

# More than money

A photograph of two women from behind, walking through a field of tall, dry grass and small flowers. They are carrying large, full white sacks on their backs. The woman on the left is wearing a black headscarf and a black top. The woman on the right is wearing a colorful, patterned headscarf and a blue and white floral top. The scene is brightly lit, suggesting a sunny day.

**Development banks must strengthen human rights safeguards**

CEE

Bankwatch  
Network

fidh

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# Executive summary

Each year, public development banks – international, multilateral and national – make vital decisions on the financing of hundreds of development cooperation projects and business activities around the world in support of the United Nations (UN) Sustainable Development Goals (SDGs).<sup>1</sup> At the 2022 Finance in Common Summit in Abidjan, five public development banks issued a statement in which they recognised their ‘special role and responsibility in raising the stakes of the human rights-based approach to development’.<sup>2</sup>

The Human Rights-Based Approach to Development Cooperation adopted by the UN in 2003<sup>3</sup> expresses the commitment to respect, protect, advance and realise human rights through development programmes. In the context of development banks, adopting this approach means, on the one hand, directing their operations to support public and private undertakings that meet the SDGs and, on the other hand, ensuring that human rights are not violated by the actions of these undertakings.

Unfortunately, all too often, undertakings funded by public development banks violate human rights despite having environmental and social safeguards in place. This is why organisations like CEE Bankwatch Network and the International Federation for Human Rights (FIDH) actively engage in policy dialogue with public development banks in order to strengthen safeguard systems so that they effectively uphold human rights. We believe that the alignment of banking policies, standards and procedures with human rights standards, such as the UN Guiding Principles on Business and Human Rights,<sup>4</sup> enables public development banks to more fully consider human rights risks and impacts and prioritise the prevention of human rights abuses.

Existing environmental and social safeguards are embedded in, and designed to protect, human rights. However, development projects do not take place in a vacuum, but in a variety of social, economic, environmental, cultural, institutional and political contexts that can either enhance the application of these safeguards or forcibly undermine them.

This comparative analysis identifies existing good practices and policy provisions for integrating human rights considerations into the assessment and management of projects funded by these banks. It contends that, despite the deficiencies identified by the UN and other organisations, the current environmental and social sustainability frameworks that these banks have in place provide a solid basis for exercising human rights due diligence.

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<sup>1</sup> United Nations, [Transforming Our World: The 2030 Agenda for Sustainable Development, A/RES/70/1](#), 14–30, *United Nations*, 25 September 2015.

<sup>2</sup> International Fund for Agricultural Development, European Investment Bank, French Development Agency, European Bank for Reconstruction and Development, Council of Europe Development Bank, [Public Development Banks Statement on Human Rights and Human Rights Based Approach, Finance in Common](#), 2, 20 October 2022.

<sup>3</sup> United Nations, [The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies](#), *United Nations*, September 2003.

<sup>4</sup> Office of the United Nations High Commissioner for Human Rights, [Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework](#), *Office of the United Nations High Commissioner for Human Rights*, 16 June 2011.

In this context, the wider scope of deliberations on risks to human rights and on the potential impacts of not aligning with social and environmental standards must become standard from the outset of the decision-making process. Public development banks should directly integrate the relevant components of human rights due diligence within their own project appraisal, decision-making, monitoring, and accountability systems in line with a commitment to respect human rights. Furthermore, the people and communities in whose interests development activities are undertaken must be allowed to take part in these activities, express their opinions, and have their concerns addressed.

As mandatory human rights and social and environmental due diligence legislation continues to be developed at international and national levels, many public development banks have updated or plan to update their standards to take greater account of the ‘do no harm’ aspect of the human rights-based approach.

The French Development Agency (Agence Française de Développement – AFD), the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD), and the International Finance Corporation (IFC) conduct a contextual assessment at the early due diligence stage. The purpose of this assessment is to address important issues related to the safeguarding of human rights, which necessitates seeking out sources beyond the information provided by their clients. In many cases, the above banks hire external experts as well as their own specialists who are familiar with human rights issues in the relevant country and its various sectors. These banks continue to develop very useful issue-specific assessment tools, such as the EIB’s Strategic Approach to Fragility and Conflict,<sup>5</sup> the EIB Group Strategy on Gender Equality and Women’s Economic Empowerment,<sup>6</sup> the EBRD’s country and sector strategies, and the IFC’s Global Map of Environmental and Social Risks in Agro-Commodity Production (GMAP).<sup>7</sup>

However, the transparency of these contextual considerations is still not sufficient, and the arbitrary categorisation of the likelihood and severity of the human rights risks and impacts identified undermines the legitimacy of these considerations. In practice, project categorisation heavily relies on an indicative list of projects belonging to a predefined risk category. These lists are traditionally compiled to account for mainly environmental and certain social risks. This has resulted in a lack of clarity in relation to how the results of contextual analyses pertaining to human rights influence project risk categorisation and what is specifically required of project promoters when it comes to assessing, mitigating, and reporting on social and human rights issues.

Furthermore, the safeguard requirements of development banks do not explicitly mention the human rights due diligence that their clients must adhere to. Even in situations where the banks’ internal tools indicate a high risk of human rights violations or severe negative consequences for people, stand-alone human rights impacts assessments are not required. Instead, it is more of an expectation that the promoter will incorporate an assessment of human rights risks and impacts as part of a standard environmental and

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<sup>5</sup> European Investment Bank, [EIB Strategic Approach to Fragility and Conflict](#), *European Investment Bank*, September 2022.

<sup>6</sup> European Investment Bank, [Protect, Impact, Invest – The EIB Group Strategy on Gender Equality and Women’s Economic Empowerment](#), *European Investment Bank*, December 2016.

<sup>7</sup> International Finance Corporation, [Global Map of Supply Chain Risks in Agro-Commodity Production](#), *International Finance Corporation*, 2023.

social impact assessment (ESIA). The transparent and participatory development of preventive measures should be prioritised in these cases.

The banks assessed in this report do not always directly engage with rights holders likely to be impacted by projects during project appraisal. Meaningful engagement calls for a two-way exchange, where the development bank communicates its assessment, addresses the questions and concerns raised by rights holders, and explains the rationale behind the decisions it plans to take. Unfortunately, inadequate project categorisation from the outset can undermine this process, limiting transparency and public participation as a result. In the cases of the EIB and the AFD, confidentiality is maintained throughout the due diligence process until a final decision is reached.

Finally, the existing policy provisions that outline the role of banks in facilitating remedy are insufficient, as they fail to clearly articulate the type of redress they can provide and the enforcement mechanisms available, particularly in situations where the client fails to comply with the remedial measures agreed. None of the four banks take responsibility for offering a range of options for reparations in such situations. Although the reviewed banks do have accountability mechanisms in place, they do not proactively promote these mechanisms to project stakeholders. This responsibility primarily falls on the project promoter, as mandated by the banks and the mechanisms in place. Numerous research studies conducted by civil society organisations have found that existing complaints mechanisms would greatly benefit from more stringent reviews and closer adherence to the UN Guiding Principles on Business and Human Rights.

## **Key recommendations**

### **Screening and assessment of human rights risks and impacts**

- Improve transparency in documenting the initial identification of actual or potential human rights risks and impacts across all rights categories – civil, political, economic, social, cultural, and labour – including both negative and positive impacts.
- Clarify the outcomes of environmental, social and human rights screening processes, including how the findings of contextual analyses related to human rights are factored into project risk categorisation.
- Make site visits an obligatory part of initial due diligence for all projects where specific human rights risks and potential negative impacts have been identified, applying the precautionary principle and sourcing information from rights holders, particularly local residents and employees impacted by such projects.
- Require project promoters to conduct either a stand-alone or an integrated but identifiable human rights impact assessment as part of their ESIA.
- Review and disclose the promoter's human rights due diligence obligations under national due diligence legislation and the UN Guiding Principles on Business and Human Rights.

## Transparency and public participation

- For low- and medium-risk projects, disclose information and documents containing environmental and social information, such as stakeholder engagement plans, non-technical summaries, project grievance mechanisms, and mitigation action plans.
- Publicly report on the environmental, social and human rights due diligence carried out by the bank, including activities undertaken during the appraisal and its findings.

## Mitigating risks and preventing human rights impacts

- Provide systematic trainings on environmental and social standards for clients.
- Notify rights holders through local communication channels about the involvement of the bank, the standards it is expected to uphold, and how they can access accountability mechanisms, anti-reprisal protocols, and contact points.
- Establish a protocol specifying the actions the bank must take in cases of retaliation along with the corresponding responsible departments within the bank.

## Monitoring

- Disclose the periodic environmental and social reports conducted by promoters in addition to the bank's own monitoring reports, including information on the implementation of the bank's mitigation measures to address human rights risks and impacts.
- Disclose third-party monitoring reports addressing environmental and social issues for all projects, including reports compiled by the lenders' technical advisor (LTA).
- Communicate the results of all implemented environmental and social preventive, mitigation and remedial measures agreed with the project promoters on a regular basis.
- Seek information from rights holders on project implementation to verify project compliance with standards.

## Remedy mechanisms

- Review accountability mechanisms to ensure that they meet the effectiveness criteria for non-judicial grievance mechanisms in the UN Guiding Principles on Business and Human Rights.<sup>8</sup>
- Reserve the unilateral right to determine client non-compliance and the subsequent steps required to address any harm caused.

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<sup>8</sup> Office of the United Nations High Commissioner for Human Rights, [Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework](#), Office of the United Nations High Commissioner for Human Rights, 33, 34, 16 June 2011.

- Clearly outline in the relevant policy the actions that the bank can take in cases where the client has violated its obligations and the mechanisms in place for enforcing these actions.
- Provide information on potential sources of funding for remedial measures, such as remedy funds, insurance schemes, escrow arrangements, trust funds, contingency funds, contingent guarantees, and letters of credit.

### **Methodological note**

This report is based on a review of the publicly available environmental and social policies and due diligence procedures of the EIB, the EBRD, the IFC, and the AFD. It evaluates the extent to which the policies and procedures adopted by the above banks align with the UN Guiding Principles on Business and Human Rights, the international benchmark for how companies are expected to prevent, address and remedy the negative social and environmental impacts of their business operations. The research underpinning this review is also informed by an analysis of a selection of project summaries published on the banks' online platforms. In addition, a questionnaire was carried out as part of the research. The questionnaire was conducted face to face with employees working at the above banks, and additionally the AFD provided a written reply to the questionnaire. The aim of the research was to evaluate the respective human rights due diligence procedures these banks follow, specifically how they identify, assess, prevent, mitigate and remedy the human rights impacts of harmful business activities.



# Chapter 1

## Introduction

Public development banks such as the EIB, the EBRD, the AFD, and the IFC, which is the private sector financing arm of the World Bank Group, have strong development and human rights mandates. Unlike commercial financial institutions, public development banks operate on a not-for-profit basis, despite their obligation to demonstrate financial returns to cover their operating costs. Their role is also different in that they support public policy objectives and finance projects that are in the interest of society and for which other sources do not exist or would be too expensive. Therefore, they are attractive sources of financing for development objectives such as climate change mitigation and adaptation, health, education, public infrastructure and poverty eradication. Additionally, there is an expectation that these financial institutions should add non-financial value to their investments by following high social, environmental and governance standards.

Their national shareholders are countries that are parties to international development and human rights treaties and conventions. As such, most public development banks have been tasked with pursuing the UN's 2030 Agenda for Sustainable Development, which strives to uphold all human rights and eliminate poverty. This means that public development banks have undisputable human rights obligations, both in terms of safeguarding human rights when implementing projects and actively promoting human rights through their investment strategies. These obligations include addressing issues such as poverty, access to health and education, clean water and a healthy environment.

Many public development banks already have human rights-based environmental and social policies and operational standards in place to protect human rights. However, given the materiality of sustainable development finance and the numerous cases of human rights abuses associated with public development bank investments, there is a growing consensus among stakeholders that banks should step up their efforts to promote human rights and enhance measures to prevent and address human rights breaches.

## Examples of projects with adverse human rights impacts

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### Corridor Vc Motorway, Bosnia and Herzegovina<sup>9</sup>

Photo: CEE Bankwatch Network



Currently under construction, the Corridor Vc motorway is expected to stretch 335 kilometres through Bosnia and Herzegovina (BiH) from north to south. The project is funded by loans from the EBRD, the Western Balkans Investment Framework, and the EIB. Some sections of the corridor, especially in southern BiH around Mostar, have long faced opposition from local communities. Many environmental and social impacts have been overlooked during the development and construction of the project.

For instance, critical habitats along the Buna, Bunica and Neretva rivers have been put at risk, and there has been no meaningful engagement with local communities throughout the entire spatial planning and route selection process. The potential risks to ethnic minorities and war returnees, including resettlement issues and negative impacts on their property and livelihoods, have also been ignored.

In January 2024, the EBRD's Independent Project Accountability Mechanism (IPAM) published a report from its investigation of the South Mostar-Kvanj Tunnel section. It found serious breaches of the bank's environmental and social policy. Importantly, IPAM found that the project violated the do-no-harm principle by breaching standards for democratic decision-making, the consideration of alternatives and impact assessments. It also highlighted a failure to address the significant negative impacts of the project on post-Dayton returnees and the marginalised position of ethnic groups. Community members have also filed a complaint with the UN Human Rights Council through the BiH judiciary system.

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<sup>9</sup> CEE Bankwatch Network, [Corridor Vc motorway, Bosnia and Herzegovina](#), CEE Bankwatch Network, accessed 16 February 2024.

## Indorama Agro project, Uzbekistan<sup>10</sup>

Photo: Angela Meier via Adobe Stock



The Indorama Agro project in Uzbekistan received two loans of USD 70 million from the EBRD and USD 60 million from the IFC to promote mechanised cotton harvesting and environmental and operational improvements. For this purpose, Indorama Agro acquired 54,000 hectares of land from farmers through ‘voluntary’ terminations of land leases. However, this practice is questionable at best, especially in a situation where local officials exercise disproportionate power over citizens who lack secure land tenure. Many of these farmers had previously used small plots of land for the cultivation of fruit and vegetables, cattle grazing, and the collection of cotton stalks to sustain their livelihoods.

