mechanisms decided to undertake a joint-facilitation Problem Solving initiative after consulting with the Parties.

In practical terms, as mentioned above, the co-facilitation involved the hiring of two independent facilitators (one by mechanism). The selection took into consideration gender balance and geographical location, as well as the provisions of each mechanisms' procedures. In addition to that, the mechanisms shared the costs of meetings logistics.

## **2.3 THE PROBLEM SOLVING PROCESS AND TIMEFRAME**

As stated before, the Problem Solving initiative took place from October 2018 to August 2021, when the Parties decided to withdraw their participation from the process.

After the signing of the MOU, the facilitated dialogue and exchange of information started. Overall, 23 joint dialogue meetings were facilitated by the PCM-CAO team, as well as numerous bilateral

meetings on-site and virtually. In addition, extensive written communication was conducted via email.

From October 2018 to February 2020, the Parties held nine in-person dialogue sessions dedicated to the exchange of information and discussion of the approximately fifty issues covered in the Request.

As of March 2020 and until August 2021, the in-person meetings were replaced by virtual engagement due to stay at home orders related to COVID-19. During this period, the facilitation team held numerous preparatory bilateral conversations with each Party and facilitated 14 virtual joint sessions.

## 2.4 SUMMARY OF ACTIVITIES

The facilitation team not only assisted the Parties in the 23 joint dialogue sessions (9 in person and 14 virtual) during the period October 2018 to August 2021. Given the multiple stakeholders involved and the level of coordination required for decision making<sup>3</sup>, the PCM-CAO team dedicated the time in between meetings in extensive bilateral consultations and preparations with the Parties, which also allowed for a series of positive outcomes.

As of March 2020 due to the COVID-19 Pandemic, the dialogue sessions had to take place virtually which presented new challenges to the initiative. In particular, Requesters had limited access to technology and required training on the use of online platforms, so that they could continue participating effectively in the dialogue. In this process, the CSO Advisors were of great help.

In two occasions, the Parties decided to put the process on hold to clarify their mutual understanding of the provisions of the MOU. The issues that required clarification were around conflict of interest, confidentiality, goodwill and mutual trust. The facilitation team supported both Parties in their engagement, by establishing communication protocols and adapting the strategy and format of the Problem Solving initiative among other actions.

In the summer of 2018, the Parties expressed their shared interest in conducting a Joint Fact-Finding process, aimed at identifying a group of independent experts that would offer opinions on the alleged environmental impacts in the three villages and traffic impacts of the Project on residents' houses in Olyanitsa and Zaozerne. A request for expressions of interest with agreed terms of reference was drafted with the assistance of the facilitation team and published in the public registries of the Mechanisms in both English and Ukrainian:

- [2018/09 Invitation Expressions of Interest Environmental Impacts UKR](#)
- [2018/09 Invitation Expression of Interest Environmental Impacts ENG](#)
- [2018/09 Expression of Interest Damage to Roads and Houses UKR](#)
- [2018/09 Expressions of Interest Damage to Roads and Houses ENG](#)
- [2018/09 Terms of Reference Damage to Roads and houses UKR](#)
- [2018/09 Terms of Reference Damage to Roads and Houses ENG](#)

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<sup>3</sup> A large number of Requesters, their Advisors and the Company officials involved. The coordination process between Requesters and Advisors to establish a common position, document translation, agreeing on meeting summaries and next steps, finding common language for public statements, etc.

The first call for experts was declared deserted as no expressions of interest were received, so Parties revised the terms of reference focusing on a pilot joint process of fact finding related to the impacts of traffic on five houses in Olyanitsa village.

A second call for proposals under the revised Terms of Reference was advertised in June 2020. ([2018/09 Call for Proposals Impacts on Houses UKR & ENG \(23 Jun 2020\)](#) and [2018/09 Terms of Reference Impacts on Houses UKR & ENG \(23 Jun 2020\)](#))

The Parties interviewed several potential expert candidates and finally agreed on one expert, the work plan and the sources of funding the pilot. However, as one of the Parties informed of its intention to withdraw from the Problem Solving process in July 2021, the assessment did not take place.

### **Joint Statements**

Within the process, the facilitation team also assisted the Parties in the drafting and disclosure of joint statements to communicate progress. In January 2020, the Parties issued a first [Joint Statement](#) summarizing the process progress to that date and interim outcomes. The statement was disclosed in the public registries of PCM and CAO and through the local media.

In May 2021, Parties issued a second [Joint Statement](#) informing on process to that date.

### **Termination of the Problem Solving Initiative**

In July 2021, despite increased efforts undertaken by Parties and the support offered by Mechanisms, one of the Parties informed of its decision to withdraw from the dialogue process facilitated by the Mechanisms, which was then seconded by the other Party. In August 2021, IPAM and the CAO met with both Parties bilaterally to confirm their decision.

## **2.5 PARTIES' DECISIONS**

The proceedings of the 23 joint meetings (9 in person and 14 virtual) are of a confidential nature but each one resulted in a number of understandings between the Parties in relation to the concerns raised in the Request.

