

As the [EBRD](#) reviews its Environmental and Social Policy, the case of the controversial Amulsar gold mine project in Armenia presents valuable lessons that can shape future policies.

**Mount Amulsar, located in south Armenia**, is a vital part of Armenia's water supply system, housing freshwater springs and connecting to important rivers and reservoirs. These bodies of water play a crucial role in providing irrigation water throughout Armenia and sustaining the communities in the region.

However, the presence of [gold deposits](#) at Amulsar has attracted international financial interest, resulting in a clash between corporate interests and the rights of local communities to clean water, health, livelihoods and a protected environment.

### **The Amulsar gold mine project**

In 2006, Lydian Armenia (formerly Geoteam), a subsidiary of Lydian International, an American-Canadian mining company based in the UK, secured exploration licenses for the Amulsar gold mine project. This project received support from the World Bank's International Finance Corporation ("IFC") and the European Bank for Reconstruction and Development ("EBRD"). Despite starting operations in 2006, the local communities were largely unaware of its development and the risks it posed to their water sources, health and livelihoods. In 2012, Lydian Armenia began exploratory drilling around Amulsar, and in 2014, they obtained a construction permit from the Ministry of Nature Protection.

As awareness of this project grew, protests and legal battles ensued, with local residents raising concerns about potential water contamination from acid mine drainage and the use of cyanide in heap leaching to extract gold from ore. There were also worries about hazardous emissions from the open-pit gold mine, as cyanide and other heavy metal dusts could travel as far as 30 kilometers from the site, causing health problems for residents in the vicinity, damaging plants and animals, and threatening Armenia's water reservoirs. Further, the tourism industry in the town of Jermuk, which is known for its hot water springs and healing mineral water would also be negatively impacted, resulting in a loss of economic livelihoods. The Amulsar site is also home to 11 habitats and 76 species protected under Armenian law and international conventions.

### **Complaints submitted to the CAO and PCM**

In April and July 2014, two complaints were submitted to the IFC's independent accountability mechanism, the Compliance Advisor Ombudsman ("CAO"). Two additional complaints were submitted to the EBRD's Project Complaint Mechanism ("PCM") in July and October 2014.

These complaints alleged inadequate project information, community engagement,

environmental and social impact assessments (ESIAs), and non-compliance with environmental and social policies. Concerns were raised about water contamination, dust pollution, damage to biodiversity and agriculture, and threats to residents' livelihoods and health and safety.

### **Missed opportunity by the EBRD's PCM**

In February 2015, the EBRD's PCM deemed the complaints "premature" and ineligible, stating the complaints were concerned with the development of the gold mine, not the exploration. The PCM found that while the development of the mine had been proposed, the EBRD had not yet indicated its interest in it and had only financed exploration activities at that point. The PCM refused to investigate on technical grounds, thus losing its opportunity to address project impacts earlier in the process when it still had leverage to do so.

In July 2016, the EBRD approved a further investment of CAD 11.4 million, earmarking its finance for "environmental and social mitigation measures" undertaken by the company on mine development of its Amulsar gold mine.

### **Findings by the IFC's CAO**

In contrast, in April 2015 the IFC's CAO held the complaints raised as eligible, noting that while the IFC had only funded activities that were preparatory to the construction of the mine, the investment in Lydian showed a clear objective of enabling construction of the mine. As such, the concerns raised in the complaints were relevant and a compliance investigation was conducted.

In June 2017, the CAO released its Compliance Investigation Report, which highlighted the failure to assess the project's impact on Jermuk's tourism industry (resulting in livelihood loss) and the people of Gndevaz (resulting in loss of land, impacts on food security, livelihood loss, and health and safety risks). However, the CAO determined that the IFC was compliant regarding the risks of groundwater contamination. This oversight would later prove to be a critical mistake once mine development began.

