

Human rights define the resilience of society: the EBRD must do more to ensure its investment projects respect and protect human rights



Photo: Canva

Introduction

The European Bank for Reconstruction and Development (EBRD) invests in development projects in countries with high political, economic and social risks and a greater probability of human rights violations. Central Asia as well as the southern and eastern Mediterranean are 'not free' according to the Freedom House ranking,¹ while southeast Europe, eastern Europe and the Caucasus are burdened by a significant democratic deficit and shrinking civic space. Bankwatch's extensive

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¹ Freedom House, [Global Freedom Status](#), Freedom House, 2023.

experience in Serbia,² Uzbekistan,³ Kazakhstan,⁴ Bosnia and Herzegovina,⁵ Georgia,⁶ Armenia⁷ and other countries shows that the EBRD's current approach to human rights due diligence does not effectively prevent human rights violations.⁸ Sustainable development in high-risk countries can only be achieved through meaningful engagement with people likely to be affected by the projects proposed, giving them the opportunity to choose an informed development path and contribute to risk management. The EBRD has the mandate and the resources to make this a reality. But first it must adapt its approach.

What is the EBRD's role in human rights due diligence?

The EBRD claims that human rights are an integral part of its approach to environmental and social due diligence, but little information about this process is publicly available. Some elements of its strategy are briefly described in the Bank's 2019 Environmental and Social Policy (ESP),⁹ which, tellingly, assigns the client the leading role in project assessment, including stakeholder engagement. The EBRD provides 36 guidance notes for clients only¹⁰ but its own procedures for environmental and social appraisal and monitoring of investment projects are outdated.¹¹

Based on information Bankwatch has obtained during workshops with EBRD management,¹² the Bank's integrated approach to environmental and social due diligence seems to consist of the following measures: risk screening to inform project categorisation (carried out by the Bank); an environmental and social impact assessment (ESIA) (carried out by the client); project assurance (through guidance issued to the client); and project monitoring involving a review of client reports (carried out by the Bank). But given the lack of public information on the outcomes of EBRD's risk screening, impact assessment (for most non-category A projects, which the Bank considers lower risk) and performance monitoring procedures, it is hard to verify how effectively human rights risks are incorporated into the Bank's due diligence.

² CEE Bankwatch Network, [Is there room for informal waste pickers in Serbia's new waste management system?](#), CEE Bankwatch Network, 10 March 2022.

³ CEE Bankwatch Network, [Indorama Agro project. Uzbekistan: unmitigated human rights violations persist](#), CEE Bankwatch Network, 10 May 2022.

⁴ CEE Bankwatch Network, [Almaty's Green City Action Plan: a plan for destructive creation?](#), CEE Bankwatch Network, 8 December 2022.

⁵ CEE Bankwatch Network, [Corridor Vc motorway. Bosnia and Herzegovina](#), CEE Bankwatch Network, 10 May 2022.

⁶ CEE Bankwatch Network, [Will Georgia's North-South Corridor boost trade, or make it dependent on Russia?](#), CEE Bankwatch Network, 10 May 2022.

⁷ International Federation for Human Rights, CEE Bankwatch Network, Civil Society Institute (Armenia), [ARMENIA Amulsar: Human Rights Violations and Environmental Negligence in the Search for Gold](#), International Federation for Human Rights, CEE Bankwatch Network, Civil Society Institute (Armenia), June 2022.

⁸ CEE Bankwatch Network, [EBRD human rights due diligence based on safe and meaningful public participation](#), CEE Bankwatch Network, 10 May 2022.

⁹ European Bank for Reconstruction and Development, [Environmental and Social Policy \(ESP\)](#), European Bank for Reconstruction and Development, accessed 4 May 2023.

¹⁰ European Bank for Reconstruction and Development, [How to implement our performance requirements](#), European Bank for Reconstruction and Development, accessed 17 April 2023.

¹¹ European Bank for Reconstruction and Development, [Procedures for environmental and social appraisal and monitoring of investment projects](#), European Bank for Reconstruction and Development, accessed 27 April 2023.

¹² In 2022-2023, three workshops attended by international civil society organisations and representatives of EBRD management were held to discuss human rights due diligence and opportunities for improvement.

Importantly, EBRD due diligence excludes engagement with rights-holders during the risk screening and monitoring stage, an essential element of effective risk assessment and management. As a result, key risks may be ignored or overlooked when designing projects, selecting locations and determining mitigation measures. This undermines project performance requirements, increasing the likelihood of serious human rights violations and negative development impacts.

The scope and prioritisation of a given project's risks and impacts can only be properly identified in a participatory way. In certain countries or sectors, information on human rights risks may be extremely limited due to a lack of the following: government transparency, independent media and civic space, engagement with international civil society organisations, publicly available data on national or regional contexts, and experts required to conduct assessments. Against this backdrop, early-stage engagement with rights-holders is vital to ensure that valid sources of information are considered when making decisions about the potential risks and impacts of a project.

The EBRD's approach to environmental and social due diligence heavily relies on information provided by the client in relation to impact assessment, management and monitoring, which are subject to varying degrees of verification by the Bank. According to an EBRD response received by Bankwatch on 17 April 2023, only 30 projects – presumably out of hundreds of active projects – were monitored by a third party in 2022.

