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“To the best of our knowledge”¹: How to improve the transparency and accountability of intermediated EBRD investments in three steps

Disbursing public money via private-sector controlled financial intermediaries (FIs) is a means to an end: reaching a larger set of smaller beneficiaries. It has its strong rationale, in particular when it comes to renewable energy projects that, in contrast to traditional energy projects, tend to be smaller in size and dispersed over larger areas. Nevertheless, these financial means must not contravene the ends that multilaterals such as the EBRD have in their mandate or the standards prescribed by their policies.

Standards and principles in EBRD policies

The EBRD’s Environmental and Social Standards strongly align with the principles set by the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)². For instance EBRD project appraisal requires clients to:

„identify stakeholders potentially affected by and/or interested in the projects, disclose sufficient information about the impacts and issues arising from the projects and consult with stakeholders in a meaningful and culturally appropriate manner...Such stakeholder engagement should be carried out bearing in mind the spirit and principles of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters”³

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This phrase comes from a quote from correspondence with two EBRD’s financial intermediaries (FIs), in which they claimed that they are compliant with all the EBRD policy requirements “to the best of their knowledge”. With no intention to undermine FIs’ commitment to fulfilling strict environmental and social standards, using this phrase indicates that the FIs are not aware that a third party, be that a local community or civil society organisations, is entitled to independently check their compliance with local laws or EBRD policies, which could also potentially remove some of the uncertainty that using this phrase implies.

2 The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, which entered force on 30 October 2001

<https://www.unece.org/env/pp/treatytext.html>

3 The [EBRD’s Environmental and Social Policy 2014](#), page 5, paragraph 34

Also EBRD Performance Requirement (PR) 10⁴ “is guided by the spirit, principles and ultimate goals on public disclosure and stakeholder engagement” encapsulated in the Aarhus Convention.

However, the Bank’s policies relating to financial intermediaries such as Performance Requirement 9⁵, with its loose formulations, open up space for the Bank and intermediaries to avoid complying with those principles and standards. In addition, implementation of PR 9 presumes a stable governance context where legal processes and transparency will work automatically, which is hardly the case within most of the EBRD’s theatre of operations.

How all this works in reality

One of the regions where intermediated finance in a weak governance context can risk creating conflicts between different policy goals is hydropower in the Balkans. Massive and poorly planned hydropower (HPP) development is leaving hardly a river or stream left untouched by the plans.⁶ Most of the planned hydropower plants are below 10 MW and hence better suited for smaller loans provided by local banks. At the same time the Balkans is home to abundant natural wealth, with a diversity of spectacular landscapes, rivers and plant and animal species, many of which are not found anywhere else.

The potential conflict between energy policy and nature protection aims is particularly severe because of the poor availability of environmental information from public authorities in the Balkans, poor rules and implementation on public participation and slow, unreliable and politically influenced legal systems.⁷ While efforts are ongoing to improve the situation, it is crucial that the EBRD takes on its share of responsibility to avoid environmental harm in the region by disclosing its involvement in hydropower projects.

As a result of providing only aggregated information on intermediated loans rather than disclosing individual projects, the EBRD is known to have provided at least EUR 14 million for the construction of at least 8 small and mini hydropower plants through financial intermediaries (FIs) in Bosnia and Herzegovina, Croatia, Macedonia between 2013 and 2015⁸. However, the public has in most cases no idea which ones, thus creating a major

4 [Ibid](#), pages 55–58

5 [Ibid](#), pages 52–53

6 Bankwatch research has found around 1000 potential or planned plants across the wider Balkan region (from Slovenia to Albania to Bulgaria), however this is an underestimate as it included only a few plants in Serbia. A study carried out for Riverwatch and Euronatur put the figure as high as 2700 planned plants. For more information see: <http://bankwatch.org/publications/financing-hydropower-protected-areas-southeast-europe> and http://balkanrivers.net/sites/default/files/Hydropower%20dams%20in%20the%20Balkan230915_FINAL_EdUS.pdf

7 For some examples of how these issues play out in the hydropower sector, see for example: WWF et al: EIA/SEA of hydropower projects in southeast Europe: Meeting the EU standards, October 2015 http://d2ouvy59p0dg6k.cloudfront.net/downloads/hidro_v6_webr.pdf

8 Communication with the EBRD, 26 August 2015

hole in the bank's accountability.

