



Independent
Project
Accountability
Mechanism

Compliance Assessment Report

MHP Corporate Support Loan (47806)

MHP Biogas (49301)

Case Number: 2018/09

October 2022

The Independent Project Accountability Mechanism (IPAM) is the accountability mechanism of the EBRD. It receives and reviews concerns raised by Project-affected people and civil society organisations about Bank-financed Projects, which are believed to have caused harm. IPAM may address Requests 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 dialogue between the Requesters and the Client to resolve the issue(s) underlying a Request without attributing blame or fault. Affected Parties can request one or both of these functions.

For more information about IPAM, contact us or visit <https://www.ebrd.com/project-finance/ipam.html>

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

List of Abbreviations

Abbreviation	Long Form
AIP	Access to Information Policy
CAO	International Finance Corporation's Compliance Advisor Ombudsman
CHP	Combined heat and power facility
CSOs	Civil Society Organisations
E & S	Environment & Social
EBRD or the Bank	European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment
ESAP	Environmental and Social Action Plan
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESP	Environmental and Social Policy
GHG	Greenhouse Gas Emissions
GIP	Good International Practice
HQ	Headquarters
IFC	International Finance Corporation
IPAM	EBRD's Independent Project Accountability Mechanism
MAP	Management Action Plan
MHP / Client/ Company	PJSC Myronivsky Hliboproduct
MHP Group / the Group	Myronivsky Hliboproduct Group
NTS	Non-Technical Summary
PAP	Project Accountability Policy
PCM	Project Complaint Mechanism
PR	Performance Requirement
PSD	Project Summary Document
PSI	Problem Solving Initiative
SPZ	Sanitary Protection Zone
SEP	Stakeholder Engagement Plan

Executive Summary

The Request

In 2018, community members (“the Requesters”) from villages in Vinnytsia Oblast, Ukraine, (supported by a number of civil society organisations (CSOs)) who considered they had been affected in various ways by the operations of PJSC Myronivsky Hliboproduct (“the Client”, “the Company” or “MHP”), and its subsidiaries, submitted a Request to the Project Complaint Mechanism (PCM) of the European Bank for Reconstruction and Development (EBRD or the Bank).

The Requesters claimed that the construction and operation of MHP agribusiness subsidiary activities in their area, have caused ongoing odour and dust impacts from a significant and growing number of facilities surrounding the cited villages and from the application of manure on nearby fields. They also alleged that the activities of the Company led to a drastic increase in heavy vehicle traffic, 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. They further complained that the stakeholder consultation processes had been generally poor, citing inadequate disclosure of information and the lack of opportunity to voice their concerns, and that community members had been pressured to accept any new facilities proposed. Furthermore, they feared additional impacts, including pollution of their air, water and soil, in particular from impacts to be generated by the planned expansion of the Vinnytsia Poultry Farm, which was to double its operations and involve construction of a new biogas plant. The Requesters questioned the conduct of the Bank in providing financing to MHP, particularly the categorisation of the financed Projects as category B instead of A and the failure to consider the cumulative impacts of MHP operations, given that it is a vertically integrated¹ company.

The Requesters simultaneously presented a Request to the International Finance Corporation (IFC)’s Compliance Advisor Ombudsman (CAO) in June 2018. Together with PCM, the CAO initiated a Problem Solving process, which ended in 2021 without an agreement. The case was then treated pursuant to the Compliance process of both mechanisms.

The Projects

MHP, a sub-holding company of Myronivsky Hliboproduct Group (“MHP Group”, “the Group”), is a leading vertically integrated poultry/grain/fodder producer in Ukraine and has been a Client of the EBRD since 2010.

The Request mentioned four Bank Projects that financed a range of activities of MHP, but after discussion with CSOs it has been agreed that only two will be considered by IPAM. The Projects considered for this Assessment are the following:

- a) [MHP Corporate Support Loan \(47806\)](#) approved by the Board on 28 Oct 2015, for a total of USD 85 million, with the aim to:
 - i. finance working capital needs for farming/fodder activities;

¹ Vertical integration is a strategy that allows a company to streamline its operations by taking direct ownership of various stages of its production process rather than relying on external contractors or suppliers. A company may achieve vertical integration by acquiring or establishing its own suppliers, manufacturers, distributors, or retail locations rather than outsourcing them.

- ii. finance and refinance capital expenditures related to agricultural equipment and soy processing plant for MHP Group's agricultural farming operations.

The MHP Corporate Support Loan of 2015 was categorised B in accordance with the 2014 EBRD Environmental and Social Policy (2014 ESP). The loan was repaid on 30 September 2019².

- b) [MHP Biogas Project \(49301\)](#) approved by the Board on 13 Dec 2017 to finance the construction of a greenfield 10 MW biogas plant located at the Vinnytsia Poultry Farm site in the amount of EUR 25m. The Project was part of MHP's long term strategy to develop green energy capacity at all of its poultry facilities, using agricultural residues as feedstock.

The Project consisted of several components:

- A biogas complex;
- Combined heat and power (CHP) facility;
- A new access road to the biogas complex, among others.

The Project was categorised B in accordance with the 2014 ESP. The construction was completed on 8 November 2019. The Project is currently in the repayment phase.

Conclusions

At the Compliance Assessment stage IPAM does not perform an exhaustive analysis of all relevant documentation nor does it engage with all relevant stakeholders, but it does perform a preliminary review to determine if the criteria to move forward with a Compliance Review is met.

IPAM has reviewed the documentation presented by the Requesters, Management, and the Client. It has also reviewed public information and project documentation not available to the public related to the case and has engaged with the Parties through virtual calls and through e-mail follow-up questions to consider the different perspectives.

In accordance with the Compliance Assessment provisions outlined in Section 2.6(b) of the Project Accountability Policy (PAP), IPAM considers that Case 2018/09 meets the criteria established for a Compliance Review on the basis that:

- i. upon preliminary consideration, it appears that the Projects may have caused, or may be likely to cause, direct or indirect and material harm to the Requesters (or, if different, the relevant Project-affected People); and
- ii. there is an indication that the Bank may not have complied with one or more provisions of the 2014 ESP or the Project-specific provisions of the Access to Information Policy (AIP), in force at the time of Project approval.

Therefore, **IPAM recommends proceeding with a Compliance Review within the framework of the proposed Terms of Reference** set out in Annex 1. IPAM has consulted with the Parties on the proposed Terms of Reference, considered all comments and suggestions and adopted those deemed relevant.

² [MHP Corporate Support Loan PSD](#). Accessed 11 May 2022

Next Steps

This Compliance Assessment Report will be submitted to the Board and the President for information, shared with all Parties and disclosed in the [IPAM Case Registry](#). As per the Terms of Reference, the Compliance Review process will initiate immediately after the disclosure of this Report.

IPAM wishes to thank the Parties for their involvement in this stage and will continue engaging with them all during the Compliance Review process.

1. Background

1.1. The Request

On 5 June 2018, community members (“the Requesters”) from the villages of Olyanytsya, Zaozerne and Kleban in Vinnytsia Oblast, Ukraine, who considered they had been affected in various ways by the operations of PJSC Myronivsky Hliboproduct (“the Client”, “the Company” or “MHP”), and its subsidiaries, Vinnytska Ptahofabryka LLC, Vinnytsia Poultry Farm Branch Complex for Manufacturing Feeds LLC and PrJSC Zernoproduct MHP, submitted a Request to the EBRD PCM. Their submission was supported by representatives of local and international civil society organizations (EcoAction Centre for Ecological Initiatives, CEE Bankwatch, and Accountability Counsel) acting as advisors to the Requesters.

The Requesters claimed that the construction and operation of MHP agribusiness activities in their area, specifically Vinnytsia Poultry Farm and Zernoproduct Farm activities, have caused ongoing odour and dust impacts from a significant and growing number of facilities surrounding the cited villages and from the application of manure on nearby fields. They also alleged that the activities of the Company have led to a drastic increase in heavy vehicle traffic, 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.

They complained that the stakeholder consultation processes had been poor, citing inadequate disclosure of information, and that community members had been pressured to accept any new facilities built by the companies. They asserted that some landowners were pressured to accept long-term lease agreements without an opportunity for negotiation and were not informed correctly about the planned use of the leased land.

Furthermore, they feared future additional impacts, including pollution of air, water and soil that were to be generated by the then planned expansion of the Vinnytsia Poultry Farm, involving a doubling of its operations and construction of a new biogas plant.

In the Requesters’ view the Bank had failed to comply with its Environmental and Social Policy (ESP) in relation to four funding operations to MHP.

The Requesters considered that the Bank had not complied with its 2014 ESP in relation to the following Performance Requirements (PRs): PR 1 (Assessment and Management of Environmental and Social Impacts and Issues); PR 2 (Labour and Working Conditions); PR 3 (Resource Efficiency and Pollution Prevention and Control); PR 4 (Health and Safety); PR 5 (Land Acquisition, Involuntary Resettlement and Economic Displacement); and PR 10 (Information Disclosure and Stakeholder Engagement). The Requesters indicated their preference for their concerns to be addressed through a Problem Solving process and, if no agreement was reached, to move to Compliance Review. For full details of the allegations presented, the Request can be accessed in the [Case Registry](#).