However, the farmers who refused to be employed by the company received no compensation for the termination of their land lease agreements. Those who did agree to employment with the company subsequently either lost their jobs or experienced a significant decrease in income. Indorama has already laid off hundreds of workers, a situation that may affect over 13,000 people. There have also been regular reports of Indorama failing to uphold labour rights.<sup>11</sup> This includes refusing to honour contracts, failing to pay wages and bonuses, misclassifying permanent workers as service providers, and depriving them of employment benefits.

Civil society and affected local communities have raised numerous concerns about the project and the client. For instance, there have been numerous reports of retaliation and obstacles to the establishment and operation of the first independent trade union in Uzbekistan.<sup>12</sup> Additionally, Indorama has failed to implement the EBRD’s conditional environmental and social action plan (ESAP) in a timely manner and ensure meaningful consultations. Yet, Indorama continues to receive loans from other banks, including the Asian Development Bank, which recently awarded the company USD 15 million for the purposes of COVID-19 recovery and climate change mitigation.

<sup>10</sup> CEE Bankwatch Network, [Complaint filed against EBRD: labour rights violations, land grabs and exploitation at cotton producer Indorama Agro in Uzbekistan](#), CEE Bankwatch Network, 5 September 2023.

<sup>11</sup> Radio Liberty, [Фермерлар: Кластер бизни кул қилди](#), Radio Liberty, 15 December 2022.

<sup>12</sup> Uzbek Forum for Human Rights, [‘Will Uzbekistan’s first democratically elected trade union survive?’](#), Uzbek Forum for Human Rights, 17 January 2023.



## Budapest Airport expansion, Hungary<sup>13</sup>

Photo: CEE Bankwatch Network



Budapest Ferenc Liszt International Airport is located 16 kilometres from the centre of Budapest. With a licence for a capacity of 6 million passengers per year, peaking at 15 million in 2019, new plans to expand the airport, financed by the EIB, aim to increase passenger turnover to 21 million – more than twice the population of Hungary.

The quality of life of local inhabitants has been decreasing proportionally with the increase in air traffic. Noise and air pollution from burning kerosene (the fuel used in airplanes) is affecting a wide geographic area. But despite a predicted increase in air traffic, the project has not been subject to an environmental impact assessment (EIA) as would be expected under EU environmental legislation. This is mainly because the promoter divided the project into a series of smaller projects, a practice known as ‘salami slicing’, as a way of bypassing the cumulative impacts.

In addition to the construction of the airport itself, there are plans for a new cargo facility, a rail connection, including a new railway station, and a range of projects aimed at ensuring a continued high-level service for travellers. In 2021, the EIB Group Complaints Mechanism upheld all allegations against the project and recommended that a cumulative EIA be carried out. However, to date, these recommendations have not been implemented and none of the breaches identified have been corrected or remedied.

<sup>13</sup> CEE Bankwatch Network, [Briefing for the EIB Board on the Budapest Airport expansion project](#), CEE Bankwatch Network, 2 May 2023.



## Mombasa Port Access Road, Kenya<sup>14</sup>

Photo: CEE Bankwatch Network



The narrow, crowded road from Mombasa to Nairobi is the main traffic artery of eastern Africa. Kenya's National Highways Authority (KeNHA) is working to expand a 41.7-kilometre section of the route to a dual carriageway standard. The EIB is supporting the project with a EUR 50 million loan. In 2015, more than a hundred families from the Jomvu area were forcibly evicted from their roadside dwellings to make way for the construction works. Only thanks to the adamant efforts of the affected community to seek help and the outreach work of civil society groups did the banks together with KeNHA halt the works to mitigate the harm and revise the resettlement action plan for the project.

However, the mitigation process was far from satisfactory, with the EIB Group Complaints Mechanism facilitating a mediation process covering complaints from 316 people. In 2017, the community leaders reported that they had been intimidated by those in charge of the project grievance mechanism established by the promoter. Despite the revision of the resettlement scheme for the project, between 2017 and 2019 the complaints mechanism received another 250 complaints in relation to the implementation of the revised plan. To date, the EIB Group Complaints Mechanism is still monitoring the implementation of the agreed corrective actions and recommendations.

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<sup>14</sup> Naomi Barasa, [Highway of Destruction. An independent assessment of the implementation of the Resettlement Action Plan for the Regional Mombasa Port Access Road as per the recommendations from the European Investment Bank Complaints Mechanism's Conclusions Report](#), Polish Green Network, 13 July 2021.

In many parts of the world, the diminishing role of civil society in shaping development policies, coupled with restricted access to information and limited freedom of expression, has highlighted the privileged position of public development banks, particularly their ability to influence states and the private sector to leverage environmental, social and human rights standards. In fact, many of the more disastrous effects of projects funded by public development banks could have been averted had there been more conscientious and comprehensive prior assessments of risks and impacts on human rights. Similarly, prioritising the prevention of human rights abuses from the outset would have turned the tide in many cases.

In 2023, the Office of the United Nations High Commissioner for Human Rights (OHCHR) published a landmark benchmarking study on the safeguard policies of development finance institutions. They found that several leading public development banks fall short when it comes to integrating human rights considerations within their policies and environmental and social due diligence procedures.<sup>15</sup> However, it is feasible for, and expected of, public development banks to address these shortcomings throughout the project life cycle by integrating a human rights-based approach<sup>16</sup> and enhancing their existing environmental and social safeguard policies.

In their 2022 joint statement on human rights and the human rights-based approach, the EIB, the EBRD, the AFD, the Council of Europe Development Bank (CEB), and the International Fund for Agricultural Development (IFAD) acknowledged their ‘privileged relationship with governments, civil society and the private sector, which makes them key players in supporting these actors in implementing their human rights commitments’.

In the statement, the banks make a number of significant commitments, including to ‘progressively integrate the human right based approach in their activities’, ‘adopt environmental and social safeguards which help to prevent human rights violations and support clients with their human rights due diligence ... address the challenge of following human rights aspects throughout the project cycle’, ‘enhance clients’ dialogue with human rights civil society organisations ... and promote the advancement and realisation of human rights, including in the framing of their strategies, and implementation of their activities’.<sup>17</sup>

But in order to deliver on these commitments, public development banks must go beyond business as usual by effectively incorporating broader human rights considerations into their operational procedures. It just so happens that the framework for doing so is already in place, since the existing environmental and social policies and their associated safeguards and procedures, which are well-established and familiar to financial institutions, are inherently embedded in human rights principles. This provides public development banks with a strong foundation to address a wide range of human rights deliberations in the context of their planned investments.

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<sup>15</sup> Office of the United Nations High Commissioner for Human Rights, [Benchmarking Study of Development Finance Institutions’ Safeguard Policies](#), Office of the United Nations High Commissioner for Human Rights, February 2023.

<sup>16</sup> For more information on the human rights-based approach, see: United Nations Sustainable Development Group, [Human Rights-Based Approach](#), United Nations Sustainable Development Group, accessed 25 October 2023; European Commission, [The Human Rights Based Approach \(HRBA\)](#), EXACT External Wiki, accessed 25 October 2023.

<sup>17</sup> International Fund for Agricultural Development, European Investment Bank, French Development Agency, European Bank for Reconstruction and Development, Council of Europe Development Bank, [Public Development Banks Statement on Human Rights and Human Rights Based Approach](#), *Finance in Common*, 4, 20 October 2022.

The EIB, the EBRD, the AFD, and the IFC are four of the world's leading public development banks. Their lending policies commit to respecting human rights and undertaking initiatives that enhance the appraisal of the social, human rights and environmental aspects of the projects they fund. The AFD, unlike the other three banks, is not a multilateral organisation and is therefore bound by the national laws of France, including those pertaining to banking confidentiality. This comparative analysis identifies existing good practices and policy provisions for integrating human rights considerations into the assessment and management of projects funded by these banks. It contends that, despite the deficiencies identified by the UN and other organisations, the current environmental and social sustainability frameworks that these banks have in place provide a solid basis for exercising human rights due diligence.

## International Finance Corporation (IFC)

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**Who owns the institution?** The IFC is a member of the World Bank Group owned and governed by its member countries.

**Established:** 1956

**Mandate and objectives:** The IFC works with the private sector in developing countries. The main aims of the organisation are to create markets and opportunities, provide a better standard of living for all, tackle poverty, and promote sustainable development.<sup>18</sup>

**Annual commitment:** USD 33 billion

## European Bank for Reconstruction and Development (EBRD)

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**Who owns the institution?** The EBRD is owned by 71 countries across five continents as well as the European Union (EU) and the EIB.

**Established:** 1991

**Mandate and objectives:** The EBRD has a political mandate to assist recipient member countries 'committed to and applying the principles of multiparty democracy, pluralism and market economics.' Its mission is to foster the transition 'towards open, market-oriented economies and the promotion of private and entrepreneurial initiative'.<sup>19</sup>

**Annual commitment:** EUR 13 billion

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<sup>18</sup> International Finance Corporation, [Who We Are](#), *International Finance Corporation*, accessed 7 February 2024.

<sup>19</sup> European Bank for Reconstruction and Development, [Agreement Establishing the European Bank for Reconstruction and Development](#), *European Bank for Reconstruction and Development*, 4, 15 April 1991.

## European Investment Bank (EIB)

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**Who owns the institution?** The EIB is jointly owned by the EU's Member States.

**Established:** 1958

**Mandate and objectives:** The EIB 'supports projects that make a significant contribution to growth, employment, economic and social cohesion and environmental sustainability, both in the EU and beyond.'<sup>20</sup> Its main objectives are to boost Europe's potential for jobs and growth and to support actions that mitigate the climate crisis.

**Annual commitment:** EUR 65 billion

## French Development Agency (AFD)

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**Who owns the institution?** The AFD is fully owned and controlled by the French state.

**Established:** 1941 under the name *Caisse centrale de la France libre*.

**Mandate and objectives:** The AFD aims to contribute to global development and reduce global inequalities through financial assistance, technical expertise, and partnerships with other development organisations. Its stated 'mission is to contribute to the economic, social, and environmental progress of low- and middle-income countries.'<sup>21</sup>

**Annual commitment:** EUR 12.5 billion

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<sup>20</sup> European Investment Bank, [Frequently Asked Questions](#), *European Investment Bank*, accessed 26 October 2023.

<sup>21</sup> French Development Agency, [Our Role](#), *French Development Agency*, accessed 26 October 2023.



## Chapter 2

### Respect for human rights within sustainable finance initiatives

In October 2015, the UN adopted the 2030 Agenda for Sustainable Development, including its 17 SDGs. This ambitious landmark document sets out a vision of ‘a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity’.<sup>22</sup> The SDGs – which include ending hunger and all forms of poverty – balance and integrate the economic, social and environmental aspects of sustainable development based on respect for human rights. The Agenda explicitly recognises the role of international public finance institutions in mobilising additional public and private financial resources to implement the SDGs. Additionally, it calls for the participation of developing countries in decision-making processes to be strengthened.

In July of the same year, the governments of the UN adopted the Addis Ababa Action Agenda on development financing in which they recognised ‘the significant potential of multilateral development banks and other international development banks in financing sustainable development’ and the need for development banks to ‘update and develop their policies in support of the post-2015 development agenda, including the sustainable development goals’.<sup>23</sup> The Agenda also ‘encourage[s] all development banks to establish or maintain social and environmental safeguards systems, including on human rights, gender equality and women’s empowerment, that are transparent, effective, efficient and time-sensitive’.<sup>24</sup>

In summary, both of these documents make it very clear that public development banks should focus on fostering sustainable economic, social and environmental development in order to protect human rights, preserve peace, prevent conflicts and eradicate poverty in developing countries.

Since the publication of these documents, many public development banks have incorporated the SDGs into their financing strategies and initiated systematic reporting on financial contributions in support of these goals. They also now systematically review social and environmental safeguard systems and accountability mechanisms. This continuous evaluation enables banks to adjust their policies and procedures to account for the 2030 Agenda for Sustainable Development and any changes to national or international legislation on environmental, social, human rights and governance in relation to business performance.

Binding legislation on human rights and social and environmental due diligence continues to be developed at both international and national levels. In December 2022, for example, the EU enacted the Corporate

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<sup>22</sup> United Nations, [Transforming Our World: The 2030 Agenda for Sustainable Development, A/RES/70/1](#), 5, *United Nations*, 25 September 2015.

<sup>23</sup> United Nations, [Addis Ababa Action Agenda of the Third International Conference on Financing for Development](#), *United Nations*, 33, 27 July 2015.

<sup>24</sup> *Ibid.*, 35.

Sustainability Reporting Directive, which amends existing EU legislation on corporate sustainability reporting. The Directive is explicit on sustainability reporting standards that address social factors:

The sustainability reporting standards should also specify the information that undertakings should disclose with regard to the human rights, fundamental freedoms, democratic principles and standards established in the International Bill of Human Rights and other core UN human rights conventions, including the UN Convention on the Rights of Persons with Disabilities, the UN Declaration on the Rights of Indigenous Peoples, the UN Convention on the Rights of the Child, the ILO Declaration on Fundamental Principles and Rights at Work, the fundamental conventions of the ILO, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter, and the Charter of Fundamental Rights of the European Union.<sup>25</sup>

Additionally, the Directive introduces rules on the reporting of environmental, social and human rights-related risks and impacts, including those related to the value chains of undertakings. The European Parliament is currently drafting complementary legislation on corporate sustainability due diligence. This legislation is expected to address the obligations of undertakings in relation to impact assessments on human rights and the environment not only in the context of their own operations, but also the wider value chain.

In July 2021, the French Parliament adopted a new law on inclusive development and the fight against global inequalities,<sup>26</sup> which effectively incorporates the promotion of human rights into the mandate of the AFD within the context of international development cooperation.<sup>27</sup> Similar legal acts have also been adopted in other countries. The German Bundestag, for example, passed the Supply Chain Act on corporate due diligence obligations, which requires enterprises to establish whether their business activities could have negative human rights or environmental impacts.<sup>28</sup> Elsewhere, the Norwegian Parliament passed the Transparency Act, which requires companies to carry out due diligence to identify and assess current and potential adverse impacts on human rights while ensuring decent working conditions throughout their supply chains.<sup>29</sup> Both acts were passed in the summer of 2021.

These developments have led to an intensification of the policy dialogue on development finance institutions and human rights due diligence. In the current legislative climate, there is no question of business activities lagging behind the latest normative standards on sustainable development and human rights due diligence. A summary prepared by the Association of European Development Finance Institutions

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<sup>25</sup> European Parliament, Council of the European Union, [Directive \(EU\) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation \(EU\) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting](#), *EUR-Lex*, 16, 17, 16 December 2022.