Noticing that ESIA's are not generally visible on websites of commercial banks in the Western Balkans, and given the scale of the threat from hydropower, Bankwatch decided to systematically research whether the EBRD's intermediaries in Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Montenegro, Serbia and Slovenia have published environmental information on projects on their websites and whether they are aware of their obligations.

How we did the research

The research was conducted in the form of a survey with open-ended questions. An email was sent to 38 of the EBRD's financial intermediaries in Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Montenegro, Serbia and Slovenia who have received different types of loans from January 2009 onwards⁹. The initial email was sent on 12 April 2017. As we were interested in the FIs likely to provide support for smaller hydropower projects we excluded several types of institutions and funds: those focusing on leasing, factoring or equity financing, judging that most of those are not relevant for our purposes. We also did not address intermediaries of joint IFI funds (eg. Green for Growth fund) given that participating banks are sharing responsibilities and it is not clear whose standards apply. Also, in the cases of funds where there is a fund manager and several participating FIs, we chose to go to the participating FIs, given that they are most closely related to the final clients. The recipients were requested to respond by 25 April 2017.

The letter was sent in English to intermediaries in Albania, Bulgaria, Macedonia and Slovenia; in Serbian to ones in Serbia and Montenegro; in Bosnian to Bosnia and Herzegovina; and in Croatian to the banks in Croatia¹⁰.

We requested:

- The contact details of the appointed person tasked with dealing with environmental and social enquiries
- A web link for the social and environmental policy and procedures published
- Information on the number of Category A projects in the energy sector that the FI has financed with the EBRD's credit lines and in which sub-sectors (hydropower, wind, biomass, gas etc)
- Links to the part of the intermediary's website which contains links to Environmental and Social Impact Assessments for any Category A projects financed.

The request included citations from PR 9, listing the relevant provisions.¹¹

⁹ January 2009 is chosen in relation to the start of the implementation of the 2008 Environmental and Social Policy

¹⁰ The variation in approach was due to Bankwatch's internal capacities and time constraints.

¹¹ An excerpt from the PR 9 is quoted in Annex II

Results

Only 13 out of 38 financial intermediaries responded.¹² Regarding our questions, six out of 13 FIs referred us to an appointed person or dedicated email address for communicating environmental and social enquiries.¹³ Four FIs responded explicitly that they have a social and/or environmental policy published¹⁴, while the practices of a further three are more blurry: publishing excerpts in their Corporate Social Responsibility (CSR) reports¹⁵, publishing only CSR reports and not referring to a policy¹⁶ or having an ESMS but not publishing it.¹⁷ None of the banks provided information on Category A projects, while three stated that they have not financed the Category A and/or renewable projects via EBRD credit lines.

Even with a relatively small sample some patterns have emerged.

Three banks explicitly argued that the information we requested is confidential, in particular on Category A projects.¹⁸ This is a common argument put forward by the banks.¹⁹ However, we want to emphasise here that EBRD loans are public money and banking secrecy rules have to be modified in order to acknowledge the fact that the public has a right to monitor these financial flows. Two of these three banks also did not share any concrete information on an appointed person or published policies even though there is no potential client confidentiality

¹² We want to thank the personnel of the financial intermediaries that responded for taking the time to reply to our enquiry. The full list of contacted FIs is in the Annex I of this briefing.

¹³ Correspondence with ProCredit Bank a.d, Tirana Bank SA, Eurobank EFG Bulgaria, NLB Banka AD Skopje, Erste Bank a.d, ProCredit Bank Bulgaria, April 2017

¹⁴ Correspondence with ProCredit Bank a.d, Tirana Bank SA, Eurobank EFG Bulgaria and ProCredit Bank Bulgaria, April 2017

¹⁵ Correspondence with Erste Bank a.d. April 2017

¹⁶ Correspondence with Privredna banka Zagreb d.d. April 2017

¹⁷ Correspondence with NLB Banka AD Skopje, April 2017

¹⁸ Correspondence with UniCredit Bank d.d , Unicredit Bulbank and Eurobank EFG Bulgaria, April 2017

¹⁹ In January 2017 we did similar research with the FIs of the European Investment Bank and received similar arguments in response.

issue here.