**Roads Safety.** The Parties agreed on the development of several socially important projects in the Vinnytsia region, in particular in Tulchyn and Trostyanets districts, namely:

- In April 2019, MHP commissioned the bypass road around Olyanitsa village and opened the railroad crossing on this road. The construction and opening of this road was the result of MHP's efforts initiated before the Complaint, which resulted in a partial reduction of traffic through the village.
- As suggested by the Complainants, in December 2019, MHP conducted joint information events with police officers and local school students about traffic rules, distributed informational materials and reflective materials to raise awareness about roads safety to protect children during the winter months.

In addition to this, several discussions were held to seek alternatives to increase the effectiveness of the bypass road, and address the impacts generated by MHP transport and its subcontractors. Responding to Complainants suggestions, the Company agreed to monitor and take actions on cases of road traffic rules violation by MHP transport users, namely:

- MHP redirected the MHP heavy vehicles and agricultural machinery to the bypass road in Olyanitsa;
- MHP incorporated in its manual and contracts drivers' obligations to respect Ukrainian traffic regulations, including the speed limit of 50 km/h when driving through the village.

**Water supply.** In parallel with the Problem Solving process, in early 2019, MHP supported the development of a water supply system in Olyanitsa village through its corporate social responsibility funds, as the community had identified water supply as a priority. In addition, the Parties agreed to discuss the remaining issues related to access to water and water quality in the three villages during subsequent Problem Solving sessions.

**Communication protocol,** in addition to existing regular communication channels, the Parties adopted a communication protocol to address any urgent matters. The Company assigned local staff to attend these issues, sharing their contact details with the Community members.

**Houses expertise.** Approximately 40 houses are located in the main road in Olyanitsa. The Parties discussed and agreed on a methodology for the assessment of the impacts on a sample of five damaged houses to identify which factors had contributed to their damage. They also agreed to share the costs of the pilot assessment under a mutually agreeable payment schedule and include the facilitation team as impartial third parties.

**Use of pesticides.** Responding to the Requesters' concern on pesticides used by MHP, the Company provided the list of those used, their dosage and the application methods. MHP has assured the Requesters that the use of pesticides is in accordance with Ukrainian regulations.

**Land lease.** During March – April 2021 the Parties discussed and agreed on the way MHP would communicate to landowners when renewing land lease contracts. The [May 2021 Joint Statement](#) was disclosed providing detail on the process that MHP committed to follow.

## Outstanding Issues

By the end of the Problem Solving Initiative, the following issues remained unresolved:

**Joint Fact Finding.** Despite Parties' attempt to assess the damages on the roads and buildings in Olyanitsa, the pilot did not take place as the process came to an end before it could take place.

**Farm Odours.** The Parties explored options to manage the odour from chicken farms, manure storage and the biogas plant, such as the planting of trees throughout the perimeter. However, no agreement was reached on this issue before termination.

**Water supply.** Parties discussed the issue of water supply in Olyanitsa and Zaozerne. MHP presented a procedure for residents to decide on the socially needed projects in their community through majority voting and ways to receive financial assistance from the company as a way to improve their access to water. The water supply issues in Zaozerne were not addressed during the Problem Solving initiative, nor were the concerns about water quality in the three villages.

**Roads safety.** Parties have acknowledged that progress was achieved in terms of roads safety, but Requesters still have concerns regarding traffic going through the villages.

**Workers Health and Safety.** These concerns were initially discussed but no agreements were reached in relation to the allegations of workers' health and safety and unfair working conditions.

**Information disclosure.** While Parties have discussed extensively the way MHP is disclosing information about its Projects and how they consult with the local population, Requesters were not fully satisfied with the information received.

**Impacts on the environment.** The assessment of MHP's impacts on the environment was initially included as a topic for the Joint Fact Finding initiative, but as no expressions of interest were received for the advertised service, the item was dismissed.

## 2.6 FEEDBACK FROM PARTIES

After the termination of the initiative, IPAM requested Parties to provide feedback on both the process undertaken and whether they found their expectations had been met.

The Requesters expressed their appreciation for the training received over the course of the Problem Solving as this helped to build their engagement capacity. In addition, they now consider that it would have been useful to receive training on reprisal risk assessment and mitigation.

They had hoped to be able to resolve all the issues they raised in the Complaint, thus regret that only a partial resolution was possible. From their point of view, the Company did not fully deliver on the agreements made and their work has not been adequately acknowledged by MHP when engaging with the community.

The Company considered that the initiative helped to improve its community engagement capacity. They added that the Problem Solving was an opportunity to receive feedback on their work from project-affected people; as well as to share with Requesters relevant information in an accessible format. The Company regrets that their efforts to implement various social projects for the benefit of the neighbouring communities were not appreciated by the Requesters. As regards the process format, MHP would have preferred a more structured time bound dialogue covering a pre-set list of topics. Finally, MHP would have hoped for the dialogue process to generate a stronger partnership with the Requesters and achieve more tangible results than the ones obtained.

## 2.7 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 reach agreements in relation to those concerns. Although this process did not reach the expected agreements, due to limitations faced throughout the dialogue, a series of positive outcomes were achieved.