<sup>26</sup> Ministry for Europe and Foreign Affairs of the Government of France, [The Programming Act on Inclusive Development and Combating Global Inequalities](#), *Ministry for Europe and Foreign Affairs of the Government of France*, July 2021.

<sup>27</sup> French Development Agency, [Human Rights and Development](#), *French Development Agency*, accessed 27 October 2023.

<sup>28</sup> German Bundestag, [Act on Corporate Due Diligence Obligations in Supply Chains of July 16 2021](#), *German Bundestag*, 16 July 2021.

<sup>29</sup> Norwegian Parliament, [Act relating to enterprises' transparency and work on fundamental human rights and decent working conditions \(Transparency Act\)](#), *Norwegian Parliament*, 10 June 2021.

(EDFI) outlines the principles and standards that its members should apply to incorporate human rights commitments into their operations and drive improvements in this area.<sup>30</sup>

The **EIB**, as the lending arm of the EU, is legally bound by the Charter of Fundamental Rights of the European Union. The EIB Group's latest review of its Environmental and Social Sustainability Framework, an overarching policy framework that covers its Environmental and Social Policy<sup>31</sup> and 11 Environmental and Social Standards,<sup>32</sup> sets out the organisation's approach to human rights. Following the adoption of the Framework in 2022, the EIB reiterated its human rights commitments in a dedicated information note on this approach.<sup>33</sup>

The **EBRD** updated its due diligence procedures following the adoption of its revised Environmental and Social Policy in 2019.<sup>34</sup> The procedures, however, have not been published. In relation to human rights due diligence, the EBRD engages in policy dialogue with civil society organisations and has held project-specific workshops on a range of topics, such as the risk of reprisals and stakeholder engagement during the COVID-19 pandemic.

In 2022, the **AFD**, with the assistance of human rights experts, updated its Sustainable Development Analysis and Opinion Mechanism. This tool uses an analysis and rating system to ensure that financed projects align with the SDGs from the design stage and throughout the project cycle.

Finally, the **IFC** released a Contextual Risk Good Practice Note for public consultation in April 2022. The document, which is currently being updated to incorporate feedback, is due to be published on the IFC website in the coming months.

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<sup>30</sup> Association of European Development Finance Institutions, [Summary on investments and human rights](#), *Association of European Development Finance Institutions*, April 2022.

<sup>31</sup> European Investment Bank Group, [Environmental and Social Sustainability Framework – The EIB Group Environmental and Social Policy](#), *European Investment Bank Group*, 2 February 2022.

<sup>32</sup> European Investment Bank, [Environmental and Social Standards](#), *European Investment Bank*, 2 February 2022.

<sup>33</sup> European Investment Bank, [The European Investment Bank's approach to human rights – Information note](#), *European Investment Bank*, February 2023.

<sup>34</sup> European Bank for Reconstruction and Development, [Environmental and Social Policy](#), *European Bank for Reconstruction and Development*, 25 April 2019.

## Chapter 3

### Human rights due diligence in the context of public development banks

Human rights due diligence is an integral part of the ‘do no harm’ pillar of the human rights-based approach, a continuous and dynamic process of identifying, preventing, mitigating, monitoring and remedying current and potential human rights impacts throughout the entire project life cycle.<sup>35</sup> The concept is rooted in established international sources of human rights law, such as the UN Universal Declaration of Human Rights, the UN Guiding Principles on Business and Human Rights, the International Labour Organization (ILO) Conventions, the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, the Charter of Fundamental Rights of the European Union, and the European Convention on Human Rights. The four public development banks whose procedures are the subject of this research are legally bound and voluntarily commit to adhere to these laws and standards.

The standards for human rights due diligence are defined and operationalised in the UN Guiding Principles on Business and Human Rights. The public development banks scrutinised in this analysis state they require their clients to adhere to these Principles. At the very least, public banks should require their business clients to conduct human rights due diligence, respect human rights, and provide access to effective redress and accountability mechanisms. But to go beyond business as usual, inform their own decision-making processes, and proactively address the emerging risks and potential impacts associated with new activities or business relationships, public development banks should incorporate the relevant components of human rights due diligence into their own project appraisal, decision-making, monitoring, and accountability systems. This integration is founded on their stated commitments to respect human rights and ensures that existing environmental and social standards, conditions, and contractual covenants are properly applied. Moreover, conducting their own human rights due diligence strengthens the capacity of public development banks to support clients, governments, and civil society in implementing their human rights pledges.

International public development banks have adopted environmental and social policies outlining their commitments to respect human rights and protect the environment. These policies are accompanied by sets of environmental and social standards or safeguards, which include specific requirements on how projects should be implemented to prevent, mitigate or remedy negative impacts. Clients and project promoters are bound by these standards. In addition, some public banks have developed non-binding guidance notes for project promoters with more detailed suggestions and recommendations to help them comply with environmental and social standards.

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<sup>35</sup> Directorate-General for International Partnerships, International Trade Centre, [Making Mandatory Human Rights and Environmental Due Diligence Work for All – Guidance on designing effective and inclusive accompanying support to due diligence legislation](#), European Commission, 1 July 2022.



However, these standards are not established in isolation, but rather within particular legal, historical, social and cultural contexts where the conditions affecting human rights can vary greatly. To maintain compliance, human rights conditions must be subject to prior and ongoing assessments, borrowers must have the capacity to manage and uphold human rights within specific contexts, and rights holders must be afforded every opportunity to claim their rights.

Public development banks should incorporate human rights due diligence into their environmental and social appraisals. But for this approach to environmental and social due diligence to be effective, it should holistically integrate human rights considerations that go beyond existing standards. Truly integrated human rights due diligence involves much more than just a once-off assessment of compliance with environmental and social standards. It is about evaluating the potential likelihood and severity of human rights impacts in relation to the specific project and the track record of the organisation promoting it. There should be absolute clarity on how the implementation of these environmental and social standards will prevent, mitigate and remedy potential human rights impacts. Therefore, human rights due diligence is a fundamental requirement for the effective implementation of environmental and social standards.

In accordance with the provisions defined in the UN Guiding Principles on Business and Human Rights, public development banks should take the following steps in the human rights due diligence process:<sup>36</sup>

1. **Make a high-level policy commitment to respect and uphold human rights and promote sustainable economic, social and environmental development.** This commitment should include a clear anti-reprisal statement outlining how the bank will respond to threats or attacks carried out in retaliation and how it will bring those responsible to account.

Expressing such a commitment is important in that it formally indicates the bank's accountability in the area of human rights, sets clear expectations for the bank's clients in relation to project due diligence procedures, and demonstrates the readiness of the bank to use its influence to uphold human rights and address human rights abuses. In addition, it helps to foster an internal culture that positions the development institution as one that is guided by policy principles and values, not just financial returns.

2. **Establish a dedicated screening process to identify potential human rights risks and impacts in relation to civil, political, economic, social, cultural and labour rights.** At this stage, the bank should conduct desk research to determine the local, national and sectoral context of the project, the track record of the project promoter, and its capacity to manage the project in line with international standards. By the end of this initial screening stage, which should also cover project risk categorisation, the institution conducting the project due diligence should be in a position to determine whether a more in-depth human rights risk assessment is warranted.

Although not every project will need to undergo such a robust human rights assessment, all projects should be subject to an initial desk review and a screening of human rights risks and impacts to determine whether a more detailed assessment is required. This phase enables the bank to flag

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<sup>36</sup> For an excellent analysis of the stages in the human rights due diligence process, see: Mark Wielga, Kendyl Salcito, [Human Rights Risk Assessment: A Practitioners Guide](#), *NomoGaia*, September 2017.

human rights issues and make informed decisions on the allocation of its resources (both in terms of personnel and finances) for the purpose of an in-depth human rights analysis. By considering human rights issues at this early stage of the project due diligence process, bank personnel can identify risks and address them from the outset with limited effort.

3. **Conduct a human rights risk assessment to determine the likelihood and magnitude of negative social and human rights risks and impacts.** In cases where concerns about human rights issues, risks, or potential impacts arise, the bank should decide whether to expand the risk assessment. The scope of the analysis should be established in advance, taking into account the project's area of influence. At this stage, the bank may conduct additional desk and field research by leveraging their own resources or employing external human rights experts or consultants. They should also actively engage with the client, its employees, rights holders and other relevant stakeholders such as civil society organisations, local authorities and other public institutions. If needed, a change to the project categorisation can be made at this stage.

As a key element of environmental and social due diligence, human rights risk assessment is not only a logical consequence of the bank's policy commitment to respect and promote human rights, but also ensures that these considerations become a routine part of the due diligence process. This in turn raises the client's awareness of its obligations, builds trust among stakeholders, and improves the chances that the project will result in positive environmental and social outcomes.

4. **Require the client to conduct a human rights impact assessment in cases where the human rights risk assessment identifies the existence of significant human rights risks.** This will take into account the likelihood of their occurrence and the range of impacts on all internationally recognised human rights as a benchmark. The bank may require that a human rights impact assessment be conducted in addition to a standard environmental impact assessment or an ESIA, or that it be incorporated into the ESIA.

This requirement for the client to conduct a human rights impact assessment is likely to apply only to a limited number of projects with a high probability of adverse and large-scale impacts, such as complex projects in multifactorial contexts that justify a comprehensive analysis of all human rights impacts.

5. **Facilitate public consultations and the disclosure of information to ensure that the process is participatory, transparent and adequate in identifying risks and impacts.** Traditionally, public development banks require project promoters to disclose environmental and social information and conduct public consultations. Equally, however, the banks' own due diligence processes should be guided by a high level of transparency and informed by the participation and input of rights holders, who are the direct beneficiaries of sustainable finance.
6. **Prevent and mitigate adverse human rights impacts. At this stage, the bank should review the proposed measures to prevent and mitigate negative impacts on communities.** Ensuring compliance with the bank's social standards will mitigate certain risks only. Therefore, the bank should ensure that all risks and potential impacts identified during the screening and human rights risk assessment are also addressed, taking into account the likelihood, severity and frequency of

the expected human rights impacts. At this stage, the bank should also consider how it intends to address these risks and impacts.

7. **Provide a monitoring and grievance mechanism.** Regular monitoring should draw from a wide range of information sources, be conducted independently of the promoter, and involve rights holders and other stakeholders. As an essential part of due diligence, regular monitoring plays a key role in determining the speed and effectiveness with which negative impacts are addressed. The bank should also have effective project grievance and complaints mechanisms in place. Other enforcement procedures, such as covenants within finance contracts and secured financial resources for remedy, constitute an effective remedy mechanism.

Human rights considerations are thus integral to all stages of the project life cycle, from the initial assessment of the undertaking's eligibility, through the application of safeguards, project implementation and operation, to the handling of complaints and ongoing negative impacts.

## Chapter 4

### Human rights in project due diligence

#### High-level policy commitments undertaken by the EIB, EBRD, AFD and IFC to respect human rights and condemn reprisals

When a public development bank makes an explicit high-level policy commitment to respect and promote human rights, it not only guides the operational standards applied to clients and internal due diligence procedures, but also sends an important signal to stakeholders, rights holders, partners, and clients that the bank is serious about upholding human rights across its operations. This commitment also serves to set the expectations of the people in whose interests, and for whose benefit, public development banks serve.

The four development banks covered in this analysis make high-level policy commitments to human rights. Three of them – the EIB, the EBRD, and the AFD – make explicit commitments that they will respect human rights across their operations. This implies that they take responsibility for assessing risks and opportunities to reinforce their due diligence declarations. For the IFC, the commitment to respect human rights is indirect, as the bank only recognises the responsibility of the client to respect human rights.

The **EIB** Group makes a strong commitment to respect human rights in the Environmental and Social Policy adopted by its Board of Directors:

The Group strives to support the transition to sustainable economies and communities that are climate and disaster-resilient, low-carbon and more resource-efficient. The Group will do so by financing operations that respect human rights, do not cause significant harm to the environment and are consistent with internationally agreed targets to fight against climate change and biodiversity loss.<sup>37</sup>

[...]

... Recognising that the advancement of human rights is central to sustainable finance, the Group is committed to address climate, environmental and social challenges by applying a human rights-based approach to its activities, with the aim of promoting social inclusion, reducing inequalities and risks to human health and well-being.<sup>38</sup>

<sup>37</sup> See point 1.3, European Investment Bank Group, [Environmental and Social Sustainability Framework – The EIB Group Environmental and Social Policy](#), European Investment Bank Group, 2 February 2022.

<sup>38</sup> Ibid., point 2.1.



[...]

The EIB pursues an integrated human rights-based approach to its ECS due diligence and monitoring. It conducts a human rights-responsive due diligence process whereby impacts and risks are screened and assessed against its E&S Standards, which in turn are grounded in human rights principles. The process is guided by considerations of likelihood, frequency, and severity of human rights impacts, thereby ordering the prioritisation of mitigation measures.<sup>39</sup>

Referencing the UN Guiding Principles on Business and Human Rights, the Policy also sets clear expectations in relation to the human rights obligations of project promoters:

The EIB shall not, to the best of its knowledge, finance projects that have the effect of limiting people's individual and collective rights and freedoms or violating their human rights. In particular, in relation to EIB-financed projects, the Bank shall not tolerate any: i) forced evictions; ii) gender-based violence and harassment; and, iii) action that amounts to retaliation and harassment. It takes instances of intimidation or reprisals seriously and takes follow-up actions as and where appropriate. To this end, the EIB expects its promoters to meet their respective human rights duties and responsibilities.<sup>40</sup>

Similarly, the **EBRD** makes an equally strong policy commitment to respect human rights in its Environmental and Social Policy:

The EBRD is committed to the respect for human rights in projects financed by EBRD. EBRD will require clients, in their business activities, to respect human rights, avoid infringement on the human rights of others, and address adverse human rights risks and impacts caused by the business activities of clients. EBRD will continuously improve the projects it finances in accordance with good international practice and will seek to progressively strengthen processes to identify and address human rights risks during the appraisal and monitoring of projects.<sup>41</sup>

In a separate document outlining its position on retaliation against civil society and project stakeholders, the EBRD states that it 'does not tolerate actions by EBRD clients or other project counterparties that amount to retaliation – including threats, intimidation, harassment, or violence – against those who voice their opinion regarding the activities of the EBRD or its clients. The EBRD takes all credible allegations of reprisals seriously.'<sup>42</sup>

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<sup>39</sup> Ibid., point 4.15.