Do levels of corruption correlate with meaningful engagement of rights-holders?

Based on the EBRD's Sustainability Reports for 2020 and 2021, the number of category B projects (which the EBRD considers to be of lower risk) increased from 195 (41 per cent) in 2020¹³ to 206 (59 per cent) in 2021.¹⁴ Most of these projects are implemented by public sector clients. According to the ESP, the Bank determines the scope of the environmental and social appraisal required on a case-by-case basis. The Independent Project Accountability Mechanism (IPAM) Annual Reports for 2020 and 2021¹⁵ reveal an increase in the number of complaints lodged against category B projects, including municipal and environmental infrastructure (MEI) projects, with concerns raised in relation to assessment and mitigation, information disclosure and stakeholder engagement.¹⁶

Bankwatch analysed 95 MEI projects – including in the key sectors of transportation, solid waste management, energy efficiency and water and wastewater management – for the period between 2020 and 2022, as published on the Bank's website.

¹³ European Bank for Reconstruction and Development, [EBRD Sustainability Report 2020](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

¹⁴ European Bank for Reconstruction and Development, [EBRD Sustainability Report 2021](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

¹⁵ European Bank for Reconstruction and Development, [Independent Project Accountability Mechanism: Annual Reports](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

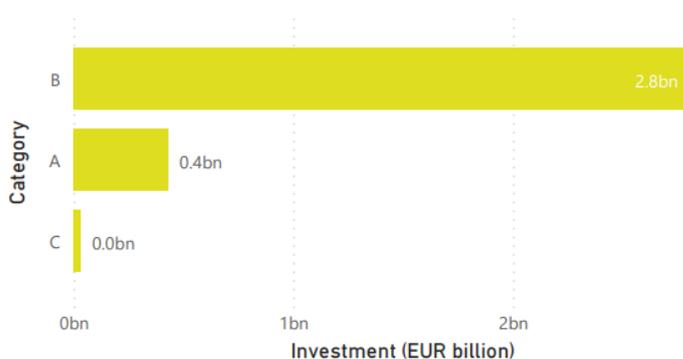
¹⁶ European Bank for Reconstruction and Development, [IPAM Case Registry](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

Our research reveals that:

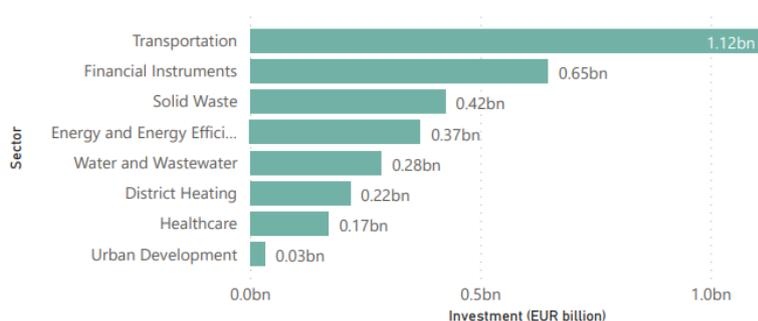
- 86 per cent of these MEI projects are category B projects, which are considered lower risk and do not require the Bank to disclose information or ensure meaningful consultations;
- 93 per cent of funding for these projects was allocated to public sector clients;
- most of these projects are located in Egypt, Turkey, Morocco, Romania and Georgia, and increasingly in Serbia and Uzbekistan;
- the EBRD failed to disclose environmental and social due diligence documentation for more than half of these investments – 45 per cent of the projects were accompanied by a Non-Technical Summary (NTS) disclosure, 35 per cent by a Stakeholder Engagement Plan (SEP) disclosure and none by an Environmental and Social Action Plan (ESAP) disclosure;
- 83 of the 95 projects received technical assistance grants, but in 40 per cent of these cases, information about the size of the grant was not disclosed.

In the main, public sector clients received funding to undertake due diligence (project feasibility assessments, Livelihood Restoration and Resettlement Frameworks (LRRFs), Green City Action Plans (GCAPs), assessments of energy efficiency in public buildings and equal opportunities in the solid waste sector) ensure project support (ESAP implementation, procurement, client capacity-building) and conduct development programmes (tariff reforms, youth skills training programmes, awareness campaigns on waste segregation or gender-based violence and harassment in the workplace), usually with the help of consultants.

EBRD municipal and environmental infrastructure projects by category (2020-2022)



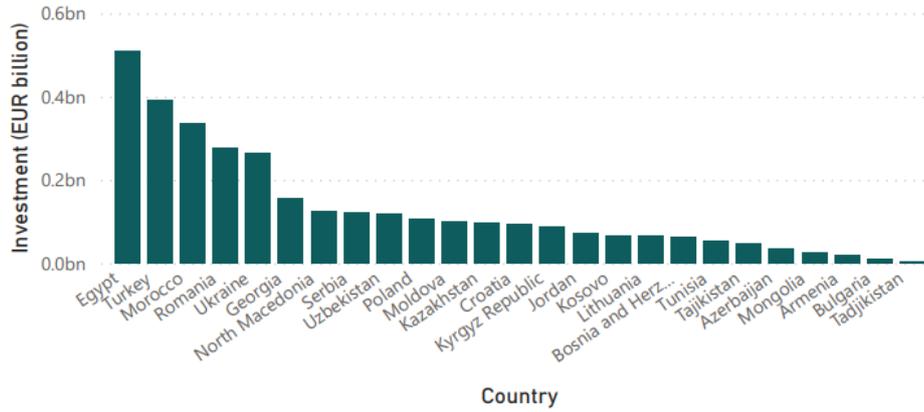
EBRD municipal and environmental infrastructure projects by sector (2020-2022)



