

COMMENTS ON EBRD ENVIRONMENTAL POLICY REVIEW BY INDEPENDENT ENVIRONMENTAL SERVICE ON NORTH CAUCASUS

As the midpoint of public consultations is to find out shortcomings of EBRD Environmental Policy Review with a view of its further improvement, we will not waste efforts to comment positive aspects of the new version of Policy. We would like only to say that the Policy review has a great number of advantages from the environmental point of view as compared to the previous Policy and we hearty thank all the EBRD officials who have contributed to this.

In our opinion the new version of the Policy has some fundamental shortcomings concerning the Policy main aspects and format. These shortcomings must be eliminated first of all, because of their great significance, thus we shall concentrate attention mainly on them and we shall not comment the separate theses of the policy.

The fundamental weakness of the new version of the Policy remains so far lacking of transparence in providing information on projects at all the stages of their preparation and realization. At present we can speak about extremely limited transparence. This contraries the EBRD principle of openness and prevents public organizations from influencing to full measure on environmental aspects of EBRD projects. Thus, as for providing information there is much to do and changes in this field are extremely indispensable.

The public should have easy access to ALL information on projects, which is significant from the ecological point of view. It is a crucial point. ALL information significant from the ecological point of view is not only a brief summary on project, environmental impact assessment and some other materials listed in the new draft Environmental Policy. Such a limited access to information makes the public a party not enjoying equal rights as compared with other participants of this process. Confidentiality concerning any environmentally significant information is not admissible.

It is extremely important that the public would have also access to the following types of information concerning projects:

- Information on beginning EBRD work, concerning each project and access to the summary of this project;
- Summary of screening;
- Information about decisions on determining project category;
- Summary of scoping;
- Environmental analyses related to "B" category projects;
- Environmental information from Environmental audits;
- Environmental Action plans (EAPs);
- Information about main remarks concerning projects submitted in the course of public consultations.

It is extremely important to provide for the public environmental information on projects at the stage of their realization. We propose to include into the Policy an item where it would be said that it is necessary to compose and make easy to access an annual environmental report (instead of an annual monitoring report) on project realization containing a large information on its realization.

Thus it should contain: monitoring data related to environmental impact of projects at their realization, results of project realization examinations carried out by the Bank, information on implementing Environmental Action plans, information on decisions of the state bodies related to projects, information on public opinion regarding projects, references to mass media publications related to projects and so on.

This annual environmental consolidated report should have determined format as for information it contains. It would be wise to make of it an individual annex of Environmental Policy, like Environmental Impact Assessment and Environmental and Health & Safety Audit Protocol.

In addition, it would be wise to make of Environmental analysis and Environmental Action Plans formats individual Annexes of the Policy as well.

As for providing information, the methods of providing information are very important. The methods must be to the maximum oriented to those who are informed: social groups affected by projects, public organizations. Decrease of efforts, among the others organizational and technical efforts, they made to obtain environmental information, is one of the major aspects of the transparence principle.

We propose the following organizational measures on facilitating access to information that should be reflected in the Policy:

- Creation of a special EBRD site, where the public could find all the information necessary for public consultations related to all the EBRD projects. The data should be organized to simplify the search (by projects, countries and so forth). It is important that all the available information on each project would be organized chronologically and there would be listed the major events related to a project.
- Necessity of synchronous presenting information in English and in the national language of the country of an operation.

As information disclosure is an extremely important and rather complicated aspect of the Environmental Policy, it would be wise to describe information disclosure mechanism in an individual annex of the Policy.

The other major aspect of the Policy, which needs improvement, is public consultations.

Unfortunately, in the new draft Environmental Policy public consultations do not cover all the crucial phases of environmental appraisal process.

Project screening is one of the major stages, during which public consultations are needed.

At this stage we propose to introduce public consultations as obligatory procedure and describe its process in the Policy.

It is also important to introduce public consultations regarding Environmental Analyses for Category "B" projects. Our proposal is to begin public consultations with publishing Environmental Analyses materials 60 days before submitting a project to the Board of Directors to approval. And this public consultation process must be also detailed in the Policy.