<sup>40</sup> Ibid., point 4.5.

<sup>41</sup> See point 2.4, European Bank for Reconstruction and Development, [Environmental and Social Policy](#), *European Bank for Reconstruction and Development*, 25 April 2019.

<sup>42</sup> European Bank for Reconstruction and Development, [Retaliation Against Civil Society and Project Stakeholders](#), *European Bank for Reconstruction and Development*, 1, January 2019.

The AFD, in its Environmental and Social Risk Management Policy for AFD-funded Operations, makes a public commitment to ensure that the projects the AFD finances ‘contribute to France’s ODA strategy, the implementation of the 2030 global agenda and the 17 Sustainable Development Goals (SDGs), as well as the 2015 Paris Climate Agreement.’<sup>43</sup>

According to the Policy, the objectives of France’s official development assistance (ODA) strategy ‘are to fight against poverty and inequalities, including gender inequalities; to promote human rights, education and health; to support processes of ecological, energy, demographic, digital, territorial and participatory transitions; to prevent and respond to crisis; to encourage joint migration management.’<sup>44</sup>

The Policy also mentions human rights in the context of measures the AFD takes to assess and manage environmental and social risks across its operations: ‘AFD has developed operating procedures to identify, prevent or mitigate environmental and social risks and impacts, as well as any human rights violation that could result from AFD-funded activities.’<sup>45</sup>

The AFD Group’s Environmental and Social Framework states that international agreements, including the UN’s Universal Declaration on Human Rights, may be used as references to guide environmental and social standards, particularly in countries where national regulations are not fully developed.<sup>46</sup> Although the AFD has yet to release a specific anti-retaliation statement, the Environmental and Social Framework states that the AFD incorporates a number of project-related social risks and impacts into its due diligence process, including ‘threats to human security through the escalation of personal, communal or inter-state conflict, crime or violence’.<sup>47</sup>

According to AFD representatives interviewed for this report, the AFD is now in the process of developing protocols to address reprisals, which will involve exchanging best practices and recruiting dedicated consultants.

One of the commitments the **IFC** makes in its Policy on Environmental and Social Sustainability concerns the human rights responsibilities of businesses and the private sector. However, the Bank fails to acknowledge its own responsibility in this area:

IFC recognizes the responsibility of business to respect human rights, independently of the state duties to respect, protect, and fulfil human rights. This responsibility means to avoid infringing on the human rights of others and to address adverse human rights impacts business may cause or contribute to.

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<sup>43</sup> French Development Agency, [Environmental and Social Risk Management Policy for AFD-funded Operations](#), French Development Agency, 1, 13 July 2017.

<sup>44</sup> Ibid., 1.

<sup>45</sup> Ibid., 1.

<sup>46</sup> French Development Agency, [Transforming Financial Systems for Climate – Environmental and Social Framework Including Resettlement Policy Framework and Indigenous Peoples Planning Framework](#), French Development Agency, 12, February 2018.

<sup>47</sup> Ibid., 11.

[...]

IFC's Performance Standards support this responsibility of the private sector. Each of the Performance Standards has elements related to human rights dimensions that businesses may face in the course of their operations. Consistent with this responsibility, IFC undertakes due diligence of the level and quality of the risks and impacts identification process carried out by its clients against the requirements of the Performance Standards, informed by country, sector, and sponsor knowledge.<sup>48</sup>

In relation to this Policy, there is also a reference to the IFC being guided by the International Bill of Human Rights and the eight core conventions of the ILO. In 2018, the IFC published its Position Statement on Retaliation Against Civil Society and Project Stakeholders.<sup>49</sup>

### Screening potential human rights risks and impacts

Human rights considerations should be integrated as early as possible within the project cycle. The goal of this stage is to timely identify actual or potential risks and impacts associated with all human rights: civil, political, economic, social, cultural and labour.

As outlined in the **EIB's** Environmental and Social Policy, the Bank conducts environmental, climate and social due diligence during the pre-appraisal and appraisal stages. The Policy allows for some flexibility, but in principle requires a comprehensive contextual analysis involving the evaluation of impacts and risks related to human rights. This analysis can include a number of factors, including the 'country context', the 'external operating environment', and the 'capacity and commitment of the promoter to implement the project in accordance with the Policy'.<sup>50</sup>

Following the adoption of the EIB's Environmental and Social Sustainability Framework in 2022, a more comprehensive document outlining the Bank's due diligence procedures is currently being developed. During a workshop dedicated to the Bank's approach to human rights across its operations, EIB representatives disclosed that the Bank's updated approach to pre-appraisal will factor in the following risk scenarios:

- complex physical and/or economic displacement on a large scale;
- adverse risks affecting indigenous peoples, ethnic minorities, and other vulnerable groups;
- severe labour risks associated with child labour, forced labour, and discrimination and/or restrictions on freedom of association due to the country context, sector, promoter, contractor, or supply chain;

<sup>48</sup> International Finance Corporation, [International Finance Corporation's Policy on Environmental and Social Sustainability](#), International Finance Corporation, 3, 1 January 2012.

<sup>49</sup> International Finance Corporation, [IFC Position Statement on Retaliation Against Civil Society and Project Stakeholders](#), International Finance Corporation, October 2018.

<sup>50</sup> See point 4.17, European Investment Bank Group, [Environmental and Social Sustainability Framework – The EIB Group Environmental and Social Policy](#), European Investment Bank Group, 2 February 2022.

- projects located in fragile or conflict-affected contexts;
- reputational risks, such as court cases, complaints, protests, scrutiny from civil society organisations, or known reprisals within the sector or country;
- high risks related to health and safety;
- high risks of gender-based violence;
- any other likely severe human rights risks in view of the country context or sector, such as privacy and data protection risks and risks of reprisals, including against human rights defenders;
- environmental hazards, social conflicts, weak institutions, dubious property rights and inadequate knowledge.<sup>51</sup>

As revealed in the workshop, the EIB collects information on the above risk situations from various sources, including the US Department of State's annual Country Reports on Human Rights Practices, the Freedom in the World reports, the ILO's country profiles, the International Trade Union Confederation's Global Rights Index, the US Department of Labor's International Child Labor and Forced Labor Reports, the OECD States of Fragility framework and reports, the Institute for Economics and Peace's Global Peace Index, Minority Rights Group International, and the World Economic Forum's Global Gender Gap Index, among others.<sup>52</sup> In addition, the EIB gathers information from its own site visits, external consultants, and its own social and environmental experts. The Bank's proposed modifications, the details of which have yet to be disclosed, are understood to focus on analysing material risks associated with each of its 11 Environmental and Social Standards. This would involve establishing risk levels based on specific triggers, identifying gaps, determining the level of additional due diligence measures required during appraisal, and drawing up final contract conditions and monitoring procedures.<sup>53</sup>

The **EBRD's** approach to risk screening is similarly complex. Initial screening takes place at the concept review stage, which involves a contextual risk assessment that considers factors relating to the relevant country, region, sector and project. This assessment covers various issues, including but not limited to forced and child labour, gender gaps, inequality, situations faced by indigenous peoples and vulnerable groups, conflict and security, political stability, freedom of assembly and association, freedom of speech and access to information, judicial and extrajudicial redress mechanisms, community safety, resettlement, the supply chain, regulatory frameworks, governance, and sector- and client-related incidents and fatalities. The contextual risk assessment is conducted by EBRD internal experts with specific knowledge of affairs within the relevant country and the issues covered.<sup>54</sup>

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<sup>51</sup> Environment, Climate and Social Office, Projects Directorate, [EIB Environmental and Social Handbook – Volume II: EIB Environmental and Social Practices and Procedures, Version 9.0](#), European Investment Bank, 107, 2 December 2013.

<sup>52</sup> This information was provided by the EIB at a workshop on the approach to human rights across EIB operations held on 7 October 2022.

<sup>53</sup> The proposed measures featured in materials provided at an EIB technical workshop involving civil society organisations held on 18 April 2023.

<sup>54</sup> Information taken from an official-use presentation by the EBRD on its concept review for screening human rights risks during a meeting with Bankwatch held on 4 August 2023.

The **EBRD** develops its own internal sources of information, including country strategies, country briefing notes on labour conditions and gender equality, gender-based violence and harassment tools, and heat maps highlighting child labour, forced labour, and supply chain risks. These documents are regularly updated in consultation with human rights experts and cover an analysis of national legislation. To inform its social and environmental due diligence, the EBRD also uses external sources such as client information, dedicated questionnaires, media searches, reports by civil society organisations, complaints and court cases lodged against clients and previous experiences with clients.<sup>55</sup>

At the end of the concept review stage, the EBRD identifies environmental and social issues, including salient human rights risks and blind spots that require additional analysis. Project risk rating and categorisation also takes place at this stage. Finally, the Bank defines the scope of the subsequent environmental and social due diligence stages.

The **AFD** adopts a unique approach to the screening of social, human rights, and environmental risks. This involves integrating positive and negative impacts in order to determine their potential cumulative effect on people, the economy, the environment, and institutional governance. The approach incorporates the screening of social, human rights, and environmental risks and impacts into the overall project impact assessment. Through an analysis and rating system, it assesses the contribution of each project to the realisation of the SDGs.

Screening and ex ante assessments are conducted as part of the AFD's Sustainable Development Analysis and Opinion Mechanism. The AFD Group adopts an overarching sustainable development analysis framework. Its aim is to 'encourage consideration of each project's impact on sustainable development at as early a stage as possible'.<sup>56</sup> The framework consists of six cross-sectoral dimensions that are intended to align with the SDGs. The dimensions include biodiversity, climate (subdivided into 'low-carbon' and 'resilience'), social, gender, governance, and economy.

Each of these dimensions is broken down into analysis grids for the purpose of sustainability development analysis.<sup>57</sup> The analysis grid for each dimension is divided into various rating sub-criteria with the aim of considering all potential positive and negative impacts. For example, the social dimension is divided into six rating sub-criteria against which a given project is rated on a scale from -2 (a negative contribution) to +3 (a highly positive contribution). To reduce any arbitrariness in the assessment process, an explanation for each rating sub-criteria is provided.

One of the six rating sub-criteria in the social dimension is 'human rights and anti-discrimination', which provides for a wide assessment of the potential negative risks and impacts related to human rights. For instance, a project that '[s]trengthens the rights-holders' individual capacity to assert their rights, and [takes] anti-discrimination actions' is assigned a +1 rating. If a project '[i]ntegrates a human rights-based approach into all of its phases, and strengthens individual and collective capacities both of rights-holders

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<sup>55</sup> Ibid.

<sup>56</sup> French Development Agency, [The Sustainable Development Analysis & Opinion Mechanism](#), French Development Agency, March 2023.

<sup>57</sup> French Development Agency, [Sustainable development analysis – Questioning and integrating sustainable development issues into projects from the outset](#), French Development Agency, 2023.



to claim their rights and of duty-bearers to meet their obligations, together with structured and monitored anti-discrimination actions’, it is assigned a +2 rating. And finally, a project is given the highest rating of +3 if it takes ‘[i]nstitutional measures to align public policies with international human rights obligations, and the development of mechanisms to monitor the effectiveness of measures taken, including those to combat discrimination’.<sup>58</sup>

The other five rating sub-criteria in the social dimension also address human rights issues. For instance, within the rating sub-criterion on ‘reducing factors of vulnerability to tensions and conflicts’, a project can receive a negative rating if it leads to ‘inequalities in access to a service or resource’, ‘exclusion from political, social or economic life’, or ‘discrimination in access to services or resources’. On the other hand, a project receives the highest rating if it establishes ‘institutional mechanisms for socio-political stabilisation [and] ‘[s]trengthens the collective capacity of social groups to resolve their tensions and conflicts peacefully’. The remaining human rights-related sub-criteria include ‘fair, sustainable and effective access to good quality essential goods and services, and improved living conditions’, ‘strengthening the capacities and real opportunities for decent, sustainable jobs and income growth’, ‘redistributive policies and universal social protection floors’, and ‘participation and inclusion in political and social life.’<sup>59</sup>

Issues of gender equality are covered in the gender dimension, which consists of five rating sub-criteria. These include ‘fair, sustainable and effective access to essential goods and services of good quality and improved living conditions’, ‘moving towards gender equality of capacities, opportunities and formal income’, ‘human rights and access to justice; discrimination and violence against women’, ‘women’s empowerment and leadership in decision-making arenas’, and ‘project design and governance.’<sup>60</sup>

The rating sub-criteria for the economy dimension include ‘balanced territorial development’, the ‘inclusive economy’, and the ‘local economy’, which rates a project based on whether it engages in ‘economic activities that compromise people’s access to and use of natural/cultural resources for income-generating activities’, leads to the ‘substantial creation of sustainable and decent local jobs’, or develops ‘income-generating activities linked to the protection of a natural/cultural heritage or the sustainable exploitation of local resources’,<sup>61</sup> among other criteria.

The rating sub-criteria for the governance dimension also involve human rights-related issues, such as ‘information and transparency’, ‘consultation and participation’, and ‘access to justice and effective rights’. In the ‘scaling-up’ rating sub-criterion, a project receives a negative rating if it disrupts ‘the local institutional ecosystem,’<sup>62</sup> The AFD team conducting the sustainable development analysis collects information from its own surveys and desk research, non-governmental organisation reports and field studies, as well as local agencies.

The AFD screens projects for social and environmental risks and adverse impacts, while simultaneously considering potential positive impacts and the contributions of the project to human rights and sustainable

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<sup>58</sup> Ibid., 7.

<sup>59</sup> Ibid., 7.

<sup>60</sup> Ibid., 8.

<sup>61</sup> Ibid., 9.

<sup>62</sup> Ibid., 10.

economic development. Projects are assessed against specific sub-criteria in a systematic way so that all negative risks and impacts are excluded before a positive rating is granted. The framework thus allows for a holistic assessment, combining the expected contribution of the project to achieving sustainable development with the identification of specific human rights risks and impacts. A team of ex ante assessment experts from the Strategy Department conducts the analysis independently of the Operations Department. The outcomes are then presented to the AFD Board to help inform their decision-making. The analysis may also contain specific recommendations in reference to project conditionality.