One of the banks²⁰ listed a very comprehensive list of documents that are being collected, without saying if it is publishing them. This shows that banks have capacities to collect environmental information, and it is only the principle of protecting their clients which is stopping them from publishing it.

It is also indicative that two of banks referred us back to the EBRD.²¹ While we do think that the ultimate responsibility for intermediated loans lies on the EBRD, PR 9 still entails that FIs need to improve their practices of communicating with third parties, without reverting automatically to the EBRD.

Three banks argued that they are not any more in a contractual relationship with the EBRD and that this releases them from obligation to provide us with the information. While technically this is true, it also shows that the expected changes in banking practices as a result of the relationship with the EBRD are susceptible to being reversed.²²

Interestingly, two banks argued that their Environmental and Social Risk Management procedures are confidential.²³ While we accept the right of the FIs to have some of their internal procedures confidential, we still think that it would be beneficial for the communication of the banks with the public to publish their policies, a summary of the procedures or some of the relevant sections such as exclusion lists.

²⁰ Correspondence with Tirana Bank SA, April 2017

²¹ Correspondence with UniCredit Bank d.d and Unicredit Bulbank, April 2017

²² Correspondence with MF Banka, a.d , Credins Bank, Bank Societe Generale Srbija, April 2017

²³ Correspondence with Eurobank EFG Bulgaria and ProCredit Bank a.d., April 2017

Why did we have such results?

We believe these results are expected due to weaknesses in the EBRD's Environmental and Social Policy, resulting from the gap between commitments to the Aarhus Convention principles and the details of Performance Requirements.

Regarding **access to information**, FIs are only *encouraged* to publish their corporate environmental and social policy or a summary of their ESMS on their web site and *where possible* list on their website the link to any Environmental and Social Impact Assessment (ESIA) reports for Category A sub-projects which they finance. This allows FIs to choose not to publish the information, which can jeopardise the EBRD's intention to have harmonised standards both for direct investments and intermediated ones. Given that the EBRD delegates the task of sub-project appraisal and monitoring to FIs²⁴ this obvious loophole means that very likely there will be no way for external stakeholders to evaluate if the project appraisal process was done properly. At the same time narrowing down *potential* access only to Category A projects and ESIA's excludes a myriad of other environmental data that could be relevant for interested parties: screening decisions, impact assessments for small projects, environmental permits, scoping documents and so on.

This essentially blocks the implementation of the spirit, principles and ultimate goals of the Aarhus convention: meaningful **public participation** is not possible without having access to relevant data while **access to justice** is even more difficult to achieve. It is not hard to imagine a project with adverse impacts that has been financed by a local commercial bank that is an FI of the EBRD, where the local community wants to communicate its grievances, but is not aware that the project was financed by public money and that they have a right to access the EBRD PCM. Their only option is then the national legal mechanisms, which in many cases due to the weak

governance context do not really help them to resolve the issues.

Trends in other multilateral banks

Multilateral public banks are investing a significant percentage of funds through financial intermediaries. Some of them, such as the International Finance Corporation (IFC), have had to learn hard way that they need to strengthen the standards: the IFC's own Compliance Advisor Ombudsman (CAO) has criticised the IFC for a lack of proper due diligence when extending a loan to an intermediary that in turn invested in a palm oil company linked to multiple killings and drug trafficking in Honduras.²⁵ The IFC has taken some steps to amend the situation and recently the IFC's President le Houérou stated that the bank will better focus its environmental and social resources on appraisal, supervision, and capacity support to its financial intermediary clients who are deemed higher risk as well as reduce the IFC's own exposure to higher risk FI activity, and apply greater selectivity to these type of investments, including equity investments.²⁶ The EBRD should also learn from these examples and increase scrutiny over its investments through FIs, learning from others' mistakes.