The Requesters simultaneously presented a Request to the IFC CAO. Together with PCM, the CAO initiated a Problem Solving process. In 2021, the Problem Solving process was terminated without an agreement. The case is now being treated pursuant to the Compliance process of both mechanisms. IPAM is in contact with its sister mechanism to avoid duplication and consider collaboration opportunities wherever possible.

1.2. The Projects and their Current Status

MHP, a sub-holding company of Myronivsky Hliboproduct Group (“MHP Group”, “the Group”), is a leading vertically integrated poultry/grain/fodder producer in Ukraine and has been a Client of the EBRD since 2010. The Bank’s involvement with MHP up to the receipt of this Request spanned four Projects³ of which two are the subject of this report.

Project	Amount	Date of Board Approval	Category	Current Status
Project MHP (41132)	USD 65 million	6 May 2010	B	Completed
MHP Farming (45253)	USD 100 million	29 Oct 2013	B	Completed
MHP Corporate Loan (47806)	USD 85 million	28 Oct 2015	B	Completed
MHP Biogas Project (49301)	EUR 25 million	13 Dec 2017	B	Active – Repayment

After discussion with the Requesters and their representatives it has been agreed that due to the elapsed time between the Projects and the Request only two should be formally considered. However, as the subsequent transactions relied to some extent on E&S material produced in relation to these transactions, they continue to be of relevance and that material will be reviewed as a part of the in-depth investigation. They are noted here.

The first transaction was a USD 65 million loan to support MHP (41132) approved by the EBRD Board on 6 May 2010. The financing was used for working capital associated with expanding operations (i.e. purchasing of sunflower seeds and other raw materials for further processing and/or use in production of poultry meat – Tranche 1) as well as for the construction of a biogas plant at the poultry farm Oril Leader, Dnipropetrovsk region (Tranche 2).⁴ The loan was categorised B under the 2008 Environmental and Social Policy. On 20 December 2013, the loan was repaid.

The second transaction was in the amount of US\$100 million for the MHP Farming Project (45253) approved by the Board on 29 October 2013. The Project was intended to:

- i. finance the acquisition of agricultural and grain infrastructure operations in Russia, and
- ii. finance capital expenditures related to agricultural equipment for MHP Group’s agricultural farming operations in Ukraine:

The Bank relied on the due diligence conducted for the 2010 loan and collaborated closely with the IFC, who was also financing MHP and shared its due diligence findings with the Bank. The loan was categorised B under the 2008 Environmental and Social Policy. On 25 September 2017, the loan was repaid⁵.

³ On April 2022, the Board approved further additional funding to MHP under Project number 53698 as a part of the Resilience and Livelihoods Framework but is not included in the complaint.

⁴ [MHP Agribusiness Loan 2010 PSD](#). Accessed 11 May 2022

⁵ [MHP Farming Loan 2013 PSD](#). Accessed 11 May 2022

On 28 Oct 2015, the Board approved the third transaction for a total of USD 85 million, the MHP Corporate Support Loan (47806) the purpose of which was to:

- i. finance working capital needs for farming/fodder activities;
- ii. finance and refinance capital expenditures related to agricultural equipment and soy processing plant for MHP Group's agricultural farming operations.

The MHP Corporate Support Loan of 2015 was categorised B in accordance with the 2014 ESP. The loan was repaid on 30 September 2019⁶.

The fourth transaction, MHP Biogas Project (49301), was approved by the Board on 13 Dec 2017, to finance the construction of a greenfield 10 MW biogas plant located at MHP's Vinnytsia poultry facilities in the amount of EUR 25m. The Project was part of MHP's long term strategy to develop green energy capacity at all of its poultry facilities, using agricultural residues as feedstock.

The plant is located in the town of Ladyzhyn (10 km from Olyanytsya and Zaozerne; 20 km from Kleban) and the Project consisted of several components:

- A biogas complex;
- Combined heat and power (CHP) facility;
- A new access road to the biogas complex, among others.

The Project belongs to the Vinnytsia Poultry Farm, a subsidiary of MHP. The plant uses floating sludge and 50% of the chicken manure from MHP's Vinnytsia complex (which earlier was disposed of on land) and generates heat, a by-product from electricity production, which is returned to the Vinnytsia slaughter complex, substituting natural gas consumption.

The Project was categorised B in accordance with the 2014 ESP. The construction was completed on 8 November 2019. The Project is currently in the repayment stage.

1.3. IPAM Processing to Date

Table 1. Projects and PCM/IPAM proceedings timeline

Date	Event
6 May 2010	EBRD Board approval of MHP Loan (41132)
29 October 2013	EBRD Board approval of MHP Farming Project (45253)
28 October 2015	EBRD Board approval of MHP Corporate Support Loan (47806)
13 December 2017	EBRD Board approval of MHP Biogas Project (49301)
5 June 2018	Filing of MHP Request to PCM
21 June 2018	Registration of MHP Request by PCM as case 2018/09
25 September 2018	Eligibility Assessment Report for 2018/09 MHP Case issued
1 October 2018	President's Decision to proceed with Problem Solving for 2018/09 MHP Case
1 July 2020	PCM replacement by IPAM
29 October 2021	Problem Solving process for 2018/09 MHP Case ended without an agreement
30 October 2021	Compliance Assessment stage initiated for 2018/09 MHP Case

⁶ [MHP Corporate Support Loan PSD](#). Accessed 11 May 2022

a) Registration of the Request

The PCM (predecessor to IPAM) received the Request on 5 June 2018 which was then registered on 21 June 2018.

b) Eligibility Assessment

On 29 June 2018, Constantin-Adi Gavrila was appointed as ad hoc PCM Expert to conduct the Eligibility Assessment according to the PCM 2014 Rules of Procedure (2014 RP).

In September 2018, the PCM determined that a Problem Solving Initiative (PSI) could assist in resolving the issues raised. It was further determined that the PSI should be conducted in the first instance, and the scope of any Compliance Review would be considered at a later stage, pending the outcomes of the PSI and subject to further discussions with Relevant Parties. Accordingly, the terms of reference for the Compliance Review would be developed and discussed with parties to the extent possible at that time.

c) Problem Solving Initiative

Between September 2018 and August 2021, a PSI was jointly undertaken by the PCM and the CAO. In July 2020, the PCM was replaced by IPAM and the 2014 RP were superseded by the 2019 PAP.

During the process, the Parties reached partial understanding on matters such as road traffic, communication protocol, the use of pesticides, and the leasing of land. Nevertheless, they expressed at different moments that the gains failed to meet their expectations and in August 2021, the Parties informed IPAM and the CAO of their decision to withdraw from the process due to the lack of progress in reaching an agreement.

d) Compliance Assessment

As Requesters considered that their concerns had not been adequately addressed via the PSI, they asked IPAM to have their Request considered for a Compliance Review.

As per para. 2.6 of the 2019 PAP, under the Compliance Review Assessment stage, the Request is assessed to determine whether it meets the criteria for an investigation by IPAM. A Case is eligible for a Compliance Review if IPAM deems that:

- i. upon preliminary consideration, it appears that the Project may have caused, or may be likely to cause, direct or indirect and material harm to the Requesters (or, if different, the relevant Project-affected People); and
- ii. there is an indication that the Bank may not have complied with a provision of the Environmental and Social Policy (including any provision requiring the Bank to monitor Client commitments); or the Project-specific provisions of the Access to Information Policy (AIP), in force at the time of Project approval.

The Compliance Assessment stage has a standard duration of 60 business days from the date of issuance of the Assessment Report. This period may be extended to ensure robust processing or if translation of documents is required. At the end of this stage, a Compliance Assessment Report is prepared containing the findings made by IPAM and its determination on the eligibility of the case from within two alternative outcomes:

- recommend proceeding to a Compliance Review, having determined that the criteria set out in para. 2.6 (b) are met. In this case, the Compliance Assessment Report is submitted for information to the Board and the President with terms of reference for a compliance review.
- recommend closing the case, having determined that the criteria set out in para. 2.6 (b) are not met. In this Case, the Compliance Assessment Report is submitted to the Board for approval on a no objection basis.

After sharing with the Board and President, the Report is made available to Requesters, Bank Management and the Client and is publicly disclosed on the IPAM Case Registry.

In the current Case, the Compliance Assessment stage was initiated on 30 October 2021 and completed on 10 October 2022. The Compliance Assessment stage has taken longer than the expected timeframe due to the complexity of the case that required more deliberations, followed by hostilities in Ukraine, which prevented IPAM's planned visit to the project site. The Assessment has been completed through review of documents and virtual engagement with Parties. The Parties have also had the opportunity to comment on the Terms of Reference.

2. EBRD Management Response

A summary of Management's Response regarding the issues raised in the Request is provided in this section. Management firstly acknowledged the effort undertaken by the Parties, as a part of the PSI, and expressed understanding of the complexity and limitations of the process, which were further magnified by the Covid-19 pandemic.