In addition, the AFD conducts separate due diligence on the environmental and social risks and impacts of all projects for which financing is sought. The purpose of this due diligence is to assess ‘whether the project is likely to be developed and implemented in compliance with AFD’s environmental and social performance targets.’<sup>63</sup> It would appear, then, that the AFD has developed a relatively robust and comprehensive ex ante assessment framework. Nevertheless, the assessment is limited in that only two or three sub-criteria are covered for each dimension. Consequently, not all human rights risks and impacts will be considered in each case.

The **IFC** screens for risks and impacts as early as at the pre-appraisal stage. However, this screening is conducted within the confines of the IFC’s Environmental and Social Performance Standards, which form part of the IFC’s Sustainability Framework, ‘in order to help clients to define adequate E&S management plans and to promote sustainable outcomes’.<sup>64</sup> The IFC’s Environmental and Social Review Procedures Manual describes the procedure it applies to the initiation and identification of potential environmental and social risks and impacts:

Risk and impact identification will depend primarily on what is known about the: (i) physical E&S footprint of the activity(ies); (ii) particular business sector, or range of sectors, addressed by the activity(ies); and (iii) in the absence of a physical footprint, risk context of the future environmental and social setting or location of the activity(ies) in conjunction with the industry sector(s).

[...]

Where some or all proceeds are directed at unidentified, future assets, the review will include the investigation of the capacity, maturity, and reliability of the company’s E&S corporate management system to enable compliance with the Performance Standards.<sup>65</sup>

IFC staff use an internal document management system for pre-appraisal screening, but the content of these documents is not accessible to the public. Site visits are also scheduled at the pre-appraisal stage. While the procedures of the IFC, albeit complex, are publicly available, there is very little information on the screening criteria employed. Therefore, it remains unclear whether, and to what extent, the IFC assesses human rights issues specifically related to the country, region, and immediate locality in which the project takes place, or indeed whether their potential positive and negative impacts on rights holders are even considered.

<sup>63</sup> French Development Agency, [Environmental and Social Risk Management Policy for AFD-funded Operations](#), French Development Agency, 4, 13 July 2017.

<sup>64</sup> Environment, Social and Governance Department, [Environmental and Social Review Procedures Manual](#), International Finance Corporation, 16, 2016.

<sup>65</sup> *Ibid.*, 19, 20.

## Summary

Although the EIB, EBRD, AFD and IFC commit to conducting initial social and environmental risk screening before engaging in full due diligence, this does not guarantee the systematic inclusion of human rights considerations across all projects. It is true that not every project will need to undergo detailed human rights due diligence. Nevertheless, all projects should be subject to an initial review to screen for human rights risks and impacts, which is important in determining whether a more exhaustive human rights risk assessment is needed. Even if the location of a project is not particularly challenging in terms of navigating human rights issues, certain risks still remain. Additionally, in many places around the world, the situation concerning civil society and individual rights is dynamic. It is important to recognise that human rights abuses can occur anywhere and at any time; there are no entirely risk-free nations. For example, in the EU, which legally guarantees the fundamental rights of all its citizens, the European Union Agency for Fundamental Rights regularly publishes reports on abuses of fundamental rights, including those stemming from business conduct.<sup>66</sup>

Despite the commitments of all four banks to screen projects and their promoters from a human rights perspective, their project documents do not verify that human rights are routinely considered during the initial pre-appraisal stage. Thus, there is an unmet need for these banks to enhance transparency by documenting their considerations, providing relevant justifications, and either declaring the absence of human rights risks and impacts or highlighting the expected positive effect on human rights protection.<sup>67</sup> This would undoubtedly have an equally positive effect on building trust among rights holders and other interested stakeholders. As early as during the pre-appraisal stage, the banks could decide on necessary mitigation measures, which could also be publicly disclosed, such as providing training or technical assistance to the project promoter. Among the banks analysed, only the AFD maps the potential positive human rights impacts in its *ex ante* analysis, part of its unique and holistic approach to environmental and social risk and impact assessment.

## Existing good practices and policy provisions

- The EIB, EBRD, and IFC carry out contextual assessments during the early due diligence phase, including, but not limited to the following potential issues: risks to indigenous peoples, ethnic minorities, and other vulnerable groups; labour risks; forms and targets of discrimination; risks of reprisals; restrictions on freedom of association; sector, promoter, contractor, and supply chain risks; fragile and conflict situations; risks related to court cases taken against project promoters by complainants, protestors, and civil society organisations; health and safety risks; privacy and data protection risks; property rights risks.

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<sup>66</sup> For example, see: European Union Agency for Fundamental Rights, [Business and Human Rights – Access to Remedy](#), European Union Agency for Fundamental Rights, 5 October 2020 and European Union Agency for Fundamental Rights, [Business-related human rights abuse reported in the EU and available remedies](#), European Union Agency for Fundamental Rights, 12 December 2019.

<sup>67</sup> For a proposal on documenting the absence of human rights risks and impacts, see: Office of the United Nations High Commissioner for Human Rights, [Benchmarking Study of Development Finance Institutions' Safeguard Policies](#), Office of the United Nations High Commissioner for Human Rights, 41, February 2023.

- All four banks source information from publicly available and established benchmarks.
- The EBRD's approach to developing and regularly updating internal sources of information, such as country and sector strategies, country briefing notes on labour conditions and gender equality, gender-based violence and harassment tools, and heat maps highlighting child labour, forced labour, and supply chain risks.
- The EBRD's policy of consulting with internal specialists knowledgeable in country contexts and human rights issues.
- The AFD's screening of social, human rights and environmental risks, combining an analysis of the positive and negative impacts with a wider consideration of potential consequences on people, the economy, the environment, and institutional governance.

### Areas for improvement

- Improve transparency in documenting the initial identification of actual or potential human rights risks and impacts across all rights categories – civil, political, economic, social, cultural, labour – including both negative and positive impacts.
- Make site visits an obligatory part of initial due diligence for all projects where specific human rights risks and potential negative impacts have been identified, applying the precautionary principle and gathering information from rights holders, especially project-impacted community members and employees;
- Highlight the absence of human rights risks and impacts if they have not already been identified.

### Project risk categorisation

Project risk categorisation is an important part of human rights due diligence not only because it informs the scope of further environmental and social assessment, but also because it determines the capacity and resources that the institution subsequently allocates to project assessment and monitoring. Additionally, it sets out the requirements for clients in terms of impact assessment, transparency, information disclosure, and public participation. This chapter reviews the methods used by the banks to categorise projects that they finance directly. The banks also finance projects through financial intermediaries, for which they use a separate category 'FI'. Financial intermediaries are obliged to conduct environmental and social due diligence for projects financed from the loans provided by development banks.

The EIB, EBRD, AFD and IFC classify projects into risk categories or provide ratings at the initial screening stage. This process is often guided by an indicative list of projects and sectors for which the banks typically require either full or limited environmental and social assessments. In many cases, the existing project categorisations provide a minimal and vague list of criteria. For instance, qualitative and quantitative indicators like 'significant', 'moderate', 'site-specific', and 'minimal' are not sufficiently specific. Dubious terminology such as this also increases the subjectivity of evaluation and potential inconsistency throughout the project portfolio. Project categorisations or ratings may also change during the course of

appraisal. For example, a change in the capacity of the promoter or the adoption of mitigating measures can result in a project being downgraded from a high-risk to a moderate-risk category.

The 2023 benchmarking study by the OHCHR concluded that the typical risk matrix adopted by development banks is ‘plotted along two axes: *likelihood* and *severity* of impacts’, where ‘a high likelihood but low consequence event is assigned the same level of risk as a low likelihood but high consequence event’. This means that some risks with a high severity of impacts may be ignored or exempted from further due diligence, mitigation, and monitoring.<sup>68</sup> In practical terms, it is difficult to discern how, if at all, the likelihood and severity of identified impacts are taken into account in situations where project risk categorisation is predetermined by an existing indicative list of projects.

Using the EU’s Environmental Impact Assessment (EIA) Directive as its legal benchmark, the **EIB** employs three categories for its environmental, climate and social pre-appraisal of projects:

High Risk: projects that are likely to have significant environmental, climate and/or social impacts and risks and require the preparation of an Environmental Impact Assessment (EIA)/Environmental and Social Impact Assessment (ESIA) report and/or any relevant report pertaining to specific topics that may require particular attention due to: ii) national and/or EU Law requirements; or ii) determination made by the competent authorities in the host country and/or by EIB based on a case-by case analysis that takes into account the nature, scale and location of the project;

Medium Risk: projects that are likely to have moderate or limited adverse environmental, climate and/or social impacts and risks that might be addressed through the application of mitigation hierarchy and for which either the competent authorities in the host country and/or the EIB have determined that the preparation of an EIA/ESIA report is not required;

Low Risk: projects that are likely to result in minor or no adverse environmental, climate and/or social impacts and risks.<sup>69</sup>

For projects located within the EU, the EIB uses an indicative list of projects to determine medium- and high-risk categories in line with the EU’s Environmental Impact Assessment (EIA) Directive.<sup>70</sup> For projects located outside the EU, the bank also consults the EIA Directive to determine the need for ESIA and additionally established a set of criteria to determine the need for ESIA for other types of projects. However, the EIB does not disclose this categorisation or the rationale in project documents summarising environmental and social due diligence.

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<sup>68</sup> Ibid., 38.

<sup>69</sup> See point 4.18, European Investment Bank Group, [Environmental and Social Sustainability Framework – The EIB Group Environmental and Social Policy](#), European Investment Bank Group, 2 February 2022.

<sup>70</sup> European Parliament, Council of the European Union, [Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment](#), European Parliament, Council of the European Union, 15 May 2014.



As stated in its Environmental and Social Policy, the **EBRD** categorises each direct investment project ‘commensurate with the nature, location, sensitivity and scale of the project, and the significance of its potential adverse future environmental and social impacts’.<sup>71</sup> The rationale for how categories are assigned in the relevant project summary documents is not explained in sufficient detail. Projects can be classified as category A, B, or C as follows:

A project is categorised A when it could result in potentially significant environmental and/or social impacts, including direct and cumulative environmental and social impacts, which are new and additional and, at the time of categorisation, cannot readily be identified or assessed. Projects categorised as A require a formalised and participatory environmental and social impact assessment (ESIA) process.

[...]

A project is categorised B when its potential adverse environmental and/or social impacts are typically site-specific, and/or readily identified and addressed through effective mitigation measures. The scope of environmental and social appraisal will be determined by EBRD on a case-by-case basis.

A project is categorised C when it is likely to have minimal or no potential adverse environmental and/or social impacts.<sup>72</sup>

To facilitate project categorisation, the EBRD uses an indicative list of category A projects. In addition to its publicly disclosed project categorisation, the Bank adopts an internal non-public risk-rating methodology. It also conducts an overall risk assessment, which takes into account the same factors as the project categorisation as well as contextual risks, human rights risks, social risks, and client capacity and performance. The overall risk assessment, which is not disclosed to the public, is an internal mechanism that informs the allocation of the Bank’s resources and further project monitoring.

The **IFC** has a very similar project categorisation system to the EBRD. The IFC Interpretation Note on Social and Environmental Categorization defines business activities as follows:

Category A: Business activities with potential significant adverse environmental or social risks and/or impacts that are diverse, irreversible, or unprecedented.

Category B: Business activities with potential limited adverse environmental or social risks and/or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures.

Category C: Business activities with minimal or no adverse environmental or social risks and/or impacts.<sup>73</sup>

<sup>71</sup> European Bank for Reconstruction and Development, [Environmental and Social Policy](#), *European Bank for Reconstruction and Development*, 6, April 2019.

<sup>72</sup> *Ibid.*, 14.

<sup>73</sup> International Finance Corporation, [Interpretation Note on Environmental and Social Categorization](#), *International Finance Corporation*, 2, 3, 1 January 2012.

As mentioned previously, the **AFD**'s Sustainable Development Analysis and Opinion Mechanism is used to align its operations with the SDGs. The AFD Operations Department conducts the sustainable development analysis, which is based on a summary grid integrating six dimensions of sustainable development. According to the AFD's brochure on the Mechanism, each project is assigned a sustainable development rating 'based on the project's anticipated effects. They can be negative (-2 if significant, -1 if residual), neutral (0) or positive (+1 if moderate, +2 if significant, +3 if structural).'<sup>74</sup>

Additionally, each dimension of sustainable development is assigned its own individual analysis grid, which provides explanations of the general rating scale and rating sub-criteria in order to limit any subjectivity or misinterpretation in the analysis. Therefore, each dimension receives either a negative or a positive rating based on various sub-criteria with the aim of reflecting the complexity of the project and its range of potential impacts. Importantly, each dimension is given an individual rating, which means that 'the analysis is not expressed as an average to avoid compensating or erasing one dimension with respect to another.'<sup>75</sup>

Following the sustainable development analysis stage, the AFD's Strategy Department carries out an independent assessment. This results in a sustainable development opinion, which can be 'favourable', 'favourable with recommendations', 'reserved', or 'negative'. If the assessment leads to several negative ratings, 'the misalignment of the operation with sustainable development is formalised by a reserved or negative opinion'. As such, a reserved or negative opinion effectively serves as an 'early-warning mechanism', which 'allows any project at risk of misalignment with sustainable development to be reported.'<sup>76</sup>

Finally, the Executive Committee of the AFD decides on whether or not to proceed with the appraisal. This step may involve identifying further actions, such as additional studies, conditionality requirements, or contract covenants, to ensure the sustainability of the activity. The Bank also has specific rules about what kinds of projects can be funded through bonds related to the SDGs: 'Only loans considered to have a positive or neutral impact on each of the six dimensions of the sustainability analysis are eligible for refinancing via the SDG bond framework.'<sup>77</sup>

The AFD's Environmental and Social Risk Management Policy states that the AFD classifies potential projects based on their environmental and social risks, which can be 'high', 'substantial', 'moderate', or 'low'. The Bank also 'conducts a categorization, right from the identification stage, of the expected intensity of its most sensitive component from an environmental and/or social perspective. In this classification process, AFD takes into account the direct, indirect, cumulative and induced risks and impacts in the area of influence of the operation.'<sup>78</sup>

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<sup>74</sup> French Development Agency, [Sustainable development analysis – Questioning and integrating sustainable development issues into projects from the outset](#), *French Development Agency*, 4, 2023.

<sup>75</sup> Ibid.

<sup>76</sup> Ibid.

<sup>77</sup> French Development Agency, [The Sustainable Development Analysis & Opinion Mechanism](#), *French Development Agency*, March 2023.