### Outcomes

**Information shared.** MHP provided some information to Requesters and their Advisors on the status of the two MHP Projects, their potential environmental impacts and established mitigation measures.

**Increased communications.** In spite of the lack of trust, the Client and the Requesters were able to discuss, brainstorm and exchange views on issues of mutual concern through the creation of a facilitated safe space conducive to dialogue.

**Stronger capacities.** The Parties' capacity to engage effectively in dialogue processes and communicate constructively was strengthened and can be used to support future engagement.

## Limitations

**Lack of trust.** The lack of trust was evident from the start and unfortunately, the process did not manage to build the trust needed to reach an agreement. There were moments during the Problem Solving process when Parties shared common views on the issues under discussion. Those positive moments were encouraging and empowering for all participants. However, those episodes of success were not enough to build the trust to the level that would help to overcome other difficult moments. Despite all the efforts undertaken, the Problem Solving Initiative could not assist the Parties in building sufficient trust to address the issues in a collaborative and sustainable manner.

**Challenges in finding common ground.** From the start the process has been characterised by strong polarisation, with Parties positions set at wide distance from one another. This meant that finding common ground even for issues where Parties appeared to agree has involved long discussions and protracted negotiations. On more sensitive issues, the strong polarisation and lack of trust has made it impossible to identify a common ground.

**Ground Rules.** Due to divergent interpretations of the Ground Rules by Parties, the process had to be suspended several times for clarifications, particularly around the topics of confidentiality and conflict of interest. In their feedback to IPAM, the Parties have expressed the need for clearer ground rules and an early clarification of their scope to ensure a common understanding.

## 2.8 LESSONS LEARNED FOR IPAM PROBLEM SOLVING

In addition to the above, IPAM acknowledges that there were a number of procedural challenges which might have prevented the initiative to advance. This section aims to generate lessons for IPAM Problem Solving function and future initiatives.

**Coordination between Mechanisms.** IPAM (before PCM) and CAO have common mandates and functions, but their procedures present slight differences, which make harmonisation difficult at certain milestones. This might have generated unwarranted confusion to the Parties and added administrative steps. As lesson learned from this and other processes, IPAM is establishing a series of criteria to determine whether coordination with sister organisations is in the best interest of the Case stakeholders.

**Co-facilitation.** The process definitely gained from having two independent facilitators, particularly due to the number of stakeholders and issues raised in the Request. However, coordinating schedules for dialogue sessions proved difficult and at times responses to Parties on urgent matters was not as swift as needed. In consideration of this, IPAM will engage with stakeholders, including sister organisations with whom it decides to collaborate, as early in the process as possible to analyse methodological alternatives and identify the best possible options for the case at hand.

**Technical expertise.** During the course of the Problem Solving, it became necessary to engage third party expertise. The process for defining terms of reference, identifying sources of funding and selection of the experts took a long time with the Problem Solving process closing before the assessment took place. In future, the mechanism should try to provide better and timelier support to this kind of initiatives. This can be done through early identification of issues that would require third party technical expertise, counting with template terms of reference and earmarking resources to complement those provided by the Parties.

**Covid-19 travel restrictions.** Although several virtual meetings took place from March 2020 to July 2021, facilitators could not travel to the area due to travel restrictions. Virtual facilitation is complex in itself, but became even more of a challenge in an environment with a fragile trust foundation and limited technological skills from some of the stakeholders. IPAM considers that when a Problem Solving process is in its first stages or the trust between Parties is weak, virtual facilitation is not a feasible option.

**Addressing the risk of reprisals.** Requesters and their Advisers raised throughout the Problem Solving process, the fear of retaliation. While the facilitation team jointly with Parties undertook the measures available at the time to ensure a safe and constructive engagement, this remains an issue of concern as the case moves to a new stage that requires addressing. For future Cases in Problem Solving, IPAM should not only perform periodic risk assessments but also collaboratively with the affected Party agree on a risk mitigation plan that allows for safe participation in the process.

### 3. CONCLUSION AND NEXT STEPS

Considering the decision to withdraw from the Problem Solving Initiative, in August 2021, the process was terminated as per Paragraph 2.4 c) ii of the Project Accountability Policy. The current document provides a high-level summary of the process as the Parties had requested for the process and its outcomes to be confidential.

A draft version was shared with the Parties and their comments considered by IPAM in finalising the final version of the Problem Solving Summary for this Case. Once the document is submitted for information to the EBRD Board and the President, it will be made available to Parties and published on [Case 2018/09 web file](#) in the [IPAM Public Registry](#) in both English and Ukrainian.

After disclosure, the Problem Solving function will be closed and, at the request of the Complainants, the case will be transferred to the IPAM Compliance function to assess if it meets the criteria to undertake a Compliance Review as per paragraph 2.6 b) of the Project Accountability Policy.

#### **Notification to IPAM Compliance team**

Please note that the Requesters in Case 2018/09 have raised repeatedly the fear of retaliation and have been granted confidentiality. It would be recommended to undertake a risk assessment at the start of the Compliance stage and adopt a mitigation plan to ensure safe and continued access to the mechanism.