Management emphasised that, despite having a business relationship with MHP since 2010, it has not provided finance specifically for the business activities the subject of the Request. According to Management, "All four EBRD loans to MHP Group were provided to PJSC Myronivsky Hliboproduct, a sub-holding company of the Group in Ukraine, as the Borrower. Vinnytska Ptahofabryka LLC, Vinnytsia Poultry Farm Branch Complex for Manufacturing Feeds LLC and PrJSC Zernoproduct MHP, mentioned in the Request letter dated 5 June 2018, were not direct borrowers under those EBRD loans nor were the proceeds of those EBRD loans channelled to, or for the benefit of, those companies." In the view of Management, that means that the Bank's leverage over those companies' activities was "limited to the scope of the respective Projects" and not to their entire operations. Management assert that with each loan, the due diligence conducted by the Bank has been commensurate with the Project and its impacts, and the associated requirements have been limited to the scope of the Project.

Management went on to state that, despite this, due to the long-standing engagement with the MHP and implementation of separate improvement plans, which were part of the Bank's Projects, the MHP has upgraded its environmental and social practices, and also compliance, corporate social responsibility and stakeholder engagement, going beyond the scope of the financed Projects. This was achieved by the Bank conducting project-specific environmental and social (E&S) audits, which resulted in project-specific Environmental and Social Action Plans (ESAPs) agreed with the Client and required for the Projects signed in 2010 and 2017. These ESAPs included a range of requirements that were covenanted in the loan agreements, and subsequently monitored by the Bank. In addition, Management noted that at the end of 2015 in response to certain civil society concerns that had been raised since 2013, the Bank commissioned a separate external E&S monitoring mission, which concentrated on the issues raised by CSOs. Based on the results of the 2015 E&S monitoring mission, a broader-ranging ESAP was also developed to mitigate the identified issues. According to Management, all ESAPs have been fully implemented and MHP's operations are in line with Ukrainian legislative requirements and are substantially in accordance with good international practice.

Bank Management also noted that concerns against the EBRD financing of MHP were first raised in 2013 and between then and the launch of the PCM Problem Solving process in 2018, the Bank was actively engaging with all Parties to facilitate the resolution of the issues. Management stated that the Bank was acting as an intermediary between the Parties, undertaking site visits to ensure ongoing interaction with local communities and CSOs, and soliciting and promoting improvements in the Client's stakeholder engagement and information disclosure policies. Furthermore, it engaged external experts to monitor progress on the implementation of the ESAPs and ensure better information provision from the EBRD side.

Bank Management concluded in its Response that in its consideration the Client improved its processes in a substantial way over the years and had hoped that unresolved issues could be addressed through the continued dialogue between the Client and local communities.

3. Compliance Assessment Findings

In order to determine whether the Case is eligible for a Compliance Review, IPAM has considered documentation and information collected during the Compliance Assessment stage for the allegations presented in the Request and checked the project documentation and information provided by all Parties. Below is a summary of the preliminary findings.

Regarding the Client and the link to EBRD Projects under consideration

The Client

MHP is the largest producer and exporter of chicken in Ukraine. The company specializes in the production of chicken and, in particular, the cultivation of cereals, as well as other agricultural activities (manufacture of meat and sausage products and ready-to-eat meat products).⁷

Figure 1. Subsidiaries

NAME	COUNTRY OF REGISTRATION	YEAR ESTABLISHED/ ACQUIRED	PRINCIPAL ACTIVITIES	31 DECEMBER 2021	31 DECEMBER 2020
Refcon Holding Limited	Cyprus	2006	Sub-holding Company	-	100.0%
Heenaq Investments Limited	Cyprus	2019	Sub-holding Company	-	100.0%
Endem Investments Limited	Cyprus	2008	Sub-holding Company	-	100.0%
MHP Ltd S.A.	Luxembourg	2019	Parent Company	100.0%	100.0%
MHP	Ukraine	1992	Management, marketing and sales	99.0%	99.8%
Myronivsky Plant of Manufacturing Feeds and Grains	Ukraine	1998	Feed and vegetable oil production	88.5%	88.5%
Vynnykiv Pivkharobnyk	Ukraine	2011	Chicken farm	100.0%	100.0%
Peremoga Farm	Ukraine	1999	Breeder farm	99.0%	99.8%
Oril-Ludsk	Ukraine	2003	Chicken farm	99.0%	99.8%
Myronivska Pivkharobnyk	Ukraine	2004	Chicken farm	99.9%	99.9%
Stanyvka Pivkharobnyk	Ukraine	2003	Breeder farm	100.0%	100.0%
Zernogradsk MHP	Ukraine	2005	Grain cultivation	99.0%	99.8%
Kalynivshchynskiy Elevator	Ukraine	2005	Feeder production and grain storage, vegetable oil production	99.0%	99.8%
SFC Ukrzhay	Ukraine	2006	Grain cultivation	99.0%	99.9%
Agrosil	Ukraine	2006	Grain cultivation	99.0%	99.8%
MHP-Groshayna Skayva	Ukraine	2010	Grain cultivation	99.0%	99.8%
Ukrainian Bacon	Ukraine	2008	Meat processing	79.9%	79.9%
MHP-AgroKryzh	Ukraine	2013	Grain cultivation	51.0%	51.0%
MHP-Agro S	Ukraine	2013	Grain cultivation	51.0%	51.0%
Zakhol-Agro MHP	Ukraine	2015	Grain cultivation	100.0%	100.0%
Perutina Plj d.o.o.	Slovenia	2019	Poultry production	100.0%	100.0%
MHP Food Trading	United Arab Emirates	2015	Trading in vegetable oil and poultry meat	100.0%	100.0%
MHP BV	Netherlands	2014	Trading in poultry meat	100.0%	100.0%
MHP Trade BV	Netherlands	2018	Trading in poultry meat	101.0%	100.0%

The Group's primary operational facilities are located in different regions of Ukraine as well as in Southeast Europe, including Slovenia, Serbia, Croatia and Bosnia and Herzegovina (represented by Perutina Plj d.o.o. together with its subsidiaries).

On 16 April 2021 merger of MHP Ltd with its subsidiaries, namely Refcon Holding Ltd, Heenaq Investments Ltd and Endem Investments Ltd took place. All assets and liabilities of merging companies have been transferred to the successor company MHP Ltd. Subsidiary companies were dissolved.

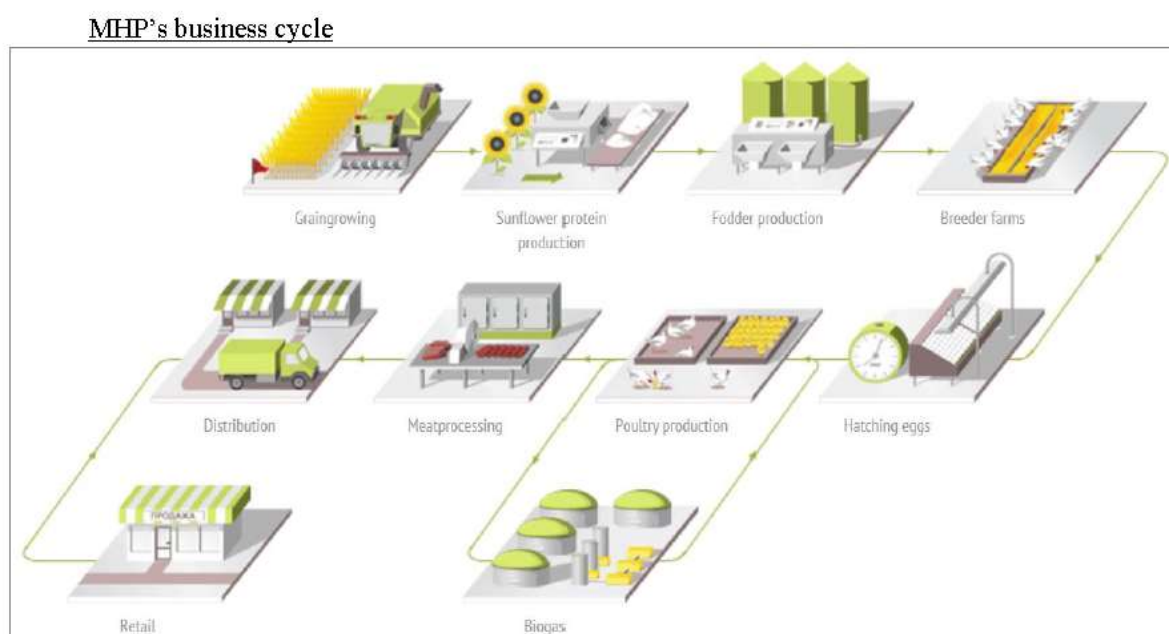
Source: MHP Annual Report and Accounts 2021. Accessed 12 September 2022

MHP Group is a vertically integrated agribusiness and food company undertaking a wide range of activities including grain production, animal feed production, hatching egg production, animal rearing and meat production. Other minor operations within the group include fruit production and a cement and construction materials plant. The operations are supported by their own fleet of vehicles, and food products are sold through a network of franchised stores. Ancillary operations

⁷ [MHP website](#). Accessed 11 May 2022

include boiler houses, effluent treatment, storage and refrigeration etc. at the various sites. Renewables are also included in their portfolio of operations with biomass plant using husk for power generation. The MHP emphasises its “own unique business model” of full vertical integration, which allows it to “effectively control all processes and ensure the production of chicken that meets the highest international standards of compliance”, as well as “providing control over the cost of production”.⁸ The figure below shows the close interrelationship that is the basis of MHP’s business model.