<sup>78</sup> French Development Agency, [Environmental and Social Risk Management Policy for AFD-funded Operations](#), *French Development Agency*, 5, 13 July 2017.

## Summary

It is often unclear what the criteria for project risk categorisation are and how social and human rights risks, once identified, are reflected in this categorisation. The EIB and AFD do not publicly provide any specific justification for project risk categorisation. While the EBRD and IFC do offer some rationale for determining the risks and impacts that influence overall project categorisation, this practice is not systematically applied to all the project documentation that we reviewed. It seems that, particularly in the cases of the EBRD and the EIB, a predefined indicative list of projects is the most important factor in project categorisation. The EBRD also applies a project environmental and social risk rating. However, this is not publicly disclosed. The EIB's project categorisation, even for projects outside the EU, is heavily determined by the EIA Directive, even though the EIB's last Environmental and Social Policy review introduced greater flexibility in this respect.

The general absence of adequate qualitative and quantitative indicators increases the subjectivity of the evaluation processes and, as a consequence, the potential for inconsistencies across project portfolios. There is also a concerning lack of coherence between the declared scope of the screening of social and human rights risks and impacts, which include labour issues, risks of reprisals and conflict sensitivity, and the resulting project categorisation practices. Based on this review of the project documentation provided by the four banks, there was no evidence to suggest that the outcomes of human rights and social screening have a material effect on project risk categorisation. The EBRD's practice of not assigning a category A rating to certain projects subject to ESIA's at the national level is concerning, as it implies that projects that could have significant environmental impacts or grave social consequences are not being properly monitored. It can also happen that projects categorised as B are simultaneously rated as environmentally and socially high-risk, which adds to the complexity and inconsistency of the EBRD's project categorisation.

Transparency continues to be a problem. While the EIB and the AFD do not disclose information on project categorisation or provide justifications for their categorisation decisions, the EBRD and the EIB employ an additional internal project risk rating, which creates a confusing double system. Ultimately, if risk categories assigned to projects do not correspond with the assessed likelihood and severity of predefined human rights risks and potential impacts, it is hard to see how these development banks can effectively conduct subsequent project environmental and social due diligence, meet their disclosure requirements, monitor projects, or develop preventive and mitigating measures.

### Existing good practices and policy provisions

- The AFD's two-pronged Sustainable Development Analysis and Opinion Mechanism, which rates dimensions of sustainable development using analysis grids and provides explanations for the sub-criteria of each dimension to reduce subjectivity.
- The AFD's holistic approach to project due diligence, which combines an assessment of the potential positive and negative risks, impacts, and opportunities of a project with its expected contributions to the realisation of human rights and the mitigation of negative risks and impacts.
- The IFC's transparent approach to its justification of project categorisation.

## Areas for improvement

- Clarify the outcomes of environmental, social and human rights screening processes, including how human rights-related contextual analysis findings are taken into account in project risk categorisation.
- Increase the transparency of risk categorisation by disclosing how the likelihood and severity of social and human rights risks and impacts, once identified, are considered in the actual project categorisation while providing a clear rationale for these decisions.
- Remove the subjectivity of risk categorisation by introducing appropriate qualitative and quantitative indicators to reliably establish the likelihood and severity of identified risks, impacts, and triggers, particularly in high-risk categories.

### Human rights risk assessment at the project environmental and social appraisal stage

Typically, the environmental and social appraisals conducted by development banks are informed by the findings of the environmental and social assessments carried out during the initial screening and project categorisation phase. This process is important in defining the environmental and social obligations of clients, the need for possible additional studies, requirements in relation to disclosure and public participation, and the project-specific conditions to be included in the finance contract.

This analysis of the procedures adopted by the EIB, EBRD, IFC, and AFD suggests that the scope of project appraisal is largely determined by the initial categorisation (albeit subject to change), and mainly focused on environmental and social compliance risks. However, integrating considerations of human rights risks would require going beyond mere compliance checks, an area that development banks tend to prioritise. The common reason for not doing so is that human rights considerations relevant to the project context are already included within existing environmental and social standards.

The policies of the above banks allow for broad considerations of risks to human rights from the very beginning of the due diligence process. The introduction of a subsequent appraisal stage would allow for a more in-depth investigation of the key risks to people and the environment, help to determine the likelihood and magnitude of the expected negative impacts, and enable the development of a plan to address potential impacts, including preventive and mitigation measures. In practical terms, this would mean that development banks would have to collect and process information from relevant sources such as national and regional human rights bodies, analyse and identify gaps in national legislation, conduct specific assessments on their own or with the help of external specialists, and consult rights holders and other stakeholders.

The **EIB's** Environmental and Social Policy includes an explicit provision for analysing contextual risks, which involves evaluating the impacts and risks related to human rights. While conducting its analysis, the Bank may consult with stakeholders, including those affected by the project, and may also engage relevant experts to assist in the appraisal. However, if a project is initially categorised as medium- or low-risk, a decision largely based on an indicative list of projects that aligns with the EIA Directive and for which an ESIA is not required, the Bank's social due diligence can be limited. The Bank may require project promoters to conduct a stand-alone human rights impact assessment or, more typically, to integrate human rights

considerations into an ESIA. However, in cases where a client is not required to provide an ESIA at all, these issues receive no attention. To our knowledge, the EIB does not require its borrowers to carry out a stand-alone human rights impact assessment.

The EIB declares that it conducts site visits and has a pool of experts at its disposal. The Bank has also recently started to expand its local offices and hire its own social and environmental specialists. Site visits consist of engaging with the local population and employees, while considering any safety and security issues pertaining to the business activity in question. Additional studies that the Bank may require from the project promoter or commission itself include gender impact assessments, labour audits, health and safety assessments, and conflict sensitivity assessments.

In 2022, the EIB adopted the Strategic Approach to Fragility and Conflict. Not to be confused with the EIB's Environmental and Social Policy and Environmental and Social Standards, the Strategic Approach outlines the Bank's position on working in fragile and conflict-affected contexts with the aim of enhancing the Bank's development impact. In 2017, the EIB Group adopted its first Strategy on Gender Equality and Women's Economic Empowerment, which 'aims at embedding gender equality and, in particular, women's economic empowerment in the Group's activities.'<sup>79</sup>

The EIB's project documentation summaries of its environmental and social due diligence generally omit information on human rights considerations, such as contextual analyses, issues related to civil or political rights, risks of reprisals, conflict sensitivity assessments, or additional gender assessments. Information on the EIB's due diligence, including site visits, additional documentation required during appraisal that goes beyond an ESIA, and other environmental and social documents provided by the project promoter such as a resettlement action plan or an environmental and social action plan (ESAP), is not shared with the public or even rights holders. This of course makes it impossible to verify the Bank's commitment.

The public information that is disclosed usually focuses on the compliance of the project with environmental standards and a description of public participation, if required or conducted. Therefore, it is reasonable to assume that since the EIB does not disclose the details of project risk categorisation or the rationale for these decisions in its project documentation, it is unlikely that the Bank assesses the likelihood and magnitude of social and human rights risks and impacts.

The **EBRD** defines the scope of project due diligence during the concept review stage at the time of project categorisation. Additionally, for category A and B projects, the Bank always conducts environmental and social due diligence in consultation with internal and external experts. Due diligence commonly involves flagging major human rights risks and other environmental and social risks and impacts, conducting a detailed review of the company, its internal policies and procedures, and an integrity review, site visits and consultations with stakeholders, identifying gaps in environmental and social standards and monitoring requirements, and preparing an information disclosure package. In particular, the Bank analyses labour rights, working conditions and national legislation, interviews workers and trade union representatives, and reviews company employment data. The analysis also covers issues related to landowners, land users and communities affected by the project.

<sup>79</sup> European Investment Bank, [The EIB Group Strategy on Gender Equality and Women's Economic Empowerment](#), European Investment Bank, 6 January 2017.



For each project, the EBRD summarises its due diligence in the relevant project summary document, sharing details on site visits, reviews of company documentation, and project compliance with performance standards, all of which are publicly available. However, despite disclosing certain information, a detailed justification for how social and human rights considerations are incorporated into project categorisation is lacking. Additionally, the EBRD's claim that it consults with rights holders during the due diligence process could not be verified by this research due to the absence of information on their consultations with local people and employees impacted by its funded projects.

The **AFD**, following its sustainable development analysis, continues project due diligence by addressing the risks and impacts identified in this analysis. Project appraisal involves assessing whether the project is likely to be developed and implemented in compliance with the AFD's environmental and social performance targets. To complete its due diligence, the AFD applies the World Bank's Environmental and Social Standards and analyses all environmental and social assessment documentation and site visits. Additionally, for projects in high- and substantial-risk categories, an environmental and social assessment is required.<sup>80</sup> According to the AFD representatives interviewed as part of this research and the questionnaire responses, human rights impact assessments are not routinely conducted for AFD-funded projects.

The **IFC's** environmental and social due diligence involves reviewing available information, records, and documentation related to environmental and social risks and impacts, conducting site inspections, interviewing client personnel and stakeholders, and analysing the project's environmental and social performance in relation to both the IFC's Performance Standards on Environmental and Social Sustainability and its Environmental, Health, and Safety Guidelines.

The IFC's approach to due diligence emphasises the role of the client in identifying risks and impacts, thus limiting the Bank's role to an evaluation of the quality of the client's work in this respect, primarily taking into account the broader context of the country, sector and client.<sup>81</sup> The IFC uses GMAP, its own internal contextual risk screening tool, as well as external due diligence support tools, such as the US Department of Labor's Bureau of International Labor Affairs mobile application – Sweat and Toil: Child Labor, Forced Labor, and Human Trafficking Around the World – the Integrated Biodiversity Assessment Tool (IBAT), and Global Forest Watch (GFW).

The IFC Performance Standards on Environmental and Social Sustainability include a vague reference to the possibility that '[i]n limited high risk circumstances, it may be appropriate for the client to complement its environmental and social risks and impacts identification process with specific human rights due diligence as relevant to the particular business.'<sup>82</sup> However, this does not amount to any obligation, as such.

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<sup>80</sup> French Development Agency, [Environmental and Social Risk Management Policy for AFD-funded Operations](#), French Development Agency, 1, 13 July 2017.

<sup>81</sup> International Finance Corporation, [Performance Standards on Environmental and Social Sustainability](#), International Finance Corporation, 5, 1 January 2012.

<sup>82</sup> Ibid., 3.

As part of its due diligence, the IFC requires an appraisal mission and report in most cases. The Bank discloses information about the actions and assessments it undertakes during the appraisal and about the key environmental and social risks pertaining to the project, followed by the risk categorisation and justification. Details of due diligence findings related to environmental and social considerations are also disclosed in an environmental and social review summary (ESRS).

## Summary

The UN Guiding Principles on Business and Human Rights state that while an assessment of human rights impacts can be incorporated into an ESIA, it should also include all internationally recognised human rights as a reference point. This analysis reveals that development banks are increasingly expanding their assessments to encompass a wider range of human rights risks, including fragile contexts, conflicts and gender equality. However, the project due diligence documentation reviewed as part of this analysis indicates that the extent of the due diligence carried out is strongly dependent on project risk categorisation and whether it has been determined that a project warrants a full ESIA. This decision is often contingent on the physical footprint of the project concerned, especially in the case of large-scale infrastructure or projects involving the resettlement of populations. Issues like freedom of speech, access to information, access to justice, and risks of corruption and reprisals are typically overlooked. In cases where they are considered, they are often not articulated in the project documents released to the public or in proposals for mitigation measures.

Indeed, there is no public evidence that information on breaches of human rights in relation to specific project contexts, including information documented by human rights bodies and tribunals, is considered or systematically analysed during the identification of risks and impacts, or that such considerations have any effect on the agreement of prevention and mitigation measures. Therefore, although the banks ostensibly declare that they incorporate wider human rights risks into their project due diligence procedures, the overall lack of transparency does not allow these claims to be substantiated.

In general, the project documentation analysed primarily emphasises the principle of complying in full with all applicable standards. However, the banks do not always clearly articulate how they determine the likelihood and intensity of the identified risks and impacts. As a result, this creates additional uncertainty with regard to the allocation of capacities, financial resources, mitigation measures and monitoring activities.

In some cases, the banks engage external consultants and experts, particularly to assess discrepancies between project ESIA documentation, the mitigation measures proposed, and the bank's environmental and social standards. This is a crucial practice in ensuring that human rights standards are upheld, and that they are given the attention and thorough consideration that they deserve. Again, however, the general lack of transparency on the actual work of these consultants makes it impossible to determine whether any human rights risks are systematically addressed.

Although the policies of the EIB, the IFC and the EBRD allow for a stand-alone human rights impact assessment to be requested from the project promoters, this rarely occurs in practice. This analysis was also unable to establish whether these three banks verify the promoters' human rights due diligence obligations under national due diligence legislation and the UN Guiding Principles on Business and Human Rights.

### Existing good practices and policy provisions

- The explicit policy provisions and procedures that the EIB, EBRD and AFD have in place for analysing contextual risks, including the evaluation of human rights impacts and risks.
- Issue-specific assessment tools, notably the EIB's Strategic Approach to Fragility and Conflict, the EIB Group Strategy on Gender Equality and Women's Economic Empowerment, the EBRD's heat maps highlighting child labour, forced labour, and supply chain risks, and the IFC's GMAP tool.
- The provisions of the EIB, IFC and EBRD stating that project promoters may be required to conduct a human rights impact assessment.
- The EBRD's provision setting out the due diligence scope for each project, which includes the identification of salient human rights risks as well as other environmental and social risks and impacts, a detailed review of the company and its internal policies, an integrity review, site visits, consultations with stakeholders, flagging discrepancies in environmental and social standards, establishing monitoring requirements, and preparing an information disclosure package.

### Areas for improvement

- Require project promoters to conduct either a stand-alone or an integrated but identifiable human rights impact assessment as part of the ESIA.
- Develop criteria for activating a stand-alone or integrated human rights impact assessment.
- Mandate site visits as part of project due diligence, including gathering information from rights holders, utilising safe communication tools, and reporting all engagement outcomes in project documentation.
- Prove that the likelihood and magnitude of environmental, social and human rights risks and impacts has been adequately assessed.
- Specify how issues related to social and human rights impacts are considered in project due diligence, how they influence project categorisation, and how they are used to develop preventive and mitigation measures and monitoring.
- Review and disclose the promoter's human rights due diligence obligations under national due diligence legislation and the UN Guiding Principles on Business and Human Rights.