In September 2017, the IFC divested from Lydian, citing the company's success in attracting funding for mine development from private sector sources. The CAO's monitoring and closure report, released in October 2018, found the IFC had only partially addressed its findings at a systems level, and had not addressed any of its project level findings. However, as the IFC no longer had an ongoing investment in the company, the CAO opted to close the case, leaving the communities without remedy.

### **Escalation of the Amulsar conflict**

Construction of the Amulsar mine began in 2017, leading to negative impacts on local communities in Gndevaz. They reported the presence of dark, muddy water in their pipes,

which affected both their drinking water and irrigation systems, and contaminated water from the mine flowing into the Arpa river. Negative impacts extended to local farms, with hundreds of fish dying, and livestock refusing to consume the polluted grass and water. Additionally, despite assurances that dust from the site would not reach the town of Jermuk, it did, with reports of snow turning pink.

In June 2018, following Armenia's Velvet Revolution, the communities of Jermuk and Gndevaz initiated a blockade on all four major roads leading to Amulsar, just weeks before the scheduled start of extraction. This blockade persisted for over two years as the communities steadfastly defended Amulsar, obstructing mine construction and full-scale gold extraction. In late 2018, locals collected 3,000 signatures within five days to support a ban on metal mining operations in the area, which was unanimously approved by the town council. A survey conducted among households in Gndevaz, Kechout and Jermuk, revealed that 85.7% of respondents reported illnesses since the start of construction operations, including increased asthmatic attacks, lung diseases, and dry skin.

In response to the resistance, Lydian initiated lawsuits against environmentalists who were campaigning against the project, accusing them of defamation. The International Federation on Human Rights criticized Lydian for its "worrying systematic judicial harassment and defamation campaigns aiming to silence critical journalists and human rights defenders, particularly women." In March 2019, Lydian notified the Armenian government of its intention to sue them under bilateral investment treaties with the UK and Canada.

In 2019, the Armenian government commissioned an independent review that ultimately criticized Lydian's environmental and social impact assessment. The independent review concluded that:

"The [environmental and social impact assessments] are deficient and corresponding conclusions are unreliable. Accordingly, the question of whether exploitation of the ore deposit can conclusively be considered safe cannot be answered." (ELARD, ESIA Review, 22 July 2019, Page 129)

Despite these findings, in August 2019 the Armenian government granted permits for the mine's operation.

### **Complaint submitted to Ipam and subsequent delays**

In May 2020, local residents filed a third complaint with the EBRD's PCM, alleging a failure to adhere to international standards in impact assessments and consultations, and a failure to comply with the EBRD's Environmental and Social Policy ("ESP"), resulting in significant harm to the environment, wildlife and communities that surrounded the mine.

The complaint was deemed eligible for compliance review by the PCM, and later by the

Independent Project Accountability Mechanism (“IPAM”), the EBRD’s current independent accountability mechanism. The compliance review began in November 2020. However, despite estimating the final report would be completed by late May 2021, as of May 2023 the case is still undergoing compliance review with IPAM, with no updates published in over two years.

### **Key Issues to address in Ipam compliance report**

After facing insolvency and being delisted from the Toronto Stock Exchange, the mining consortium Lydian International underwent a corporate restructure in 2020, resulting in the transfer of ownership of the Amulsar mine project to Lydian Ventures of Canada. This transfer severed the EBRD’s stake and interest in the project. The EBRD withdrawal from this project was not voluntary.

Despite EBRD’s exit, the IPAM compliance report has the potential to uncover systemic issues within EBRD’s policies and procedures that contributed to the shortcomings in the Amulsar case. By addressing these issues, the report can provide valuable lessons and shape future policies to prevent similar problems from arising.

A major concern highlighted by this case is the EBRD’s inadequate due diligence, consultation, and disclosure policies and processes. Across all eligible complaints made to the EBRD’s accountability mechanism regarding EBRD projects, inadequate due diligence (59.2% of complaints) and inadequate consultation and disclosure (53.1% of complaints) are the most frequently raised issues.