Figure 2. MHP business cycle



Source: MHP website. Accessed 27 April 2022

Corporate Support Loan (47806)

The MHP Corporate Support Loan (47806) from 2015 was a corporate-level loan, which requires a corporate level environmental and social assessment and measures. Generally, that should translate into the improvement of internal policies of the Client, which should trickle-down to its subsidiaries.

The 2014 ESP provides specific wording for working capital loans, such as the MHP Corporate Support Loan (47806). It states at paragraph 38 that “where the Project involves general corporate finance, working capital or equity financing for a multi-site company, the Client will be required to develop measures at the corporate level (as opposed to the project-specific level) to meet the PRs over a reasonable time period. Where the use of proceeds is for specific physical assets, the use of proceeds will be subject to the Performance Requirements. In the case of proceeds that are not directed at specific physical assets, the requirements of paragraph 32 above will apply.” Para. 32 requires that the Bank will “(i) assess the investment based on the risks and impacts inherent to

⁸ [MHP website](#). Accessed 29 June 2022

the particular sector and the context of the business activity, and (ii) assess the client's capacity to implement the project in accordance with the PRs." PR1 of 2014 ESP further specifies that in such cases, the Client's current ESMS and past and current performance will be assessed against the applicable PRs.

The corporate level assessment, according to PR 1 of the 2014 ESP, should:

- assess the Client's ability to manage and address all relevant social and environmental impacts and issues associated with its operations and facilities against the requirements described in the PRs;
- assess the Client's compliance record with applicable environmental and social regulatory requirements applicable in the jurisdictions in which the Project operates;
- identify the client's main stakeholder groups and current stakeholder engagement activities.

The exact scope of the corporate assessment should be determined on a case-by-case basis.

In the PSD of the 2015 MHP Corporate Loan transaction (47806), it was explained that the environmental and social due diligence for the Project was based on information compiled for the earlier EBRD Projects and updates provided by the Client to EBRD. The due diligence also included a review of the local environmental impact assessment and the public disclosure process undertaken for the construction of the new soy processing plant. Management considered that while the project was a corporate loan, the business activities for which financing was sought were clearly defined and associated with the growing of grains and oilseeds, and the processing of these grains and oilseeds into raw material for poultry fodder production. Hence the due diligence was focused on those elements commensurate with the level of environmental and social risks associated with the project activities. Based on that, the Bank considered that "given the lack of E&S impacts associated with the Project", the due diligence conducted previously on the Company and the progress made on the implementation of the existing ESAP, no additional actions would be required of the Company as a part of this Project. The Company was required to continue to comply with the EBRD's PRs and provide annual environmental and social reports to the EBRD.

Biogas Project

The MHP Biogas Project (49301) is a loan for construction of a specific facility. In its context the location of the plant on the grounds of Vinnytsia Poultry Farm, which provides manure for the biogas plant's operation raises questions about the extent of the associated facilities of the biogas plant and how they were assessed by the Bank.

The MHP Biogas Project (49301) was subject to an independent environmental and social due diligence (ESDD). It included the analysis of MHP's policies and procedures in relation to different PRs. As a result, Bank Management concluded that at the poultry farm division, where the Project is sited, there was the appropriate expertise for the management of key environmental, hygiene, health and safety aspects. The Project had two EIAs prepared. The first one included only the planned standalone biogas facility. The second was a more comprehensive EIA, covering all Project components (such as linear infrastructure) and associated overall impacts. It was prepared after advice from the Bank (included in the ESAP as described below) and as a result of public consultations.⁹ However, the Biogas Project was still treated as separate from the main poultry farm's facilities, which are located in the same area and provide waste to generate the biogas.

⁹ Interview with the Client on 12 January 2021.

Taking into account this preliminary review, IPAM notes three important considerations:

1. MHP is a vertically integrated group where the operation of any subsidiary is dependent on the operation of the others within the group;
2. The 2015 MHP Corporate Loan was partially disbursed for the working capital of the holding company, which was likely to affect its subsidiaries;
3. The biogas plant is located in proximity to the poultry farm operations and uses the chicken manure generated by the poultry production to generate energy.

Therefore, it appears to IPAM that the funding provided by EBRD to the two relevant Projects covered by this Compliance Assessment might have assisted the expansion of poultry operations by MHP in Ukraine generally, and the Vinnytsia region specifically. This would suggest that Management cannot simply assert that the loans were to MHP Group in isolation from its subsidiaries and that this merits further investigation to determine whether the funding indeed contributed to MHP's operations expansion and whether there is in fact a link between the EBRD financing and the harms alleged by the Requesters.

Further, Management in their response have described how due to the long-standing engagement with MHP and the implementation of separate improvement plans, pursuant to the Bank's Projects, MHP has upgraded its environmental and social practices. As part of its investigation, IPAM believes that there is merit to reviewing whether the described improvements were sufficient to meet the Bank's environmental and social requirements and the extent to which they addressed the issues now raised by the Requesters. The nature of the MHP Corporate Loan Project, which required due diligence and the establishment of environmental and social measures on the corporate level, merits investigation into how those were applied and what impact they had on the functioning of MHP's subsidiaries. IPAM will also need to consider what due diligence had been done for the first two loans (in 2010 and 2013) as this was used as a basis for the 2015 corporate loan.

IPAM also considers that further investigation is required to understand how Vinnytsia Poultry Farm operations are linked to the biogas plant and if they can be considered the plant's associated facilities and the extent to which those impacts should have been assessed.

3.1. Regarding categorisation, environmental and social impacts and overall E&S assessment and mitigation process

On cumulative impacts and associated facilities

In the Requesters' view, the Bank should have required MHP to conduct and disclose a comprehensive ESIA covering all operations of both the Vinnytsia Poultry Farm and Zernoproduct Farm. The Requesters claim that the assessment of the EBRD Projects breached PR1 requirements, because: it failed to assess in an integrated way, all relevant direct and indirect environmental and social impacts; because it did not assess cumulative impacts of associated facilities; and because it did not consider risks stemming from the supply chain.

The Requesters claim that due to an absent cumulative impact assessment, MHP had failed to provide them with relevant information on its operations' scope, scale, risks, impacts and relevant

mitigation measures. They mentioned as an example the main road through Olyanytsya, which is “the only logical route between many of MHP’s slaughterhouse, fodder plant and many chicken brigades on one side and their manure storage facility in Hordiivka on the other”¹⁰.

The Requesters allege that MHP’s approach of producing separate environmental assessments for each facility resulted in these road use impacts being “missed entirely”. In their view, MHP and its subsidiaries’ operations call for “an integrated approach to impact assessment and stakeholder engagement”. For example, regarding the road traffic, the Project Summary Document (PSD) for the MHP Biogas Project identified that there had been road traffic-related risks representing an issue of community concern, however, the impact assessment of the plant did not include sufficient discussion on linear infrastructure, and moreover, all impacted communities were not included in the consultations.

PR 1 of the 2014 ESP prescribes that the environmental and social assessment process must also identify and characterise, to the extent appropriate, potentially significant environmental and social issues associated with activities or facilities which are not part of the Project, but which may be directly or indirectly influenced by the Project, exist solely because of the Project or could present a risk to the Project. These associated activities or facilities may be essential for the viability of the Project, and may either be under the control of the client or carried out by, or belong to, third parties.

Additionally, the assessment process must consider cumulative impacts of the Project in combination with impacts from other relevant past, present and reasonably foreseeable developments as well as unplanned but predictable activities enabled by the Project that may occur later or at a different location.

Considering the nature of the 2015 MHP Corporate Loan, which was partially dedicated to working capital of MHP group and the proximity and links of the MHP Biogas Plant with the poultry facilities, IPAM finds it merits a review of how cumulative impacts and associated facilities have been assessed as a part of both Projects.

On Project categorisation

The Requesters allege that the Bank’s classification of the EBRD Projects as Category B breaches the provisions of the 2014 ESP. Through its loans, Requesters allege, the Bank effectively decided to engage in Projects involving intensive animal rearing and encompassing a large scale of operations concentrated in the overlapping Vinnytsia Poultry Farm and Zernoproduct Farms. Specifically, they claim that the Bank’s loans of 2015 and 2017 were applied to activities of MHP’s grain and fodder production and the utilisation of wastes from the existing poultry facilities and agricultural residues to generate biogas, which were integral to the Company’s expansion.

In the view of the Requesters, the Bank’s failure to consider the MHP activities in an integrated way led to an incorrect categorisation of the Projects by the Bank, which then prevented comprehensive assessment and adequate disclosure and public consultations. The Requesters point out specifically that “the adverse environmental and social impacts along the supply chain for the biogas plant are not site-specific and/or readily identified”, meaning it should have been categorised as a Category A Project. This also applied to the impacts of the associated linear infrastructure needed for the biogas plant.