On the whole public consultations process at different stages of environmental appraisal process is not detailed enough in the Policy. Our proposal is to detach the detailed description of these procedures as an Annex of the Policy.

It is also necessary to introduce in the Policy the thesis on public consultations when revising EBRD Environmental Policy as well as the description of this procedure.

In our opinion the Environmental Policy Review has an extremely dangerous aspect. It is the question of the aspect on indirect financing of activities through a Financial Intermediary. This aspect proposes the opportunity of deviation from standard EBRD environmental requirements. Thus it fosters, in particular, the realization of environmentally high-risk projects and can bring to naught a great number of the new Policy achievements. As for this point, our proposal is to leave in force all the standard environmental requirements of the Bank. Sustainable development, nature and people do not care what method EBRD uses to allot its investments. Regardless of the method these investments should have strict environmental guarantees.

This is not the only point where the new policy has unjustified exceptions to the thesis of EBRD environmental standards observance. The standards should be common for each project; only in that way the Bank operations would comply with its environmental mandate.

We also propose not to exclude from the Environmental Policy the thesis on EBRD standard environmental requirements observance in the following case:

Operational changes, item 27. This item says that after projects invested by EBRD are approved and signed by the Board of Directors, the changes concerning the project character and scope, which can entail considerable ecological implications, could be inserted, and EBRD Environmental department has to estimate the necessity of the second environmental examination of such projects. We believe that this point could also create the opportunity of high-risk projects realization. And we propose the following strict thesis: only project activities that have been approved after environmental appraisal (according to standard environmental requirements) are invested and in case of operational changes EBRD investments can be used for financing the activities which have not passed the full-scale environmental appraisal.

EBRD has taken a serious step when having included into the Environmental Policy a great number of items belonged before to Environmental Procedures. And the Bank intends to leave some important items in the Environmental Procedures. At the same time the process of affirmation the Procedures remains inadequate as to the impact they have on the realization of bank-financed operations and posterior observance of environmental requirements.

Our proposal is to make of Ecological Procedures an annex of Environmental policy, for now many important clauses as for bank-financed operations are entered into Ecological Procedures, which is a subordinate document as compared to Environmental Policy. These diverse components of Environmental Procedures should be annexes of the Environmental Policy. In particular we propose to include as an annex of the Policy such an important component of the Environmental Procedures as detailed description of the stages of project environmental appraisal process.

One of the major instruments of EBRD Environmental Policy is Environmental Advisory Council. Unfortunately, at the present moment it is rather nominal structure without any real influence on the Bank activities. This must be changed. At this point our proposal is to compose Regulations on EBRD Environmental Advisory Council, which will be also one of the annexes of Environmental Policy.

In our opinion, in this clause the following points have to be touched upon:

- Procedure of election of Environmental Advisory Council members, criteria of members election, their liabilities and opportunities;

- We propose that each of Environmental Advisory Council members has the liability for participation in such stages of project preparation as screening and scoping, as well as to issue independent expert decisions on ecological risks as for all the prospective bank-financed operations in the country the member represents;

- Environmental Advisory Council members are supposed to have access to all the information on the projects eventually invested by EBRD.

In the current practice the serious problem is that of investments by the Bank in the projects that during environmental appraisal process are not considered on the whole that is together with other activities inseparably linked with these projects. De facto this brings to the situation when the Bank invests in ecologically dangerous activities what contraries its mission and environmental mandate. Each project must be considered on the whole, thus the correlated activities should be taken in consideration. Those activities can follow the project implementation or be the part of a larger project and so forth. Non-integrating approach is reflected in different ways, namely: division of a large high-risk project into some parts and submitting to the Bank a less dangerous component as a separate project, which, in fact, easily brings to the ecologically dangerous activities; investments in companies in order to increase their floating funds, while these companies spend a part of this means on ecologically dangerous activities; division of responsibility for project implementing in the case when one company is responsible for environmental appraisal process and the other one – for project implementing and so forth. In this connection, it is important to introduce in the EBRD Policy the principle of project consideration in connection with all the activities resulting from the project.

We propose also to improve Environmental Policy structuring. The more detailed indexation of individual clauses of the Policy within existing items and annexes would simplify the work with the document, making references and quoting, as well as discussing of its new versions.

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