## Transparency and public participation in development banks' environmental and social due diligence

The institutions covered in this analysis have similar requirements for their clients with regard to public consultation and the disclosure of environmental and social information. The most stringent requirements apply to projects that require ESIA's. The procedures underpinning these requirements are set out in public information policies, stand-alone standards for stakeholder engagement, and documents pertaining to the assessment and management of environmental and social risks. However, the banks' approach to transparency in their own due diligence processes and in their own engagement with rights holders is mixed.

The UN Guiding Principles on Business and Human Rights make it clear that a human rights assessment that fails to address the concerns of stakeholders who could be potentially affected by a project cannot be considered accurate. Thus, the banks' own human rights assessment process should take into account the opinions of rights holders from the very outset of the screening process. Relying solely on client questionnaires (or even international human rights indexes) to compile information increases the likelihood that a project will be miscategorised and that the appraisal process and mitigation measures will be poorly implemented. In countries with democratic deficits, restricted freedom of speech, limited access to information, and increased risks of reprisals, entrusting stakeholder consultations exclusively to private business does not befit the responsibilities of public development banks openly committed to sustainable finance.

The **EIB** conducts site visits and may consult rights holders and other stakeholders when collecting information. For all projects, irrespective of their risk categorisation, the EIB Group Transparency Policy<sup>83</sup> defers the disclosure of environmental and social information collected during the appraisal until after loans have been approved and, in certain cases, signed by the EIB Board of Directors. However, even upon publication of the environmental and social data sheet summarising environmental and social information about the project, details on the due diligence process, such as sites visits, stakeholder consultations, and any studies or additional assessments undertaken will typically not feature. The information that is provided tends to focus on the actions undertaken by the project promoter and not on the EIB's own assessments and due diligence activities. Even in cases where the EIB declares that it has conducted a contextual assessment and broadly considered the human rights situation, these findings will not be disclosed. The ESIA is disclosed on the EIB website three weeks prior to project approval for the purpose of disclosure, not for public consultations.

Likewise, the **AFD** conducts site visits and may consult rights holders. However, the information gathered from these activities, including its sustainable development opinion, is processed internally. A brief description of the project and its development impact is publicly disclosed on the AFD website.

For category A and high-risk category B projects, the **EBRD** hires external experts to conduct due diligence. These experts visit the site in question (accompanied by EBRD staff if available) and consult rights holders, such as employees and local communities. Due diligence also involves the preparation of a disclosure

<sup>83</sup> European Investment Bank Group, [EIB Group Transparency Policy](#), *European Investment Bank Group*, 17 November 2021.

package consisting of documents related to the ESIA. However, for category B projects, a formalised and participatory ESIA is not required. This means that while information disclosure and consultations with local communities are still necessary, they may be limited, even for projects rated high-risk.

Although some information on the EBRD's site visits and consultations with stakeholders along with the project categorisation and rationale are provided in the project summary document, critical details concerning the impact of these consultations on the project categorisation and risk rating, the scope of due diligence, and the mitigation measures applied are often omitted. For category A projects, the EBRD publishes its package of documents on public disclosure and consultation 60 and 120 days before project approval for private sector and public sector projects, respectively.

With regard to environmental and social considerations, the **IFC** discloses its findings and recommendations for potential investments in an ESRS prior to project approval. The IFC Access to Information Policy<sup>84</sup> specifies the content of this document and what activities the IFC undertakes during due diligence, including site visits and stakeholder meetings, project categorisation and rationale, and key findings related to social and environmental risks and impacts. The ESRS is then published no later than 60 days in the case of category A projects and 30 days in the case of all other projects prior to consideration of the investment for approval by the IFC's Board of Directors. Contact details for the IFC are also provided.

## Summary

Public development banks should conduct site visits and establish contacts with rights holders to gather information and address concerns as part of due diligence. These consultations should not be treated as a mere information-gathering exercise, but as an opportunity to provide meaningful feedback to those consulted. This feedback disclosed in the bank's project summary should explain how their concerns have informed project categorisation and design. It should also detail all client requirements, the implementation of environmental and social standards, and the design of mitigation measures.

### Existing good practices and policy provisions

- The EBRD and IFC prepare a disclosure package consisting of ESIA-related documents for advance disclosure and consultation before project approval. They also require project promoters to disclose environmental and social information in the relevant local language.
- The IFC and the EBRD require that site visits be conducted for high- and moderate-risk projects.
- The EBRD and IFC consult project stakeholders and impacted community members before project approval by the relevant governing body.

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<sup>84</sup> International Finance Corporation, [Access to Information Policy](#), *International Finance Corporation*, 10, 25 November 2013.



## Areas for improvement

- For low- and medium-risk projects, disclose information and documents containing environmental and social information, such as stakeholder engagement plans, non-technical summaries, project grievance mechanisms, and mitigation action plans.
- Publicly report on the bank's own environmental, social and human rights due diligence, including activities undertaken during the appraisal – such as site visits and expert analysis – and the findings of the appraisal.
- Explain how human rights issues are considered in the overall contextual assessment and how they influence the risk categorisation and rating of the project.
- Engage in dialogue with potentially impacted rights holders and other stakeholders, giving them feedback on how the development bank has addressed their concerns during project appraisal.

## Mitigating risks and preventing human rights impacts

As stated in its Environmental and Social Policy, the **EIB** Group's operating framework includes a mitigation hierarchy, which is defined as follows:

Measures taken to avoid and prevent any significant adverse effects on affected people, communities and workers, as well as on the environment. Where avoidance is not possible, implement measures to reduce, remediate such adverse effects on the environment and remedy such adverse effects on affected communities; as a last resort compensation should be implemented for any potential residual effects after full implementation of avoidance, minimisation, remediation and remedy actions. The human rights mitigation hierarchy is premised on the principles of protect, respect and remedy.<sup>85</sup>

The role of the EIB should be to ensure that the findings of impact studies, such as ESIA's, are reflected in the application of the mitigation hierarchy. In principle, the EIB's Environmental and Social Standards are designed to prevent and mitigate negative project impacts, including those on human rights. Once areas of non-alignment with the Environmental and Social Standards and applicable laws are identified, the EIB requires the client to draft an environmental and social management plan (ESMP) that sets out specific action plans for addressing gaps in the resettlement of affected people, the protection of cultural heritage, livelihood restoration, and stakeholder engagement:

The ESMP is a key tool to address the environmental or social impacts that have been identified during due diligence, and to ensure that projects comply with national laws, relevant international standards and frameworks and meet the EIB E&S standards.<sup>86</sup>

In addition, the promoter of the project is obliged to put in place an integrated environmental and social management system (ESMS) that outlines management processes and procedures. However, based on EIB's Standard 1 on Environmental and Social Impacts and Risks, the promoter is not required to conduct

<sup>85</sup> European Investment Bank Group, [Environmental and Social Sustainability Framework – The EIB Group Environmental and Social Policy](#), European Investment Bank Group, 6, 2 February 2022.

<sup>86</sup> Environment, Climate and Social Office, Projects Directorate, [EIB Environmental and Social Handbook – Volume II: EIB Environmental and Social Practices and Procedures, Version 9.0](#), European Investment Bank, 140, 2 December 2013.

public consultations on the proposed ESMP or any action plans required by the EIB. Though the action plans are usually accessible on the EIB website, routine disclosures are not typically declared in the EIB Group Transparency Policy or in the EIB guide to accessing environmental and social information/documents held by the EIB.<sup>87</sup> ESMP and ESMS documents are not routinely disclosed either. The EIB does, however, expect summary information on mitigation measures to be included in the relevant environmental and social data sheet, which is normally published after loan approval. Notably, the Bank is currently developing a human rights good practice note for public sector promoters.

The **EBRD** has established 10 performance requirements covering key areas of environmental and social sustainability through which it applies the mitigation hierarchy.<sup>88</sup> The Bank's role is to identify inconsistencies in its clients' application of the environmental and social performance requirements across all project categories and to 'provide guidance to assist the client in developing appropriate measures consistent with the mitigation hierarchy to address environmental and social impacts'.<sup>89</sup> The Bank also requires the client to establish an ESMS, which is expected to outline policies, procedures, and action plans that address risks and impacts associated with the project. These action plans may include a stakeholder engagement plan, a resettlement action plan, a supply chain action plan, a labour management plan, a community health and safety plan, and a landscape management plan. Information on key mitigation measures is included in the project summary on the EBRD website. For category A projects, the client is required to disclose an ESIA, a non-technical summary, and an ESAP. These documents are published on the EBRD and client websites to inform public consultations.

The **IFC** applies eight environmental and social performance standards to the business activities of its clients. These standards set out a number of specific requirements underpinned by a mitigation hierarchy. As specified in its Policy on Environmental and Social Sustainability, this mitigation hierarchy is applied 'to anticipate and avoid adverse impacts on workers, communities, and the environment, or where avoidance is not possible, to minimize, and where residual impacts remain, compensate/ offset for the risks and impacts, as appropriate.'<sup>90</sup> The Bank's role is to identify gaps in the compliance of projects with its performance standards as well as 'corresponding additional measures and actions beyond those identified by the client's in-place management practices'.<sup>91</sup> For the IFC to invest in a project, clients are required to disclose supplemental actions contained in an ESAP, and to make this information available to project stakeholders for the purpose of public consultation. In addition, agreed mitigation measures, the ESAP, and updated information about the status of its implementation are disclosed on the IFC project web page. The IFC provides clients with detailed guidance notes for each performance standard to assist in their proper implementation.

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<sup>87</sup> European Investment Bank, [Guide to accessing environmental and social information/documents held by the EIB](#), *European Investment Bank*, 31 March 2015.

<sup>88</sup> See point 1.3, European Bank for Reconstruction and Development, [Environmental and Social Policy](#), *European Bank for Reconstruction and Development*, 6, April 2019.

<sup>89</sup> *Ibid.*, 7.

<sup>90</sup> International Finance Corporation, [International Finance Corporation's Policy on Environmental and Social Sustainability](#), *International Finance Corporation*, 2, 1 January 2012.

<sup>91</sup> *Ibid.*, 6.

The AFD applies the World Bank's Environmental and Social Standards to high-risk projects and expects its clients to develop ESMPs in compliance with these standards. For low- and moderate-risk projects, national regulations are applicable. Where a project poses significant or high social risks that could lead to human rights violations, these issues must be addressed through an ESIA, including legal analyses and identifying gaps between national legislation and the AFD's standard requirements. The AFD does not make ESIA or any other environmental and social project documentation publicly available, leaving it to the discretion of the client. For high-risk category projects, technical assistance on environmental and social issues is systematically provided.

## Summary

All four public development banks approach the prevention of human rights impacts by applying environmental and social safeguards. They assume that compliance with safeguards will reduce the risks of human rights abuses and prevent negative impacts. Clients are expected to conduct impact assessments, such as ESIA and gender impact assessments. They are also required to develop corresponding ESMSs, ESMPs, and ESAPs. These documents outline actions to address potential adverse risks and impacts, and also provide details on procedures, implementation timelines and responsible persons. However, for higher category projects, only the IFC and the EBRD clearly and publicly specify the standards to be applied and the action plans and mitigation measures agreed upon with the client, such as addressing environmental and social gaps identified during environmental and social due diligence.

The EBRD, IFC and the AFD require the disclosure of action plans for high-risk projects. Although the EIB does not require the disclosure of ESAPs or ESMPs, stakeholder engagement plans and resettlement action plans are typically disclosed. The IFC and the AFD are the only banks that require action plans to be subject to public consultation with affected persons. The IFC has taken the initiative to develop preventive and mitigation measures, which are absent from the social safeguard policies of the other three banks. The IFC and the EBRD assume responsibility for developing ESAPs. This approach seems to address the concerns raised by the OHCHR that the ESAPs produced by clients typically lack measures for preventing and mitigating a wide range of potential human rights impacts.<sup>92</sup>

The ESAPs produced by the IFC and the EBRD outline actions to close gaps in compliance with their standards, cover issues identified during due diligence, and may include mitigation measures that address potential human rights risks and impacts. However, not all of their ESAPs are publicly disclosed. For instance, completed ESAPs have not been disclosed for several medium-risk projects, such as EBRD category B projects. Additionally, since the EBRD's human rights analysis for project risk rating is not made available to the public, it is unclear to what extent the ESAPs address these findings.

Neither the EIB nor the AFD disclose how their due diligence findings of contextual risks related to project location, country, project promoter capacity, and sector-specific issues translate into specific prevention and mitigation measures. They also fail to specify whether and how these findings are incorporated into

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<sup>92</sup> Office of the United Nations High Commissioner for Human Rights, [Benchmarking Study of Development Finance Institutions' Safeguard Policies](#), Office of the United Nations High Commissioner for Human Rights, 72, February 2023.

client ESAPs and ESMSs. Even though these financial institutions are progressively enhancing their due diligence by incorporating human rights considerations, there seems to be a disconnect between the banks' own human rights risk assessments and the development of specific action plans and measures outlining how these human rights risks will be addressed. Clearly, the lack of transparency is a major factor at play here, as evidenced by the EIB's failure to disclose conflict sensitivity assessments or any remedial action deemed necessary.

Finally, only the EBRD was able to confirm that, in addition to providing standard technical assistance to low-capacity clients, it conducts regular trainings for clients on environmental and social issues, such as road safety and gender equality. The EBRD offers several online training modules to support its clients.<sup>93</sup>

While the AFD states that it occasionally provides formal technical assistance, including environmental and social documentation, this service is usually reserved for high-risk projects, either as part of the loan or through an additional grant element. Technical assistance is also provided by the EIB, the EBRD, and the IFC. In general, however, with the exception of the EBRD, the banks do not systematically provide or organise general training programmes to raise awareness and strengthen the capacity of client staff to properly implement environmental and social safeguards. The streamlining, implementation and review of environmental and social standards remains a frequent subject of discussion between development banks and civil society organisations. The IFC and the EBRD offer detailed guidance notes on each performance standard to assist its clients in the implementation process, and the EIB has committed to developing similar guidance notes. Notably, the IFC, the EBRD, and the EIB are currently in the process of developing or updating their good practice guidance notes on human rights.