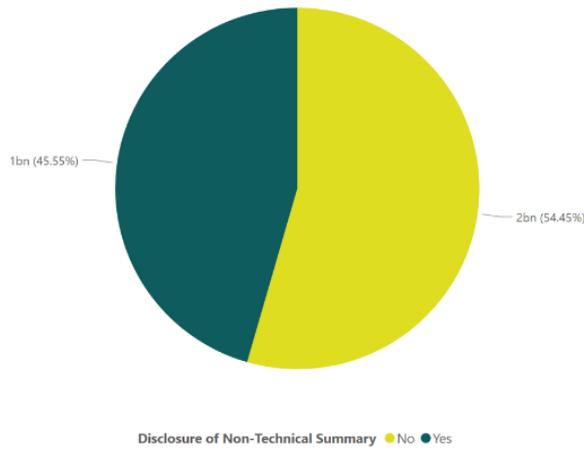
EBRD municipal and environmental infrastructure projects by client (2020-2022)



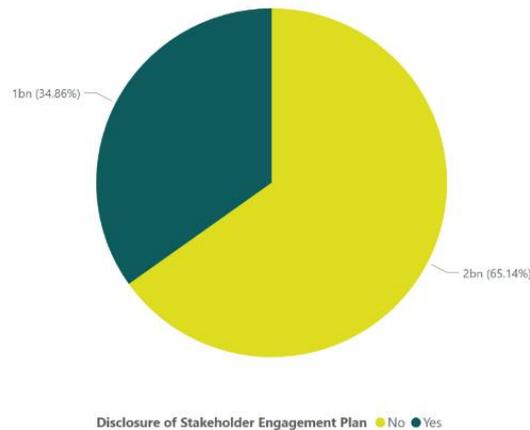
EBRD municipal and environmental infrastructure projects by country (2020-2022)



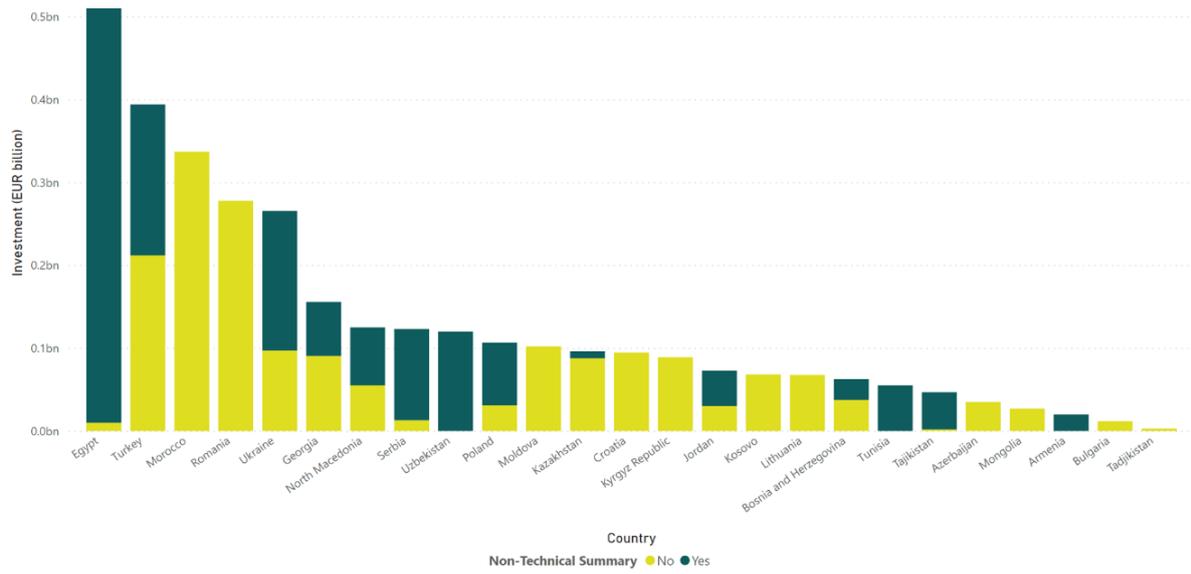
Disclosure of Non-Technical Summary for EBRD municipal and environmental infrastructure projects (2020-2022)