¹⁰ [Case 2018/09](#). Accessed 11 May 2022

As explained in the Request, MHP's "vertically integrated business model means that the Vinnytsia Poultry Farm, and its planned expansion, will involve construction of significant additional facilities within a relatively concentrated geographic area, in a rural setting that has never before experienced this degree of industrial activity".

All four financing operations approved by the Bank to MHP were categorised as B. Under the ESP this means that that the Bank considered that in each case "adverse future environmental and/or social impacts are typically site-specific, and/or readily identified and addressed through mitigation measures". The categorisation as B, implies the environmental and social appraisal requirements may vary depending on the Project and are determined by the EBRD on a case-by-case basis. As a minimum, any appraisal should characterise potential future adverse impacts associated with the Project, identify potential improvement opportunities, and recommend any measures needed to achieve them.

Category A Projects, on the other hand, have greater impacts which are not readily identified, and require a more formalised and participatory environmental and social impact assessment process.

The 2014 ESP does not provide detailed advice on A categorisation but presents a list of examples of Projects that should be categorised as A. The EBRD Environmental and Social Risk Categorisation List – Revised 2014¹¹ provides advice regarding the level of risk related to Clients' activity. Raising of poultry is categorised as overall medium risk, similar to the growing of cereals (except rice), leguminous crops and oil seeds, which means that "business activities have limited environmental and social risks and impacts, and these are capable of being readily prevented or mitigated through technically and financially feasible measures". However, mixed farming¹² should be categorised as high risk, meaning it "may give rise to significant or long-term environmental and social risks and impacts. These may require more specialised risk assessment, and the customer may not have the technical or financial means to manage them".

On its preliminary review, IPAM finds that it merits an in-depth review to determine whether either or both Projects justified a category B classification or whether a category A classification would have been more appropriate. The review will look into how vertical integration, cumulative impacts and the planned expansion of the poultry farms are related to the EBRD financing and if they could influence the Project categorisation. IPAM notes that the 2014 ESP is more general and less precise on the issue of how cumulative impacts can influence the Project categorisation than the current 2019 ESP. Accordingly, this requires more in-depth consideration, beyond the scope of Compliance Assessment, to consider the implications of the 2014 ESP language. Hence it will be addressed as a part of the Compliance Review.

3.2. Regarding stakeholder engagement, the disclosure of Project information, and the Project grievance mechanism

According to the Requesters, the consultations on the Projects did not meet the EBRD PRs, largely due to the incorrect classification of the Project as Category B, which caused insufficient standards to be applied to the stakeholder engagement process. Furthermore, they claim that the

¹¹ [EBRD Environmental and Social Risk Categorisation List – Revised 2014](#). Accessed 11 May 2022

¹² As further explained: "The size of the overall farming operation is not a determining factor. If either production of crops or animals in a given unit is 66% or more of standard gross margins, the combined activity should not be included here, but allocated to crop or animal farming. [EBRD Environmental and Social Risk Categorisation List – Revised 2014](#). Accessed 11 May 2022

consultative process did not allow for them to participate meaningfully for a number of reasons including: limited disclosure of relevant information; insufficient consultation with only one meeting per facility held;¹³ and intimidation tactics to neutralize opposition¹⁴. They also consider that the Bank had failed to ensure the adequate implementation of the EIA Directive and the principles of the Aarhus Convention, as decisions to proceed with the Project had not incorporated stakeholder inputs.

In addition, the Requesters allege that the Client fell short of proper disclosure of impacts and mitigation measures. According to the Request, information about these was not easily available to the Project-affected people. It also claims that the environmental assessment documents disclosed did not provide adequate information on Project risks and potential negative impacts, and none of the disclosed documents provided information on any of the Bank's ESAP requirements or progress in implementing them. Particularly for MHP Biogas, the footprint of the Project was not clear and the ESAP was not disclosed nor any information on its implementation provided.

The Requesters point out that the Client did not have an appropriate local grievance mechanism to resolve community concerns, which stands in violation of PR10. According to the Requesters, the 2016 Stakeholder Engagement Plan for the Vinnytsia Poultry Farm Processing Complex said that anyone could submit a Request. It further said that anonymous Requests would be registered and sent to the responsible managers. But the Plan went on to explain that "according to the Law of Ukraine 'On citizens' appeals' the company reserved the right not to respond to such requests." In the view of the Requesters, this explanation created uncertainty about the Client's treatment of anonymous Requests, discouraging potential complainants from raising their concerns unless they were willing to disclose their identity. The referenced law did specify that enterprises are not required, under that law, to review and consider anonymous Requests, but this does not relieve the Client of its obligations under the Bank's PRs to provide a culturally appropriate and accessible grievance redress mechanism.

PR 10 of the 2014 ESP prescribes that stakeholder engagement should be conducted on the basis of providing local communities that are directly affected by the Project and other relevant stakeholders with access to timely, relevant, understandable and accessible information, in a culturally appropriate manner, and free of manipulation, interference, coercion and intimidation. The disclosure of information should concentrate on helping stakeholders understand the risks, impacts and opportunities of the Project. PR 10 applies to all Projects that are likely to have adverse environmental and social impacts and issues on the environment, workers or the local communities directly affected by the Project, regardless of whether they are Category A or Category B Projects.

IPAM notes that according to the Management response, concerns about the activity of MHP and its subsidiaries have been raised since 2013. At the time of the due diligence for 2015 MHP corporate loan, the Bank was aware that MHP had been the subject of a number of complaints from local CSOs in relation to their disclosure practices and the lack of environmental and social information.

¹³ The allegations concern mostly the construction of new Vinnytsia Poultry Farm's Brigades, which are stand-alone chicken farms scattered around the area.

¹⁴ The Requesters further allege that stakeholders met with manipulation, interference or intimidation, which included coercing the employees to participate in consultation meetings to support the companies' developments or were threatened with job losses if their family members were outspoken about the activities of the Client.

To address these concerns, the Bank commissioned independent environmental and social consultants WSP Parsons Brinckerhoff to produce a monitoring report. The monitoring report was based on a site inspection in November 2015 and had the following objectives:

- Review MHP Group's implementation of the E&S plans agreed as part of the first investment Project in 2010;
- Undertake a critical review of the current activities associated with the themes raised as concerns by the CSOs / NGOs and local people.¹⁵

The scope of assessment included the review of MHP Group's policies, procedures and implementation on selected sites (including at the poultry farm). This review was not part of the approval of 2015 MHP Corporate Loan Project but originated from the ongoing relationship with the Client and complaints being received by civil society. Nevertheless, it addressed a number of issues which were later raised in the Request.

The stakeholder engagement issues were a prominent topic covered in the monitoring report. The report concluded that MHP Group were "willing and proactive with regards to engagement and consultation"¹⁶, but additional effort needed to be made with regards to appropriate information disclosure, transparency of information and also ensuring grievances were responded to and managed appropriately, including any grievances which were not formally submitted using the company's Grievance Form. Recommendations were proposed in order to improve performance with regards to transparent and meaningful stakeholder engagement and consultation and were included in an updated ESAP.

More specifically, the following areas for improvement with regards to consultation and information disclosure were identified:

- More tailored information on when public consultations were to take place, in particular considering different stakeholder groups as recommended below, and continuing to provide adequate advanced warning of these sessions;
- Provision of transport or other means to ensure that anyone interested would have ease of access to the sessions;
- Ensuring that the Stakeholder Engagement Plans which were produced on a local business level, are locally owned by senior management and their requirements are robustly implemented;
- More formalised systems to provide advanced opportunity for any stakeholders to become familiar with the EIA material; and
- The need for the provision of focus group sessions: to address concerns of specific groups; to provide private focus; and to address issues of any vulnerable groups, so as to ensure that the views of all stakeholders were obtained.¹⁷

The full ESAP has not been made public. However, a summary of findings of the report was published on the EBRD website in English and Ukrainian.¹⁸

IPAM notes that despite this effort, concerns about stakeholder engagement and disclosure of information persisted and formed a key element of the current Request. IPAM believes that this merits an in-depth review of the corporate practices of MHP and its subsidiaries.

¹⁵ [MHP Corporate Support Loan PSD](#). Accessed 11 May 2022

¹⁶ [Summary of the WSP report](#). Accessed 11 May 2022

¹⁷ [Summary of the WSP report](#). Accessed 11 May 2022

¹⁸ [Summary of the WSP report](#). Accessed 11 May 2022

Separately, the Requesters also allege insufficient stakeholder engagement and disclosure of information for the MHP Biogas Project. The PSD of the Project states that “formal Project information disclosure was undertaken through public hearings required under the national permitting process”. According to the PSD, a joint public hearing was held addressing the requirements of both the Detailed Territory Plan and the preliminary EIA of the Biogas Complex on 29th June 2017 and further information disclosure was planned. However, it also acknowledges that “overall information disclosure pertaining to all Project components (including the linear infrastructure Project elements) and associated overall impacts have not been performed to date.”¹⁹

Furthermore, it is reported that an ESAP was developed for the MHP Biogas Project and agreed with MHP, which required the latter to define and implement a Project-specific Communication and Disclosure Programme covering the implementation of all Project components²⁰, but the actual ESAP was not made publicly available.