The Amulsar project failed to ensure meaningful consultation as required by the EBRD Environmental and Social Policy (“ESP”). Despite being classified as a Category A project with significant adverse risks and stakeholder interest, open public consultations were not conducted, and communities felt excluded and pressured. Lydian only engaged with project supporters, authorities and business leaders, while suppressing those who raised legitimate concerns.

Between 2018 and 2020, Lydian Armenia filed approximately 20 defamation lawsuits against various individuals, including environmental activists, independent experts, lawyers, media outlets, members of parliament and community members who voiced opposition to the project. These strategic lawsuits against public participation (“SLAPPs”) were aimed at censoring and intimidating critics by targeting their social media posts, public speeches and comments. The situation escalated in 2020 when Lydian resorted to violence against those protesting at Amulsar, including the use of electric shocks, provocations against citizens, and the militarization of the project site.

These issues expose flaws in EBRD’s ESP, which places the responsibility for critical

measures on the client while disregarding potential conflicts of interest that may arise. Firstly, the ESP assigns the client the task of identifying affected communities and disclosing project-related risks and impacts. However, Lydian's failure to meet this requirement, resulted in affected communities remaining unaware of the project for years. The Jermuk community, for example, was not recognized as an affected community until 2016, and no open public hearings were conducted in Jermuk regarding the potential impacts of the project.

Secondly, the ESP places the responsibility on the client to conduct meaningful and culturally appropriate consultations with affected communities. The ESP should clearly define this responsibility to include open and public consultations. In this case, Lydian did not organize such consultations but instead engaged in intimidating and silencing opposition voices. This culture of intimidation hindered open dialogue and constructive engagement. The EBRD should leverage its influence over clients to prevent retaliatory attacks against community members.

Finally, the ESP requires the client to conduct independent environmental and social impact assessments, but it fails to establish safeguards to ensure their impartiality. Complainants highlighted instances where consultants hired and paid for by Lydian downplayed the evident risks associated with the project. Moreover, affected communities were not involved in the scoping process of the impact assessment, contrary to requirements of the ESP. As a Category A project, Lydian should have conducted disclosure and consultation processes at each stage of the impact assessment, incorporating the views of affected communities into their decision-making process.

### **Biodiversity offsets**

Another concerning issue in the Amulsar case is the use of "biodiversity offsets".

Biodiversity offsets are economic instruments based on a "polluter pays" approach, aiming to compensate for adverse impacts of projects on biodiversity. The goal is to achieve "no net loss" or preferably a "net gain" of biodiversity.

In the Amulsar project, the EBRD's equity investment was earmarked to finance a biodiversity offsets programme, considered a mitigation measure for the project. However, the proposed biodiversity offset in this case, the creation of Jermuk National Park, raised several issues.

Firstly, the creation of Jermuk National Park would fail to effectively offset the mine's adverse impacts, including harm to water sources, rivers, human health and livelihoods. Secondly, the offsetting proposal did not adequately address the project's impact on 11 habitats and 76 protected species in the Emerald site. Thirdly, gold extraction by a private

company does not meet the international convention requirements for offsetting measures to be applied to “projects with overriding public interest.” Finally, protecting the Emerald site is an obligation of the Armenian government under national laws and international conventions, and cannot be considered as offsetting the impacts of a private project.

### **Role of third parties**

The reliance on third parties to implement mitigation measures also raises concerns. Many mitigation measures outlined in Lydian’s environmental and social management plans were to be implemented by state agencies. For example, the Ministry of Nature Protection was responsible for implementing mitigation measures related to biodiversity offsets, but the creation of Jermuk National Park never materialized due to the Ministry of Agriculture committing the land elsewhere. Moreover, permits, regulations and monitoring by state authorities are only required to meet basic national-level standards.

Dependence on third parties to implement specific measures creates potential pitfalls since their failure to effectively implement these measures leaves the specified risks unmitigated.

### **Remedy in EBRD Projects**

The right to effective remedy is a fundamental principle in international law that guarantees individuals access to justice and redress in cases of human rights violations. In February 2022, the UN highlighted a significant gap in remedy within development finance, where communities affected by project-related harms are left without proper redress for their grievances. The report explains the urgent need for remedy and outlines how banks can fulfill their human rights obligations towards communities affected by their projects.