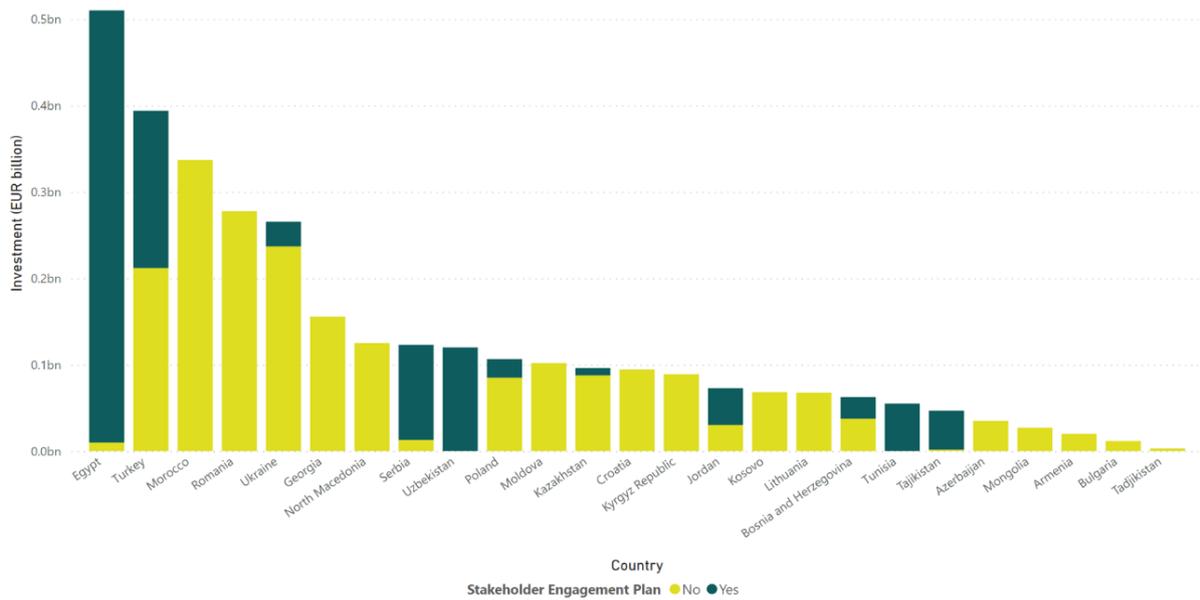
Disclosure of Stakeholder Engagement Plan for EBRD municipal and environmental infrastructure projects (2020-2022)



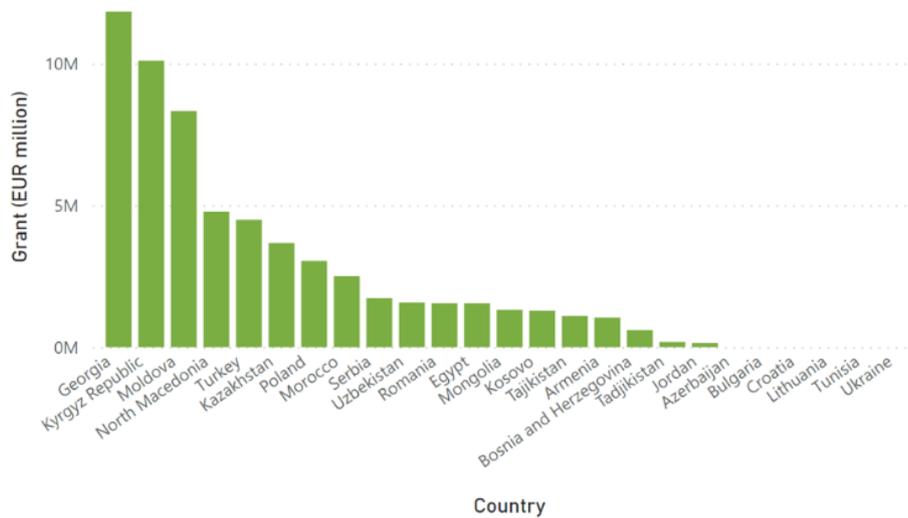
Disclosure of Non-Technical Summary for EBRD municipal and environmental infrastructure projects by country (2020-2022)

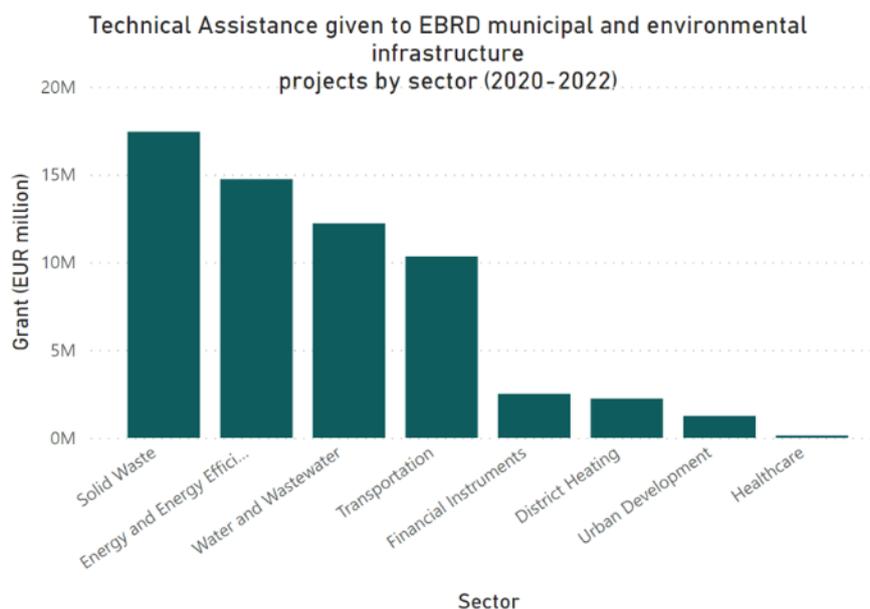


Disclosure of Stakeholder Engagement Plan for EBRD municipal and environmental infrastructure projects by country (2020-2022)