Regarding the biogas facility, Requesters pointed out confusing information. EBRD financing was approved for a construction of a 10 MW biogas plant but the MHP website²¹ describes the plant as having an energy capacity of 12 MW. It also mentions that the biogas complex construction itself is being implemented in two stages with a planned installed power capacity of 24 MW. These discrepancies in information call for further investigation of how the information about the Project has been shared with the stakeholders.

Considering discrepancies in public information about the Project and issues raised about stakeholder engagement, IPAM believes that the issue merits further investigation as related to both EBRD Projects, especially in light of the review of the categorisation of the Project, which could have a significant impact on the stakeholder engagement requirements.

3.3. Regarding the impact of vehicle traffic

The Requesters allege that significant risks and impacts from heavy vehicle traffic, both as linked to the biogas plant and to the general operations of the MHP subsidiaries in the area, were not properly identified or mitigated. They stress that the heavy traffic impacts have caused significant harm to more than 40 households in the Olyanytsya village since 2010. In 2015, a bypass road was agreed by MHP and the Olyanytsya village council, as a measure to reduce the impact of traffic on the main road through Olyanytsya. The PSD for the MHP Biogas Project noted that the road-traffic related risks were a community concern and that the issue would be addressed by MHP building a new access road. However, due to the continuing need to use the existing road network, associated mitigation measures and related management planning were included in the ESAP. In the view of the Requesters, the impacts were not properly assessed or mitigated, which resulted in the Client’s failure to develop sufficient mitigation measures. The Requesters emphasise that the Client had disclosed only limited information about the risks and impacts of the Project, therefore, they had difficulties assessing whether planned mitigation measures were sufficient. Moreover, some mitigation measures that were promised to the community were not carried out.

¹⁹ [MHP Biogas PSD](#). Accessed 11 May 2022

²⁰ [MHP Biogas PSD](#). Accessed 11 May 2022

²¹ [MHP website](#). Accessed 11 May 2022

The issue of traffic was not addressed as a part of due diligence for the MHP Corporate Loan Project in 2015, it was however a subject of the WSP Parsons Brinckerhoff due diligence in November 2015. Despite noting it as a concern of the community, the consultants did not cover it in their summary report. IPAM currently does not have information as to why this was omitted. However, it does provide evidence that the allegations persisted for a prolonged time²².

PR 4 on Health and Safety requires the Client to identify, evaluate and monitor potential traffic and road safety risks to workers and potentially affected communities throughout the Project life cycle and, where appropriate, to develop measures and plans to address them. The Client should implement technically and economically feasible and cost-effective road safety components into the project design to mitigate potential road safety impacts on the local affected communities. Once again the ESAP for the MHP Biogas Project also included the development of a Traffic Management Plan and the implementation of measures for vehicle monitoring.

Despite the completion of mitigation measures prescribed in the ESAP of the MHP Biogas Project, the Requesters claim they have continued being affected by the increased road traffic. IPAM has not identified any assessment covering the traffic impacts in an integrated way and finds it merits an investigation to establish how the impacts were identified and if the mitigation measures prescribed in the MHP Biogas Project's ESAP were sufficient. It will also review to what extent the traffic concerns had been acknowledged and addressed as a part of the MHP Corporate Support Loan Project.

3.4. Regarding access to water

The Requesters express their fear that the Client's operations have reduced or will reduce their access to water, without adequate identification, mitigation or monitoring. They point out that PR3 of the 2014 ESP requires the Client to adopt measures for minimising water consumption and improving efficiency in its use of water and other resources. The measures should mostly concentrate on the core Project's functions but other operations should also be considered in the Requesters' view. Moreover, under PR3 the Client is required to consider the potential cumulative impacts of water abstraction upon third party users and to demonstrate that the proposed water supply will not suffer adverse impacts on the water resources crucial to third parties.

IPAM notes that PR 3 stipulates that the environmental and social assessment process should identify opportunities and alternatives for resource efficiency relating to the Project in accordance with GIP. In doing so, the client should adopt technically and financially feasible and cost-effective measures for minimising its consumption and improving efficiency in its use of energy, water and other resources and material inputs as well as for recovering and re-utilising waste materials in implementing the Project.

More specifically, Clients must seek to minimise the Project's water use, and in situations where a project-specific water supply needs to be developed, the Client should seek to utilise water for technical purposes that is not fit for human consumption, where feasible. More detailed measures are prescribed for Projects with a high water demand (greater than 5,000 m³/day), which would include the MHP Biogas Project.

²² [Summary of the WSP report](#). Accessed 11 May 2022

Access to water was one of the concerns raised by CSOs with the Bank before the 2015 audit by WSP Parsons Brinckerhoff and it was included in the scope of audit. The audit concluded that the local environmental impact assessments which had been developed for existing and proposed Projects detailed the water consumption and wastewater generation associated with the activities. However, the assessments of potential impacts were not considered to be fully robust, in particular in relation to cumulative impacts across a whole farm scale development. While it was considered that due to the flow volumes within a major local river, which provided water to the Vinnytsia Poultry Farm, there was unlikely to be an issue relating to sustainable water yield, no specific assessments were at the time available to demonstrate this. However, the audit also noted that the abstraction levels were within legally permitted levels from the authority issuing the water abstraction permits. Although the study concluded that the wastewater treatment arrangements were excellent, and aligned with EU level Best Available Techniques, as well as being in compliance with the Ukrainian requirements, a series of recommendations were proposed in order to improve this process.²³

For the biogas facility, the PSD estimated water consumption to be approximately 5,155 m³/day, mainly for sanitary and associated purposes. It stated that the technological water use at the biogas complex was ensured through recirculation of 80% of the digestate liquid phase. The remaining 20 per cent would be discharged into a lined lagoon, located within the biogas complex site, and would then be used as fertiliser on the agricultural fields cultivated in the area by MHP.²⁴

IPAM was not able to find evidence at this stage of the assessments for water usage being conducted for either of the loans the subject of this report. Therefore, it will review this issue in the in-depth investigation. In addition, as the issue of cumulative impacts on water has been raised in the 2015 audit, IPAM will include it in its review.

3.5. Regarding pollution and health impacts

The Requesters express their fear that the Client's operations had polluted or would unreasonably and unnecessarily pollute the local environment, which may lead to health impacts. They point to the provisions of PR 3 referenced above. However, due to alleged poor information disclosure, the Requesters did not have full information on the anticipated or actual pollution impacts of MHP's operations. The Requesters specifically point out: i) they are not clear if the Client has implemented all necessary mitigation measures; ii) they fear risk of water-pollution related diseases; iii) they fear that the Client's operations had caused or would cause air pollution to exceed international health standards, without adequate monitoring; and iv) they fear that the Client had not adequately assessed GHG emissions.

IPAM notes that PR 3 outlines a project-level approach to resource management and pollution prevention and control, building on the mitigation hierarchy, the principle that environmental damage should as a priority be rectified at its source, and the "polluter pays" principle. The project-related impacts and issues associated with resource use, and the generation of waste and emissions need to be assessed in the context of Project location and local environmental conditions.

IPAM further notes that PR 4 requires the Client to identify and assess project-related risks and adverse impacts to the health and safety of the potentially affected communities and to develop

²³ [Summary of the WSP report](#). Accessed 11 May 2022

²⁴ [MHP Biogas PSD](#). Accessed 11 May 2022

protection, prevention and mitigation measures proportionate to the impacts and risks, and appropriate to the stage, size and nature of the Project.

The November 2015 audit by WSP Parsons Brinckerhoff covered the issue of odours linked to manure management raised by complaints from civil society. The audit concluded that in relation to health-related concerns, during manure application processes, there was considered to be a low likelihood of health-related risks, especially considering the short application timescales and the fast incorporation techniques employed by the company. Good incorporation techniques had been developed, as described within the EU 'BAT' Best Practice document, to reduce exposure and therefore minimise health related risks. The assessment found that MHP employed good practice arrangements; and if these were maintained then the presence of significant risks associated with the storage and handling of manure would be highly unlikely.²⁵

As for the MHP Biogas Project, the Project itself has been aimed at utilising wastes from the existing poultry facilities to generate biogas to be used as an alternative energy source by using state-of-the-art technology. Best available techniques were to be employed for the reduction and control of air emissions including a 3-stage desulphurisation process. Benefits of the Project were associated with the reduction of GHG emissions through better chicken litter management, and capturing methane gas through anaerobic digestion to substitute natural gas combustion at the existing slaughterhouse in Ladyzhyn. According to the emissions calculation performed by MHP, it was expected that the Project will be associated with GHG emission reduction of approximately 85,500 tonnes of CO₂ equivalent yearly.²⁶

According to the PSD, for the biogas complex a Sanitary Protection Zone (SPZ) extending 500m from the site boundaries was defined. The nearest residential house was located 1000 m from the biogas complex site boundaries and no sensitive receptors are located within 500 m radius. The regulatory SPZ requirements are therefore met for the biogas complex. The Combined Heat and Power (CHP) facility was to be located within an existing facility with SPZ defined and associated regulatory requirements met. Therefore no SPZ conflict was expected in association with the Project CHP facility.²⁷

During the interviews as a part of the Compliance Assessment, the Requesters admitted that since the beginning of the operation of the biogas plant, the odours have decreased. However, the fears of other pollution, including GHG emissions, remained a concern. They specifically pointed out the following issues: a) Air pollution and emissions related to sources other than manure; b) the failure to provide natural "forest" barriers to odour and air pollution; and c) Pollution and health impacts related to pesticide use.