The EBRD has faced criticism for its lack of effective remedy for communities affected by its projects. Over its lifetime, the EBRD accountability mechanism has received 269 complaints. However, only 35.7% of eligible complaints resulted in any remedial commitments, and merely 9.5% of eligible complaints led to accomplished commitments. A third of EBRD’s commitments related only to monitoring and operational changes, failing to offer substantive remedy to complainants. Direct compensation or social support was provided by the EBRD in only three out of 269 complaints, with two having been accomplished and the status of one being unknown.

### **Remedy and Exit in the Amulsar Mine Project**

As of today, no remedy has been provided to the communities harmed by the Amulsar mine, both by the EBRD and the IFC.

Unfortunately, due to the restructuring of Lydian, the EBRD no longer has leverage over the company to implement project recommendations arising from the compliance review or to ensure Lydian contributed to remedy while it was still a client. Nevertheless, the EBRD can

demonstrate its commitment to remedy by learning from this case, strengthening its safeguards and remedy, implementing systemic-level compliance recommendations, and contributing to remedy where it is found that it has contributed to harm.

### **Community engagement**

Community engagement is a cornerstone of effective remedy for several reasons. Firstly, it upholds the fundamental human right of active, free and meaningful participation, empowering communities and ensuring their concerns are taken seriously. By involving the community in the decision-making process, it demonstrates a commitment to addressing their grievances, and it prevents conflicts from escalating. Early participation also enables the identification of concerns during the design stage, facilitating the exploration of project alternatives and preventing conflicts. Additionally, participation helps define the scope of remedial actions and the planning process for remedy.

As mentioned, the Amulsar project lacked meaningful consultation, including a lack of open public hearings on the ESIA, community opinions being disregarded, the Jermuk community being left out, and information on the project not being effectively disclosed. Retaliatory attacks by the client further highlighted the disregard for dissenting voices. Early and meaningful consultation by the EBRD would have also highlighted the various issues with the problematic EBRD-backed biodiversity offsetting programme that never materialized. Community members expressed frustration with their continuous exclusion throughout the project's life cycle. One activist described the decision-making process as exclusionary as well, emphasizing the community's desire to have the right to refuse projects that would have long-lasting impacts on future generations: "You are put into this framework where you have to agree to start and then ask for crumbs, rather than take a bold position that we don't want this project."

### **Environmental and social impact assessment (ESIA)**

Placing the responsibility solely on the client to complete an ESIA, with the EBRD checking ESIA's, is likely to miss issues that should have been raised early in the project life cycle. By not involving communities in the scoping of the impact assessment, and by not having independent experts (such as geologists) review these assessments, crucial issues were overlooked at an early stage including concerns about Lydian's technology for treatment, acid draining and mining closure.

The EBRD should prioritize comprehensive, independent expert reviews and involve a diverse range of specialists in the assessment process. The [EBRD](#) should also avoid relying on a client, with conflicts of interest, to implement these measures. Transparent and inclusive consultation at every stage (including the creation of ESIA's) should actively

engage affected communities regardless of their stance on the project.

### **Responsible exit**

The EBRD's "do no harm" mandate means that, at a minimum, communities around **Amulsar** should not be worse off as a result of the EBRD's involvement and exit. As Lydian plans to re-start the project, the communities continue their fight for the protection of their environment, [biodiversity](#), water sources, health and safety, and livelihoods, without any remedy, all while dealing with continued SLAPPs, legal costs, and retaliatory attacks from Lydian.

EBRD's policies should include safeguard evaluations at closure in order to ensure a responsible exit. Exiting a project does not absolve responsibilities for remedy, and a responsible exit would require post-exit monitoring, technical support and action plans to prevent and mitigate potential negative impacts on the community and address any unremediated adverse impacts.

Source: Accountability console