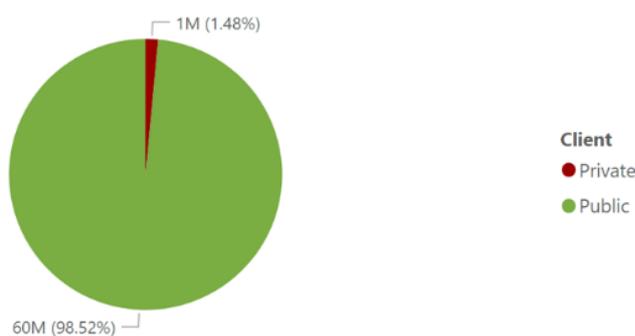


Technical Assistance given to EBRD municipal and environmental infrastructure projects by country (2020-2022)





Technical Assistance given to EBRD municipal and environmental infrastructure projects by client (2020-2022)



In authoritarian countries where the risk of human rights violations is high, the public sector is often plagued by corruption, retaliation against human rights defenders, a lack of transparency and poor environmental and social performance. Therefore, supposedly lower risk category B projects taking place in particularly high-risk environments, such as projects in Egypt (corruption perception index 33/100 and declining¹⁷), Morocco (corruption perception index 39/100 and declining¹⁸) and Turkey (corruption perception index 38/100 and declining¹⁹), are more vulnerable to significant environmental and social impacts. Without adequate environmental and social due diligence in place, the EBRD’s public sector investments in high-risk countries increase the risk of human rights violations.

In regions lacking effective democratic institutions, the EBRD must take the lead to ensure information disclosure, stakeholder engagement and mandatory impact assessments, especially considering that public sector clients may not have the expertise, legal requirements or experience to do so. Although providing technical assistance to the client can help, the EBRD should ensure adequate oversight for

¹⁷ Transparency International, [Corruption Perceptions Index – Egypt](#), *Transparency International*, accessed 27 April 2023.

¹⁸ Transparency International, [Corruption Perceptions Index – Morocco](#), *Transparency International*, accessed 27 April 2023.

¹⁹ Transparency International, [Corruption Perceptions Index – Turkey](#), *Transparency International*, accessed 27 April 2023.

projects, sectors and countries at highest risk. The EBRD often stresses the need for city authorities and clients to take ‘ownership’ of plans and assessments. However, the work carried out by external consultants is often not properly internalised or ‘owned’. Since due diligence is an ongoing and participatory process, the need to support capacity-building among rights-holders should not undermine their independence.

The EBRD also needs to be more transparent on the provision of technical cooperation grants, which can help to address corruption risks, verify client information and ensure meaningful stakeholder engagement in project monitoring. Currently, only NTSs and SEPs are partially disclosed, but not the outputs of investments in technical assistance.

Who is responsible for assessing and managing the risk of retaliation?

According to the ESP, the client should consider the environmental and social risks and impacts of the project when carrying out its environmental and social assessment. Category A projects require a formalised and participatory process. Presumably, it is also the responsibility of the client to ensure that the risks and impacts of human rights violations and retaliations are included in its assessment.

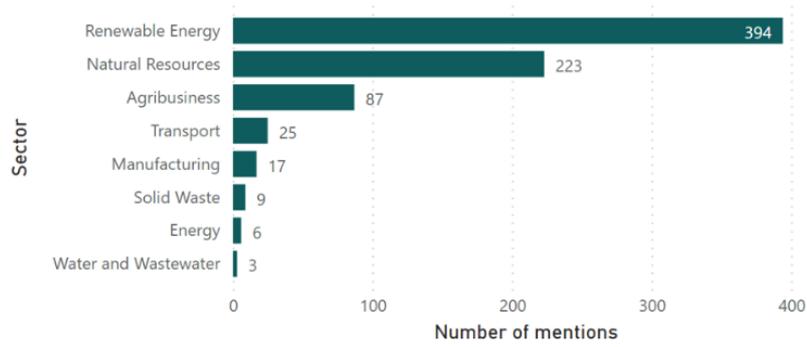
Bankwatch analysed environmental and social impact assessments disclosed on the EBRD website for 33 category A projects covering the period from 2020 to 2022.²⁰ Software was used to search for the keywords ‘human rights’ and ‘retaliation’ in the available project documentation, particularly ESIA, ESAPs, SEPs and Livelihood Restoration Plans (LRPs), according to the project screened.