In its review, IPAM will look into how the community safety and pollution impacts were approached as a part of both Projects, particularly with regards to cumulative impacts in the area.

3.6. Regarding employment conditions

The Requesters allege that the Client had not taken appropriate measures to provide employees with reasonable working conditions and terms of employment and a safe and healthy workplace, which is a breach of PR2 provisions. They mention that they were informed about instances of past

²⁵ [Summary of the WSP report](#). Accessed 11 May 2022

²⁶ [MHP Biogas PSD](#). Accessed 11 May 2022

²⁷ [MHP Biogas PSD](#). Accessed 11 May 2022

and present employees raising concerns regarding the Client's workplace safety standards, the long hours that drivers are expected to work, inadequate health and safety equipment, such as lack of eye protection, overworking causing health issues and other health and safety concerns. They also mention unfair working conditions, such as the fact that bonuses promised by the Company were allegedly deducted from employees' salaries, such as the bus fare to ride on MHP's worker buses, the cost of employee uniforms and things like soap and shampoo that were kept at the MHP facility.

In addition, they reported cases of pressure or intimidation related to the activities of family members who have raised concerns about the Company's health and environmental impacts on local communities, or against the employees raising concerns about working conditions. The Requesters alleged that an employee had been dismissed after complaining about getting sick due to working in a very cold room.

PR 2 recognises that for Clients and their business activities, the workforce is a valuable asset, and that good human resources management and a sound worker-management relationship based on respect for workers' rights, including freedom of association and right to collective bargaining, are key ingredients to the sustainability of business activities. By treating workers fairly and providing them with safe and healthy working conditions, clients may create tangible benefits, such as enhanced efficiency and productivity of their operations.

IPAM found no information at this stage regarding the employment conditions within the MHP Corporate Loan audit done in 2015. The topic was included, but limited to specific concerns of forced prisoners' labour in the November 2015 audit by WSP Parsons Brinckerhoff, which concluded that the social programme implemented by MHP group is dedicated to the development of the prisoners and aimed at building future employability of the prisoners. It was reported that the introduction of the prison workforce was for this purpose rather than to fill positions that could not be filled by the locals. The employment terms were reportedly aligned with the rest of the workforce, with the prisoners receiving 100% of their salary paid via the prison.²⁸

According to the PSD of the MHP Biogas Project, human resource management of the Client was undertaken in accordance with both national legal requirements and several Company-wide policies including the "Personnel Policy" and the "Protection and Safe Labour Policy". The Personnel Policy included a number of key commitments on use of forced and child labour, non-discrimination, freedom of association and collective bargaining and wages, benefits and conditions of work). Due diligence confirmed these as compliant with PR2, including that the Company had an appropriate grievance mechanism in place. The ESAP prepared for the MHP Biogas Project included an action to define and implement a Security Human Rights and Transparency code of conduct or similar guidelines for the security personnel.²⁹

In the preliminary review undertaken of mostly public sources of information, IPAM could not find further information on how the Bank has ensured that the Client complied with the requirements of PR2 nor has Management provided additional information on this issue. Therefore, IPAM will investigate this issue in the Compliance Review.

²⁸ [Summary of the WSP report](#). Accessed 11 May 2022

²⁹ [MHP Biogas PSD](#). Accessed 11 May 2022

Annex 1. Compliance Review Terms of Reference

Introduction

EBRD is committed to promoting sustainable development in all its investments, as a key contributor to economic transition. To ensure that the environmental and social practices of the Bank's Projects meet EBRD standards, the Bank requires that Projects comply with its ESP. In addition, the Bank is required to disclose certain Project information to the public in accordance with its Access to Information Policy (AIP), to enhance transparency and accountability, improve discourse with affected stakeholders, and foster good governance.

The 2019 PAP establishes that the purpose of IPAM is to facilitate the resolution of social, environmental and public disclosure issues among Project stakeholders, to determine whether the Bank has complied with its ESP and the AIP; and where applicable to address any existing non-compliance with these policies, while preventing future non-compliance by the Bank. The IPAM Compliance Review does **not** assess the compliance of the Client.

Accountabilities

The Compliance Review is undertaken by the IPAM team in line with the mandate established in the PAP and guided by the principles of independence, impartiality, transparency, predictability, and equitability. IPAM may engage consultants on technical matters as needed but the responsibility to produce the Compliance Review Report remains with IPAM and any determinations of compliance or non-compliance are to be made by the Chief Accountability Officer based on the Compliance Review findings.

Scope

These Terms of Reference are prepared on the basis of the issues raised in the Request for **Case 2018/09** and apply to any inquiry, action or review process undertaken by IPAM as part of the Compliance Review, with a view toward determining, as per paragraph 2.7 (a) of the 2019 PAP, whether the Bank, through its actions or inactions, has failed to comply with the 2014 ESP or the project-specific provisions of the AIP (or its predecessor), in respect of **MHP Corporate Support Loan (47806) and MHP Biogas Project (49301)**.

The Compliance Review scope is outlined below and although it makes reference to specific PRs, it will also consider (and does not further preclude) potential inter-linkages between the different PRs.

General Provisions:

- Was the categorisation as B of the two Projects under consideration commensurate with the nature, location, sensitivity and scale of the Projects, and the significance of their potential adverse future environmental and social impacts?
- Did the EBRD, as a signatory to the European Principles for the Environment, promote the adoption of EU environmental principles, practices and substantive standards as these can be applied at the project level, and did it ensure that the Client applied the more stringent standards?

PR 1: Assessment and Management of Environmental and Social Impacts and Issues:

- Was the environmental and social assessment process in both Projects based on recent information, including an accurate description and delineation of the project and the Client's associated activities, and social and environmental baseline data at an appropriate level of detail?
- Did the environmental and social assessment process for both Projects identify and characterise, to the extent appropriate, potentially significant environmental and social issues associated with activities or facilities which were not part of the Project, but which may be directly or indirectly influenced by the Project, exist solely because of the Project or could present a risk to the Project (associated facilities)?
- Did the assessment process consider cumulative impacts of the Projects in combination with impacts from other relevant past, present and reasonably foreseeable developments as well as unplanned but predictable activities enabled by the Projects that may occur later or at a different location?
- Did the Bank conduct a corporate level assessment for the MHP Corporate Support Loan (47806) that included the review of the Client's ability to manage and address all relevant social and environmental impacts; the Client's compliance record with applicable environmental and social regulatory requirements; and the Client's main stakeholder groups and stakeholder engagement activities? Was the Client obliged to develop measures at the corporate level (as opposed to the project-specific level) to meet the PRs over a reasonable time period?
- Did the Client develop and implement a programme of actions to address the identified Projects' environmental and social impacts and issues and other performance improvement measures to meet the PRs, by taking into account the findings of the environmental and social assessment process and the outcomes of stakeholder engagement?
- Did the measures advised by the Bank take into consideration the application of the mitigation hierarchy?
- Were the monitoring requirements for both Projects proportional to the nature of the Projects and its environmental and social impacts and issues?

PR 2: Labour and Working Conditions

- Did the Bank ensure that the Client adopted and/or maintained human resources policies and management systems or procedures appropriate to its size and workforce that set out the approach to managing the workforce in accordance with the requirements of this PR and national law? Were these policies and procedures understandable and accessible to workers, and in the main language(s) spoken by the workforce?
- Did the Bank ensure that the Client documented and communicated to all workers their rights under national labour and employment law and any applicable collective agreements, working conditions and terms of employment including their entitlement to wages, hours of work, overtime arrangements and overtime compensation, any benefits (such as leave for illness, maternity/paternity or holiday), and when any material changes occurred? Was this information understandable and accessible to workers and available in the main language(s) spoken by the workforce?

- Did the bank ensure that the Client had measures to prevent and address harassment, including sexual harassment, bullying, intimidation and/or exploitation?
- Did the Bank ensure that the Client provided workers with a safe and healthy work environment?

PR 3: Resource Efficiency and Pollution Prevention and Control

- Was the Client required to determine in the environmental and social assessment process the appropriate pollution prevention and control methods, technologies and practices (“techniques”) and resource efficiency measures to be applied to both Projects – on a corporate level and as regards the MHP Biogas Project?
- Was the Client required to minimise the MHP Biogas Project’s water use? Were the PR 3 requirements as prescribed for Projects with a high water demand (greater than 5,000 m³/day), applied to the MHP Biogas Project?
- Were the cumulative impacts on water (including water abstraction), soil and air pollution considered as a part of the two Projects?