²⁴ EBRD's Environmental and Social Policy 2014, page 4, paragraph 28

²⁵ http://www.cao-ombudsman.org/cases/case_detail.aspx?id=209

²⁶ https://medium.com/@IFC_org/re-examining-our-work-with-financial-institutions-208c4161d9e3

Recommendations

There are at least three simple steps that the EBRD can take in order to avoid different transparency standards in its direct and intermediated investments: the Bank should update its contracts with FIs, it should update its policies and it should facilitate direct communication between third parties and EBRD intermediaries.

- Step one: contracts with FIs should include a requirement to publish environmental information and a comprehensive definition of environmental information in line with the Aarhus Convention. This should go beyond environmental impact assessments and include also eg. investors' requests to Ministries for decisions on whether environmental impact assessments are needed and the accompanying decisions, as well as any studies carried out and decisions subsequently taken.
- Step two: the EBRD should update its Environmental and Social Policy so that it is clear that the Financial Intermediary is *obliged* to disclose this environmental information.
- Step three: the EBRD should publish a list of contact persons in their financial intermediaries that are responsible for environmental and social issues.

In case the EBRD is not able to ensure that its intermediaries improve their disclosure then the bank should itself disclose information on all beneficiaries and on final projects which are of environmental category A or B.

Annex 1 Table listing Financial Intermediaries

#	Country	Name	Contact	Response
#1	Albania	Credins Bank Rr. "Ismail Qemali" 4, Tirane	Aurora Hakrama, Kordinatore Projekti Departamenti i Projekteve, aurora.hakrama@bankacredins.com	Yes
#2	Albania	Tirana Bank SA-- Piraeus Bank Group Rr. Ibrahim Rugova, 2400/1, Tirana	Suela Dhima – Manager of Compliance Department sdhima@tiranabank.al	Yes
#3	Bosnia & Herzegovina	MF Banka, a.d. Vase Pelagića 22 78000, Banja Luka	Braco Erceg, Investor Relations Manager, berceg@mikrofin.com	Yes
#4	Bosnia & Herzegovina	Intesa Sanpaolo Banka d.d. Obala Kulina Bana 9 a 71 000 Sarajevo	Murat Cengic, murat.cengic@intesasanpaolobanka.ba	No response
#5	Bosnia & Herzegovina	Sparkasse Bank d.d. Zmaja od Bosne 7 71 000 Sarajevo	Amna Gabela, Head of ALM Department, amna.gabela@sparkasse.ba, Erna Kekic, Associate ALM, erna.kekic@sparkasse.ba	No response
#6	Bosnia & Herzegovina	Raiffeisen Bank BH Zmaja od Bosne bb 71 000 Sarajevo	Emira Cehajic Head of Funding & FI Group ALM / Funding & FI Department Treasury, Financial Markets and Investment Banking Division, emira.cehajic@rbb-sarajevo.raiffeisen.at	No response
#7	Bosnia & Herzegovina	UniCredit Bank d.d. Kardinala Stepinca b.b 88 000 Mostar	Naida Kuduz, Public Relations, Marketing and Communication, naida.kuduz@unicreditgroup.ba	Yes
#8	Bulgaria	Allianz Bank Bulgaria 1202 Sofia, Bulgaria 79, Maria Louisa Blvd.	Vladimir Bogdanov, Account Manager, Large Corporate Clients vladimir.bogdanov@bank.allianz.bg	No response