We found that:

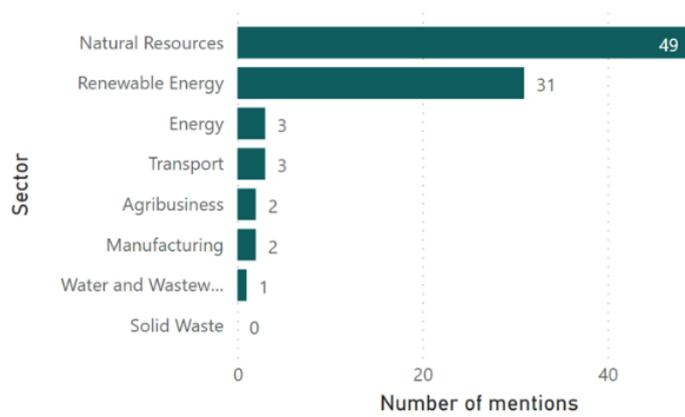
- only nine out of 33 projects mention ‘retaliation’ more than once in their project appraisal documents, and only three out of 33 contain more than ten mentions. The impact assessments for 66 per cent of the projects contain no mention of ‘retaliation’;
- only eight out of 33 projects have more than 10 mentions of the keyword ‘human rights’ in their project appraisal documents, and only three out of 33 contain more than 100 mentions. The impact assessments for 33 per cent of projects contain no mention of ‘human rights’;
- by sector, renewable energy and natural resources projects contain the most instances of the keywords ‘retaliation’ and ‘human rights’ in their impact assessments. MEI and transportation projects have the lowest or zero mentions;
- by client, projects by private sector clients contain the highest number of mentions of the keywords ‘retaliation’ and ‘human rights’ in their impact assessments;
- by country, projects in Greece (Kassandra Mines Project), Uzbekistan (Uzbekistan Dzhankeldy WPP) and Azerbaijan (Azerbaijan Absheron-Khizi WPP) contain the highest number of mentions of the keywords ‘retaliation’ and ‘human rights’ in their impact assessments.

²⁰ European Bank for Reconstruction and Development, [Environmental and Social Impact Assessments](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

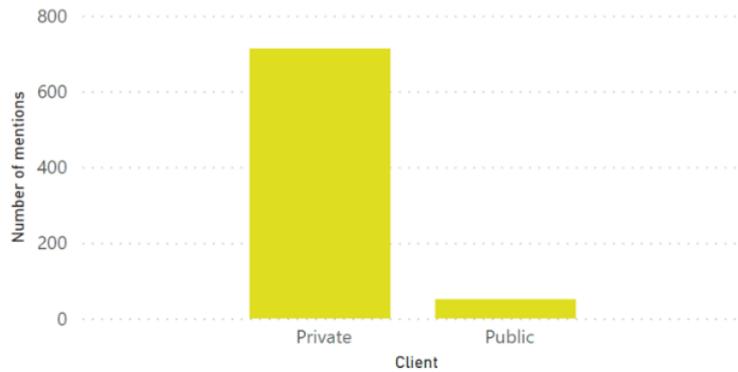
Mentions of "human rights" in EBRD project documentation: by sector (2020-2022)



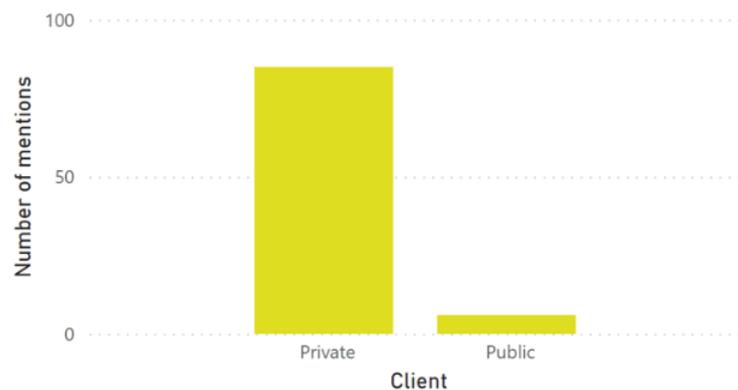
Mentions of "retaliation" in EBRD project documentation: by sector (2020-2022)