PR 4: Health and Safety

- Was the Client required to identify and assess project-related risks and adverse impacts to the health and safety of the potentially affected communities and develop protection, prevention and mitigation measures proportionate to the impacts and risks, and appropriate to the stage, size and nature of the Projects?
- Did the Client provide workers with a safe and healthy workplace, taking into account inherent risks in its particular sector and specific classes of hazards that may be present? Did the Client implement occupational health and safety measures providing: (i) preventive and protective measures, including modification, substitution or elimination of hazardous conditions or substances; (ii) equipment to minimise risks, and require and enforce its use; (iii) personal protective equipment at no cost to the workers; and (iv) training to workers to use and comply with health and safety procedures and protective equipment?
- Was the Client required to identify, evaluate and monitor the potential traffic and road safety risks to workers and potentially affected communities throughout the Project life cycle and, where appropriate, develop measures and plans to address them?
- Was the Client required to undertake a road safety audit for each phase of the Project and routinely monitor incident and accident reports to identify and resolve problems or negative safety trends?

PR 10: Information Disclosure and Stakeholder Engagement

- Did the Client conduct stakeholder engagement as a part of both Projects on the basis of providing local communities that were directly affected by the Projects and other relevant stakeholders with access to timely, relevant, understandable and accessible information, in a culturally appropriate manner, and free of manipulation, interference, coercion and intimidation?
- Did the stakeholder engagement as part of both Projects include the following elements: stakeholder identification and analysis; stakeholder engagement planning; disclosure of

information; consultation and participation; grievance mechanism; and ongoing reporting to relevant stakeholders?

- Was the disclosure of relevant Project information that helps stakeholders understand the risks, impacts and opportunities of the Project facilitated by the Client?
- Did the Client establish an effective grievance mechanism, process or procedure to receive and facilitate resolution of stakeholders' concerns and grievances, in particular, about the client's environmental and social performance? Did the mechanism also allowed for anonymous complaints to be raised and addressed?

Compliance Review Methodology

IPAM recognises that due to the ongoing hostilities in Ukraine, the team members responsible for the investigation will likely not be able to conduct a site visit to Ukraine. Therefore, the Compliance Review will be limited to a desk review and if that is the case, the report will reflect it in the findings and recommendations. We envision the possibility that on some issues that require on-site confirmation, IPAM will not be in a position to make definitive determinations. In that case, IPAM will clearly present the reasoning why and will address the issues to the extent possible in the desk review.

However, IPAM will continue monitoring developments in Ukraine and reassess if a site visit is viable within the Compliance Review timeframe proposed.

The Compliance Review will include the following activities:

- a. a review of relevant Project files (Project documents, studies, minutes, emails, and other files as considered relevant by IPAM);
- b. scheduling of virtual interviews, with (subject to availability to connect with IPAM):
 - EBRD Management;
 - Consultants involved in the Project;
 - Requesters and other Project-Affected People
 - the Client;
 - Officials from the relevant governmental agencies; and
 - Any other Third Parties considered relevant by IPAM.
- c. the engagement of consultants or technical experts, as appropriate, to provide technical inputs as required by IPAM, and
- d. any other review or investigatory methods that IPAM considers appropriate in carrying out its work.
- e. the conduct of a site visit to Ukraine (if the situation in Ukraine allows)

IPAM will liaise closely with the compliance team of the CAO (IFC), in case it decides to proceed with a compliance review of the IFC Project and will consider if there is a scope for collaboration in a manner that is consistent with para. 3.1. of the PAP, to ensure that Cases are handled efficiently, avoiding duplicative processes and excessive disruptions or disturbances to all Parties.

Expertise

IPAM may require experts to be hired to assist with some of the technical aspects of the Compliance Review. However at this point, the expertise required has not been identified. The investigation will require the engagement of interpreters and translators.

Time Frame

The Compliance Review will commence as soon as possible following the posting of the Compliance Assessment Report containing these Terms of Reference in the virtual [case file](#) in the IPAM Case Registry. Every effort will be made to ensure that the Compliance Review is conducted as expeditiously as circumstances permit, and it is intended that the **Draft Compliance Review Report will be ready within 140 Business days of the start of the investigation.**

Please note that once the Draft Compliance Review Report is ready, IPAM will share it in a confidential fashion with Requesters, Management and the Client to get their comments prior to finalising the report.

When IPAM finalises the Compliance Review Report, there are two alternative outcomes:

1. If the Bank has been found in compliance, no further actions are required. The Compliance Review Report is sent to the Board for information and is disclosed in the IPAM case registry and the case is closed.
2. If The Bank has been found **not in compliance**, a series of steps are to take place before the Compliance Review Report is sent to the Board and is disclosed to the public. This process takes around 6 months from the date of finalisation of the Compliance Review Report and includes the following steps:
 - a. the Compliance Review Report will include recommendations at the Project and systemic level.
 - b. Bank Management will be asked to draft a Management Action Plan.
 - c. The Draft Management Action Plan is sent to the Requesters for Comments.
 - d. Management reviews the Requesters' comments and adjusts the Plan if deemed relevant.
 - e. IPAM sends to the Board the Compliance Review Report and the draft Management Action Plan - at this stage the Board is asked to review the Plan and approve it or send it back to Management.
 - f. Once the Management Action Plan is approved, IPAM discloses the Compliance Review Report, the Management Action Plan and starts the Monitoring Stage.

Time Extensions

If IPAM requires an extension of this timeframe, Parties will be promptly notified and the case registry updated to reflect the new deadlines.

Please note that if Requesters or Management require an extension, they should inform IPAM along with the proposed extended deadline. IPAM will seek to accommodate those requests and inform all Parties of its decision in a promptly fashion.

A preliminary schedule of the main milestones to be delivered is presented in the table below.

Activity	Estimated Timeframe ¹
<p>Conducting compliance review and preparation of Draft Compliance Review Report</p> <ul style="list-style-type: none"> Desk review Identification and compilation of relevant documents and studies. (may involve translation to English), as well as identification of interviewees Identification of relevant stakeholders for interviewing Consultations and interviews (virtual or in person as appropriate. and in compliance with social distancing measures) Site visit (dates subject to confirmation) <p>Draft Compliance Review Report</p> <p>IPAM will circulate the draft report to Requesters, Management and Client.</p> <p>If IPAM finds the Bank to be non-compliant, the Compliance Report will include recommendations to address the findings of non-compliance; as well as a Management Action Plan Monitoring to be initiated following the preparation and approval of the Management Action Plan</p> <p>Development of Management Action Plan</p> <p>Management shall prepare a Management Action Plan in response to the findings of non-compliance. It may also prepare a Management Response addressing the findings of the Compliance Review Report, if it deems appropriate.</p> <p>Circulation of Draft Management Action Plan to Requesters for comments on the draft MAP.</p> <p>Finalisation of Compliance Review Report</p> <p>IPAM will finalise the Compliance Review Report once it has considered the Requesters' comments on the draft Management Action Plan</p> <p>Finalisation of the Management Action Plan</p> <p>If IPAM finds the Bank to be complaint</p> <p>IPAM finalises the Compliance Review Report based on comments from Parties and submits it to the Board and the President for information, discloses the document in the case registry and closes the case.</p> <p>Submission of the Compliance Review documents to the EBRD Board of Directors</p> <p>IPAM will submit the final Compliance Review Report, the Management Action Plan, and Requesters' Comments. The Management Action Plan is submitted to the Board for decision while the other documents relating to the finding of non-compliance will be submitted to the Board for information</p>	<p>October 2022 – May 2023</p> <p>Not envisaged at this stage (Subject to review depending on local developments and travel moratorium)</p> <p>Tentative date for completion of the Draft Report is May 2023. Once circulated Parties will have 10 business days to provide written comments on the Draft Compliance Review Report.</p> <p>Submission of Draft Management Action Plan to IPAM – 30 business days from the date of receipt of the draft Compliance Review Report</p> <p>Submission of Requesters comments to IPAM 20 business days from the date of IPAM circulation.</p> <p>Circulation of Final Compliance Review Report and Requesters' comments on MAP to Management 10 business days from the date of receipt of comments</p> <p>Final Management Action Plan 15 business days from date receipt of both the final Compliance Review Report and Requesters' comments</p> <p>Public disclosure immediately after the finalisation of the Compliance Review Report.</p> <p>Board decision on MAP – subject to Board scheduling Public disclosure of Compliance Review Package including approved Management Action Plan – after approval of MAP</p>

¹ Estimated deadlines for each activity and/or deliverable are calculated according to the Policy provided timeframes. .

Access to Information

In order to ensure timely completion of this Compliance Review, IPAM shall require from Bank Management full, unrestricted access to relevant Bank staff and files. All relevant Parties are encouraged to comply with requests from IPAM for obtaining access to sites, submission of written materials, provision of information and attendance at meetings. Any situations where the actions or lack of action by any Party hinders or delays the conduct of the Compliance Review may be referenced in the Compliance Review Report.

Access to, use and disclosure of any information gathered by IPAM during the Compliance Review process shall be subject to the Bank's Access to Information Policy and any other applicable requirements to maintain sensitive commercial and/or other information confidential. IPAM will not release any document or information that has been provided on a confidential basis without the express written consent of the party who owns such document.