#9	Bulgaria	Eurobank EFG Bulgaria Head Office Postbank Office Park Sofia 1766, 260, Okolovrasten pat Bvld.	Dr. Virginia Zhelyazkova, Environment Officer, Central Operations Division, VZhelyazkova@postbank.bg	Yes
#10	Bulgaria	Raiffeisenbank (Bulgaria) EAD Headquarter 1407 Sofia, 55 Nikola Vaptsarov Blvd., EXPO 2000	Tsvetanka Madjounova, Financial Institutions Department, Head of Department, Financial.INSTUTIONS@raiffeisen.bg	No response
#11	Bulgaria	Societe Generale Expressbank 92, Vl. Varnenchik Blvd. 9000 Varna	Martina Macheva, Head of Corporate Division, Martina.Macheva@socgen.com and Daniela Hristova, Corporate Secretary, Commercial Department, Daniela.Hristova@socgen.com	No response
#12	Bulgaria	UniCredit Bulbank 7 Sveta Nedelya Sq. 1000 Sofia	Viktoria Blajeva, Head of I&C, viki.davidova@unicreditgroup.bg	Yes
#13	Bulgaria	ProCredit Bank Bulgaria 26, Todor Aleksandrov Blvd. 1303, Sofia	Ivaylo Ivanov Valev, Head of Environmental Department, Ivaylo.Valev@procreditbank.bg	Yes
#14	Bulgaria	Piraeus Bank Bulgaria 115 E Tsarigradsko Shosse Blvd., 1784 Sofia	pressoffice@piraeusbank.bg	No response
#15	Bulgaria	United Bulgarian Bank Sofia 1040, 5 St. Sofia str.	Maria Toromanova, Head of Compliance Department, toromanova_m@ubb.bg	Yes
#16	Bulgaria	DSK bank 19, Moskovska Str./5, G. Benkovski Str., 1036 Sofia	Kalin Antonov, Head of the Compliance and Security Directorate, Kalin.Antonov@dskbank.bg	No response
#17	Bulgaria	Fi Bank 37, Dragan Tsankov Blvd. 1797 Sofia	Petar Mladenov, Director, petar.mladenov@fibank.bg Chavdar Zlatev, Director, chavdar.zlatev@fibank.bg	No response
#18	Croatia	Privredna banka Zagreb d.d. Rackoga 6 10000 Zagreb Croatia	Marin Krstic, Senior Relationship Manager, Financial Institutions Department, marin.krastic@pbz.hr	Yes

#19	Croatia	Zagrebačka banka d.d. Paromlinska 2 10000 Zagreb Tel: 0800 00 24 Tel: +3851 3773 333 Fax: +3851 3789 764	Josip Josipovic, Josip.Josipovic@unicreditgroup.zaba.hr	No response
#20	Croatia	Erste & Steiermärkische Bank d.d., Zagreb Ivana Lučića 2 10000 Zagreb	Mirjana Haluga, mhaluga@erstebank.com	No response
#21	Croatia	Raiffeisenbank Austria d.d., Zagreb Petrinjska ul. 59, 10000, Zagreb	Ms. Natasa Mlakar Director of Financing & Special Arrangements, Financial Institutions and Cash Management, natasa.mlakar@rba.hr	No response
#22	Croatia	Erste & Steiermärkische Bank d.d., Jadranski trg 3A Rijeka, 51000	Dario Gabrić, Head of Communication Department, dgabric@erstebank.com	No response
#23	Croatia	Splitska Banka, Ruđera Boškovića 16 , 21.000 Split,	Boris Borzic, Head of ALM Department, boris.borzic@splitskabanka.hr	No response
#24	Macedonia	Ohridska Banka Orce Nikolov 54, Skopje 1000, Macedonia	Blagoja Ustijanovski, Head of corporate banking and small and medium enterprises department, blagoja.ustijanovski@ob.com.mk	No response
#25	Macedonia	Sparkasse Bank Makedonija Makedonija Street 9-11 1000 Skopje	Sparkasse Bank Makedonija, Corporate Department, corporate@sparkasse.mk	No response
#26	Macedonia	NLB Banka AD Skopje Bul. Majka Tereza br. 1, 1000 Skopje	Elena Nikolovska, Advising Officer, Financial Market and Treasury Division, Financial Institutions and International Finance Department, elena.nikolovska@nlb.mk	Yes
#27	Montenegro	Hipotekarna Banka Josipa Broza Tita 67 81000 Podgorica,	Nikola Milović, Head of Operations, nikola.milovic@hb.co.me	No response
#28	Serbia	Čacanska Banka a.d. 32000 Čačak – Pivarska 1	MSME lending department, nikola.ranitovic@cacanskabanka.co.rs	No response