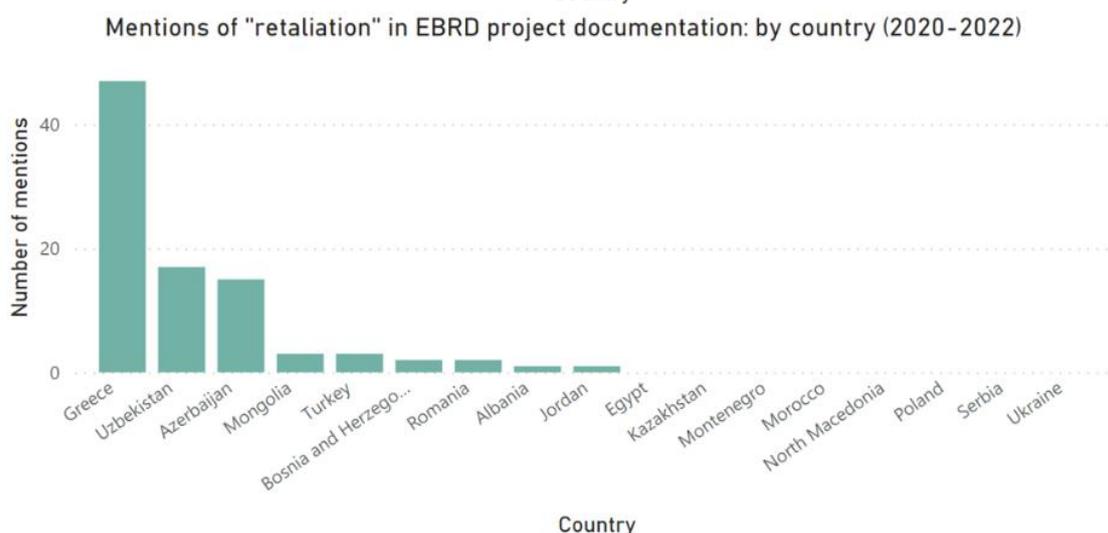
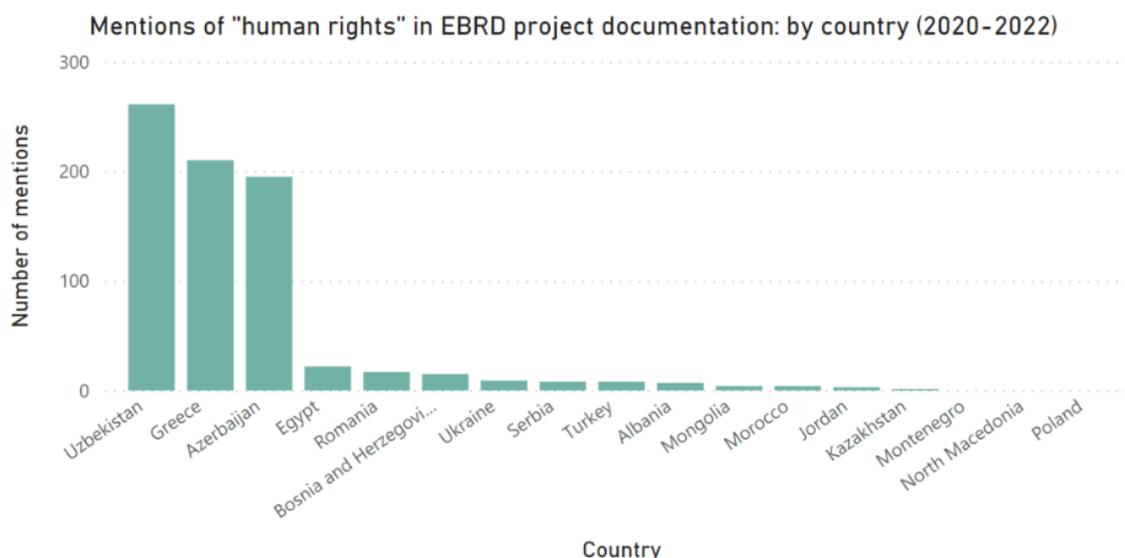


Mentions of "human rights" in EBRD project documentation: by client (2020-2022)



Mentions of "retaliation" in EBRD project documentation: by client (2020-2022)





We can therefore conclude that retaliation risk assessment is not part of the EBRD’s impact assessment, for which the client is responsible. This of course raises the following questions: Who, then, is responsible for conducting the retaliation risk assessment? At what stage of the project appraisal is this assessment carried out? And what preventive measures, if any, are put in place?

The EBRD claims it assesses the client’s capacity to prevent retaliation by inspecting for the presence of relevant policies, staff trainings, contractual obligations, grievance redress mechanisms (GRMs), disclosures, consultation processes, as well as safety and security management plans – all provided by the client. However, the risks of significant retaliation – which are commonplace in countries with a democratic deficit, in sectors with a legacy of human rights violations, and among clients allowed to exercise a power imbalance – may discourage the participation of communities and workers, rendering the presence of these policies and mechanisms merely a formal indicator.

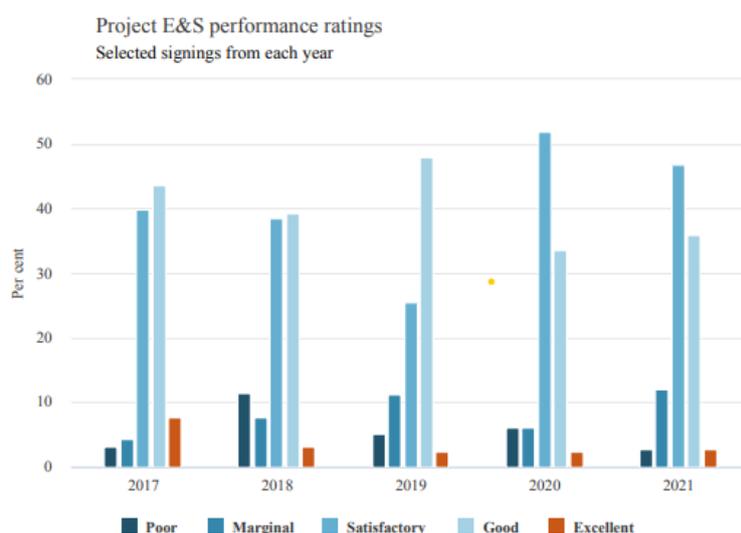
From 2020 to 2021, the EBRD’s Office of the Chief Compliance Officer (OCCO) received three complaints from individuals and civil-society organisations ‘alleging that they have been subject to retaliation by Bank

clients following complaints made about an EBRD project'.²¹ OCCO committed to monitoring further actions, but no follow-up information was disclosed in the annual reports. In addition, some concerns and incidents are reported to the Environmental and Social Department (or project teams), country offices and IPAM. To our knowledge, the EBRD has no register of incidents in place, does not assign a single body to handle retaliation complaints, and does not provide a clear approach for dealing with signals. This makes the mechanism by which whistle-blowers and victims of retaliation seek protection through the EBRD both inaccessible and unpredictable.