#29	Serbia	Opportunity banka a.d. Novi Sad Bulevar Oslobođenja 2A 21000 Novi Sad	Business lending department, nrakocevic@obs.rs	No response
#30	Serbia	ProCredit Bank a.d. Milutina Milankovica 17 11070 Belgrade	Jelena Grbic, Assets Liabilities Management Officer, j.grbic@procreditbank.rs	Yes
#31	Serbia	Bank Societe Generale Srbija Street Bulevar Zorana Đinđića 50a 11070 Novi Beograd	Gordana Stojadinov, ALM Reporting Specialist, gordana.stojadinov@socgen.com	Yes
#32	Serbia	UniCredit Bank Serbia JSC 27-29 Rajiceva 11000, Belgrade Republic of Serbia	Ana Rakic, Corporate Banking, ana.rakic@unicreditgroup.rs	No response
#33	Serbia	Addiko Bank a.d. Beograd Bulevar Mihajla Pupina 6, Beograd, Republika Srbija	Rade Vojnovic, Chief Financial Officer, rade.vojnovic@addiko.com	No response
#34	Serbia	Komercijalna Banka a.d. 11000 Beograd Svetog Save 14	Mihajlo Kosanovic, mihajlo.kosanovic@kombank.com	No response
#35	Serbia	Banca Intesa ad Beograd Milentija Popovica 7b 11070 Novi Beograd	Milena Perazic, milena.perazic@bancaintesa.rs	No response
#36	Serbia	Alpha Bank Srbija A.D. 11, Kralija Milana Belgrade 11000	Dragana Milić, Investment Banking Department, Manager, dmilic@alphabankserbia.com	No response
#37	Serbia	Erste Bank a.d. Novi Sad Bulevar oslobođenja 5	Independent Expert, Asset and Liability Management,	Yes
#38	Slovenia	Nova Kreditna Banka Maribor ("NKBM") Ulica Vita Kraigherja 4 SI.2505 Maribor	Karidia Toure Zagrajšek, Director of Public Relations and Corporate Communications Division, pr@nkbm.si	No response

Annex 2 Excerpt from Performance Requirement 9:

Requirements

11. The FI will put in place a clearly defined Environmental and Social Management System (ESMS), including an environmental and social policy and environmental and social procedures¹ commensurate with the nature of the FI, the level of environmental and social risks associated with its business activities, and the type of the project and subprojects.

12. Where the FI can demonstrate that it already has an ESMS in place, it will provide adequate documented evidence of such an ESMS.

13. The environmental and social procedures must include risk assessment and monitoring mechanisms, as appropriate, to:

- screen all clients/subprojects against the FI Environmental and Social Exclusion List included as Appendix 1 in the ESP
- categorise the environmental and social risk of proposed subprojects (low/medium/high) in accordance with the EBRD’s Environmental and Social Risk Categorisation List for FIs
- ensure, through its assessment, that subprojects are structured to meet national regulatory requirements relating to environmental and social matters, including, where necessary, requiring clients to implement corrective action plans
- ensure that subprojects being financed meet the criteria in the indicative list of Category A projects included as Appendix 2 in the EBRD Environmental and Social Policy (ESP); such subprojects will be required to meet PRs 1 to 8 and 10
- keep and regularly update environmental and social records on subprojects
- monitor subprojects to ensure compliance with national laws on environment, health and safety and labour.

Stakeholder engagement

14. The FI will put in place a system for dealing with external communication on environmental and social matters, for example, by establishing a point of contact for dealing with public enquiries, including concerns related to environmental and social matters. The FI will respond to such enquiries and concerns in a timely manner. The FIs are also encouraged to publish their corporate environmental and social policy or a summary of their ESMS on their web site, if available. Where possible, FIs will list on their web site the link to any Environmental and Social Impact Assessment (ESIA) reports for Category A subprojects which they finance.



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