Do we have any evidence that the EBRD monitors human rights violations?

The EBRD does not disclose environmental and social monitoring or audit reports for any of its projects. Recently, the Bank has started to publish what it calls State Sector Operation Performance Assessment Reports. Out of hundreds of ongoing projects, 13 reports on projects related to energy (6), municipal and environmental infrastructure (5) and transport (2) are now available.²² However, these reports lack information on the progress and effectiveness of the proposed ESAPs, focusing more on the achievement of project objectives and transition impacts.

The EBRD's annual Sustainability, IPAM and OCCO reports provide minimal and general information on the environmental and social performance of its projects, paying no attention to human rights violations and their evolution over time. Although EBRD's recent Evaluation Department (EvD) Energy Reports and Cluster Evaluations²³ provide an overview of performance results, there is little focus on environmental and social indicators. The Bank's Operation Evaluation summaries were last updated in 2013.²⁴ In its 2021 Sustainability Report, the Bank describes the rationale for its project performance indicators:



²¹ European Bank for Reconstruction and Development, [Integrity and Anti-corruption Report 2021](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

²² European Bank for Reconstruction and Development, [State Sector Operation Performance Assessment \(OPA\) Reports](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

²³ European Bank for Reconstruction and Development, [Latest evaluation reports](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

²⁴ European Bank for Reconstruction and Development, [Operation Evaluation summaries \(by sector\)](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

‘At the time of appraisal, the Bank scores each project on its compliance with the main components of each Performance Requirement. It combines these scores to give an overall performance rating for each project on a five-point scale. Projects are rated based on current performance, that is, before the implementation of any future commitments under an ESAP. By tracking projects over time, the Bank aims to demonstrate changes in performance as EBRD investments and associated ESAPs are implemented.’²⁵

Bankwatch recently wrote to the EBRD requesting information on the specific challenges faced by projects as documented in client reports and EBRD monitoring visits. In its reply, the Bank simply stated that it monitors human rights violations as part of its environmental and social policies. Unfortunately, we have yet to receive a detailed response. This raises questions about whether an effective monitoring system even exists and how the EBRD verifies its approach to environmental and social due diligence to ensure institutional learning.

Conclusion

Our analysis of the EBRD’s approach to human rights due diligence, which the Bank claims is integrated within its environmental and social due diligence, shows that it is largely client-driven and offers no mechanism for verifying information or engaging with affected communities and individuals. The Bank makes no attempt to engage in a direct and meaningful way with rights-holders, who therefore have no input on project design, the timely identification of potential risks and the management of impacts throughout the project lifecycle. In so doing, the EBRD increases the likelihood of unsustainable project design, the inappropriate categorisation of risks, the misallocation of resources, ineffective risk management and human rights violations. Moreover, by delegating these responsibilities to the client, the EBRD overlooks the human rights risks posed by the client, including the risk of retaliation.

The EBRD’s project due diligence needs to take greater account of the contextual risks of public sector investments, such as in the MEI sector, which can significantly increase human rights impacts. Finally, the EBRD’s overall approach to evaluating the environmental and social performance of its projects needs to be more comprehensive and transparent to ensure continuous learning and accountability.

Recommendations

The EBRD should:

1. **engage with rights-holders during the environmental and social risk screening stage** to inform project categorisation, prioritise significant risks and address local concerns with the final project design before approval;
2. **take the lead by overseeing engagement between the client and rights-holders** during the assessment of environmental and social risks associated with high-risk projects, clients, sectors and countries;

²⁵ European Bank for Reconstruction and Development, [EBRD Sustainability Report 2021](#), *European Bank for Reconstruction and Development*, accessed 27 April 2023.

3. **be responsible for assessing retaliation risks** posed by high-risk projects, clients, sectors and countries, focusing particularly on the potential for clients and authorities to perpetrate these reprisals;
4. **enhance ESIA requirements to include the assessment of risks** such as restriction of civic space as well as lack of freedom of speech and assembly, and to ensure that the assessment is carried out in a participatory manner;
5. **ensure meaningful engagement with rights-holders during its monitoring visits** and make regular independent third-party monitoring mandatory for high-risk projects, clients and sectors;
6. **disclose the findings of its environmental and social risk screening** used to justify project categorisation and environmental and social audit reports, with a focus on information disclosure, stakeholder engagement and GRM operations;
7. **mandate development and disclosure of environmental and social documents** for category B projects in the public sector;
8. **include in its annual sustainability reports information on the environmental and social performance of its projects**, including examples of, and/or trends in, non-compliance of performance requirements, corrective actions and mitigation measures taken by the EBRD.