While all four banks have made public commitments condemning intimidation and reprisals, and declare that they have internal procedures for handling complaints filed by civil society organisations and communities in relation to reprisals, information on the specific measures taken to prevent and respond to such situations is typically not disclosed. The EBRD has a retaliation procedure in place for addressing suspected cases of retaliation against stakeholders who voice criticism or raise concerns about EBRD projects.<sup>94</sup> However, it is the only bank that publicly discloses such a procedure. Perhaps this channel of communication would gain more visibility if information about it were included in the EBRD's project summary documents.

A recent report by the Coalition for Human Rights in Development found that public development banks largely depend on their clients to address reprisals, even though they often play a direct role in carrying them out.<sup>95</sup> This makes it all the more important for banks to establish proactive measures for prevention and response. First, a comprehensive assessment of reprisal risks should be integrated into the human rights due diligence process. This assessment should take into consideration the specific project context, including restrictions on civic freedoms, challenges faced by defenders, risks related to the client's track

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<sup>93</sup> European Bank for Reconstruction and Development, [EBRD E-Learning](#), *European Bank for Reconstruction and Development*, accessed 7 February 2024.

<sup>94</sup> European Bank for Reconstruction and Development, [Enforcement Policy and Procedures](#), *European Bank for Reconstruction and Development*, 4 October 2017.

<sup>95</sup> Coalition for Human Rights in Development, [Misplaced Trust – why development banks should not rely on their clients to address reprisal risks](#), *Coalition for Human Rights in Development*, July 2023.

record, involvement of the government or third parties, impacts on marginalised groups, and other factors. Second, the human rights due diligence process should include protocols specifying the actions that the bank will take in cases of retaliation as well as the corresponding responsible departments within the bank.

### Existing good practices and policy provisions

- The transparent approaches of the IFC and the EBRD to their environmental and social standards, which involve gap analyses and the development of corresponding action plans.
- The IFC and the AFD ensure that promoters consult with impacted stakeholders on ESAPs for category A projects.
- The IFC, AFD, EBRD and EIB provide guidance notes on the application of environmental and social standards.
- The EBRD's dedicated retaliation procedure for addressing suspected cases of retaliation against stakeholders who voice criticism or raise concerns about EBRD projects.

### Areas for improvement

- Develop and disclose mitigation measures and action plans for addressing social and human rights concerns in accordance with the bank's due diligence process for all projects, and articulate the specific steps to be taken by the bank to mitigate these risks, such as incorporating measures to protect freedom of speech in the bank's action plan.
- Ensure transparency for all project categories by mandating the inclusion of gap analyses, ESMPs, and action plans.
- Require that project-impacted stakeholders be consulted as part of ESAPs.
- Provide systematic trainings for clients on environmental and social standards.
- Notify rights holders through local communication channels about the involvement of the bank, the standards it is expected to uphold, and how they can access accountability mechanisms, anti-reprisal protocols, and contact points.
- Establish a protocol specifying the actions the bank must take in cases of retaliation along with the corresponding responsible departments within the bank.

### Monitoring

The **EIB's** Environmental and Social Policy provides certain details on the bank's monitoring obligations. It mentions that the 'EIB shall monitor and review compliance with the relevant legal requirements and the requirements set out in [the] Policy, as well as the fulfilment of the specific contractual conditions and/or



undertakings included in the legal documentation signed with the promoter.’<sup>96</sup> With regard to environmental, climate and social due diligence and monitoring, the Policy states:

The actual scope of the due diligence and monitoring shall be proportionate to the nature and scale of the project and the likely significance of its impacts and risks. The promoter shall be responsible for providing adequate information so that the EIB may carry out its due diligence and monitoring in accordance with this Policy.<sup>97</sup>

According to the EIB’s environmental and social practices and procedures, monitoring ‘[d]etermines what information, reports and visits will be necessary for the EIB to monitor the environmental and social aspects of the project implementation and/or operation’.<sup>98</sup> Effectively, the EIB passes the buck by placing emphasis on receiving adequate information from the borrower and other parties to establish whether prevention and mitigation measures, remedial actions or compensation have been effectively implemented:

For all projects where an on-site EIB mission is performed, it shall include the collection wherever possible of evidence of compliance with environmental and social requirements from the promoter, project stakeholders, civil-society and relevant governmental authorities. Projects with significant implementation problems including non-compliance with the environmental and social requirements shall be included in the Project Watch List and reported to the Management Committee.<sup>99</sup>

For some private sector loans, the EIB facilitates monitoring through the lenders’ technical advisor (LTA). This independent consultant, who is appointed by the lenders (including the EIB) and hired at the expense of the project promoters, reports to the EIB on the implementation of the project. The EIB, however, does not proactively publish monitoring reports issued by the project promoters or disclose any information related to its own monitoring of the project’s compliance or the implementation of action plans. Nor does it require clients to publish the monitoring reports they file with the bank. Upon completion of the project, the EIB does publish a brief closing report, which includes information on the compliance of the project with environmental and social standards, implementation of the ESMP, and any further actions or monitoring to be undertaken during the project operation stage.

The **EBRD**’s Procedures for Environmental and Social Appraisal and Monitoring of Investment Projects set out the bank’s criteria for determining environmental and social monitoring requirements:

Monitoring activities will be commensurate with the environmental and social impacts and issues associated with the project. They may also reflect any significant stakeholder concerns and include an environmental and social project completion review or audit, where relevant. As a minimum, monitoring activities will include reviewing Annual Environmental and Social Reports prepared by clients on the environmental and social performance of the project and progress on the implementation of the ESAP.<sup>100</sup>

<sup>96</sup> European Investment Bank Group, [Environmental and Social Sustainability Framework – The EIB Group Environmental and Social Policy](#), European Investment Bank Group, 11, 2 February 2022.

<sup>97</sup> Ibid., 9.

<sup>98</sup> Environment, Climate and Social Office, Projects Directorate, [EIB Environmental and Social Handbook – Volume II: EIB Environmental and Social Practices and Procedures, Version 9.0](#), European Investment Bank, 118, 2 December 2013.

<sup>99</sup> Ibid., 149.

<sup>100</sup> European Bank for Reconstruction and Development, [Procedures for Environmental and Social Appraisal and Monitoring of Investment Projects](#), European Bank for Reconstruction and Development, 7, 10 July 2015.

The Procedures state that the environmental and social monitoring of project implementation ‘should be risk driven, with higher risk projects subject to more intensive monitoring’.<sup>101</sup> A provision is also made for on-site monitoring visits, which are considered ‘an essential tool for evaluating whether projects are being implemented and operated in line with the requirements and standards agreed between the client and the Bank ...’ Additionally, existing project assessments can be modified by external consultants (paid for by the client and authorised by the Bank), which can lead to further interventions by the EBRD’s Environmental and Sustainability Department (ESD):

Third party monitoring allows for more in-depth supervision and includes, for example, detailed reviews of documentation and permits, emissions data, etc. For complex projects, third party monitoring might focus on a particular aspect of a project, for example air emissions, health and safety performance, impacts on biodiversity or the implementation of resettlement requirements. The findings of the third party monitoring may result in amending the ESAP and/or the ESD increasing the monitoring activities. For higher risk projects it may be appropriate to require the client to appoint independent monitoring consultants to report regularly to the Bank.<sup>102</sup>

The EBRD’s project summary documents, updated annually, provide concise information on established monitoring arrangements, external consultants, monitoring activities, outcomes, and progress in implementing ESAPs and ESMPs. Additional measures agreed upon during project implementation are also highlighted. However, this practice only applies to category A projects, which represent a very small proportion of the EBRD’s portfolio. Unfortunately, monitoring information for other project categories is scarce, and stand-alone monitoring reports from borrowers or consultants are not routinely published. There is no evidence in the project summary documents to suggest that the EBRD seeks information from rights holders in relation to the implementation of high-risk projects. However, the EBRD representatives interviewed for this report claimed that they do seek the opinions of rights holders and that this feedback is included in the ESMP reports for category A projects and in the independent consultant reports for category B projects, even though they are not made available to the public.

The **IFC’s** Environmental and Social Review Procedures Manual provides a detailed description of the supervision stage in the IFC’s project life cycle for direct investments. During this phase, the annual monitoring report supplied by the client is reviewed by a specialist from the IFC’s Environment, Social and Governance Department. This review evaluates various aspects, including the extent of implementation and effectiveness of the project’s ESMS, adherence to safeguards, compliance with environmental, health and safety guidelines, application of additional mitigation measures agreed upon during project due diligence and as specified in the investment agreement, implementation of the ESAP, and any previously agreed remedial actions. The review also examines the ‘effectiveness of the client’s grievance mechanism and community engagement’.<sup>103</sup> Issues related to significant environmental and social concerns are subject to enhanced monitoring on a monthly or quarterly basis. The IFC also uses a technical tool, Action Plan Tracker, to track implementation of activities agreed in the ESAP. For large or complex projects co-financed

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<sup>101</sup> Ibid., 9.

<sup>102</sup> Ibid., 11.

<sup>103</sup> Environment, Social and Governance Department, [Environmental and Social Review Procedures Manual](#), *International Finance Corporation*, 43, 2016.

with other financial institutions, an environmental and social consultant may be engaged ‘to conduct independent supervision activities on their behalf.’<sup>104</sup>

For category A and B projects, the IFC routinely publishes and updates information on the implementation status of ESAP and third-party monitoring reports. It also requires clients to disclose periodic reports on their action plans to affected stakeholders.

For **AFD** projects categorised as A, B+ and B, all agreements require clients to issue regular reports, including reports detailing complaints and incidents. In addition, the AFD’s communications team is responsible for monitoring negative occurrences in the press and ensuring that the relevant project managers are kept informed. For category A projects, external audits are systematically requested for resettlement action plans upon completion. Additionally, the AFD’s project team conducts mandatory monitoring missions for category A projects.<sup>105</sup>

## Summary

All four banks apply different levels of detail, rigour and transparency to monitoring project implementation. They do, however, share a common practice of correlating the scope of monitoring required with the initial project categorisation. In other words, riskier projects will be monitored more intensively and frequently. Consequently, any human rights issues, risks and potential impacts are also subject to monitoring, provided that they have been identified at an early stage and considered during project risk categorisation. This process involves ensuring that prevention and mitigation measures related to those risks and impacts are reflected in the risk management system and action plans.

The EBRD, EIB and IFC contend that engaging with impacted stakeholders is an integral part of their monitoring processes. However, this analysis of randomly selected project information web pages could not confirm that this is indeed a systemic practice. Despite the banks’ assertions that monitoring site meetings have occurred, there is no public evidence to support these claims. Both the IFC and the EBRD publicly disclose information about their monitoring activities. This includes details about site visits, project description updates, the implementation of action plans, and compliance with applicable standards.

In the case of the EBRD, however, this practice only applies to category A projects. In fact, many high-risk projects financed by the EBRD are designated category B status or lower, where monitoring transparency is severely limited. For instance, mining and municipal and environmental infrastructure projects, many of which are designated category B, still pose significant social and environmental risks. In addition, it would appear that the human rights issues, potential risks and impacts identified during the contextual analysis of projects are not systematically monitored. Either that, or the outcomes of the monitoring are simply not made public.

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<sup>104</sup> Ibid., 47.

<sup>105</sup> This information on the AFD’s monitoring procedure was obtained from interviews with AFD staff and their written responses to the research questionnaire (see Methodological note).

Given that the monitoring reports of project promoters are not published, these important documents cannot be reviewed by interested members of the public or impacted stakeholders. It should be noted that certain technical limitations, such as the complexity of gathering, processing and presenting large volumes of information, along with time constraints, can prevent banks from publishing comprehensive project implementation updates on actions agreed in action plans as well as corresponding mitigation measures. This makes it even more imperative that the monitoring reports of project promoters are disclosed in addition to the banks' own monitoring information. This guidance is in line with the UN Guiding Principles on Business and Human Rights, which recommend that business enterprises 'whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them'.<sup>106</sup> This additional reporting obligation would not only have a positive impact on improving the transparency of projects and the accountability of their promoters, but would also allow the information contained in these reports to be subject to independent public scrutiny.

The project information disclosed by the IFC contains no details on the implementation of measures adopted as part of the ESAP for the project concerned; the information that is disclosed is restricted to completion dates for specific actions during the project's later stages. Disappointingly, the IFC offers no indication of whether these measures are successful in preventing, mitigating or remedying identified impacts, which means that there is no way of determining whether the rights of impacted stakeholders are protected or upheld.

In short, the level of transparency applied to the monitoring activities of all four banks is inadequate. The frequency of these activities and the results of the agreed action plans and corresponding mitigation measures are unclear. Despite the banks' statements that their approaches to monitoring prioritise engagement with impacted rights holders, the deployment of external consultants, and the consultation of a wide range of sources for verification purposes, there is scant evidence to conclude that the monitoring employed is sufficiently differential, or that it is not characterised by an over-reliance on information issued by the project promoter.

To address this shortcoming, the monitoring reports conducted by project promoters, including details on their implementation of ESMPs and related action plans, should be disclosed to facilitate public scrutiny and verification. The same principle should also apply to third-party monitoring reports, such as those by LTAs. The IFC and the International Bank for Reconstruction and Development already publish external consultant reports. One way of enhancing the transparency of the monitoring process is to focus more on demonstrating how preventive, mitigation and remedial measures are implemented and whether these measures have resulted in the outcomes expected. For example, if the impact of road reconstruction is such that it forces small traders to relocate their stalls, the reporting could focus on showing that they have managed to at least recover their previous levels of income in their new locations. Lastly, the banks should substantiate their claims that they align monitoring with contextual assessments of human rights during the initial project screening and assessment by clearly showing how the most severe and likely human rights risks and impacts have been prevented or mitigated.

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<sup>106</sup> Office of the United Nations High Commissioner for Human Rights, [Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework](#), Office of the United Nations High Commissioner for Human Rights, 23, 16 June 2011.

### Existing good practices and policy provisions

- The inclusion of a provision by the EIB, IFC, EBRD and AFD for third-party monitoring, involving the commissioning of external environmental and social consultants or LTAs.
- The EIB's watch list for projects with significant implementation problems, including non-compliance with environmental and social requirements.
- The IFC and EBRD tools for tracking the implementation of activities agreed in the ESAPs and financing agreements.
- The IFC's disclosure of project promoters' reports on action plans to project-affected stakeholders.

### Areas for improvement

- Disclose the periodic environmental and social reports conducted by promoters in addition to the bank's own monitoring reports, including information on the implementation of the bank's mitigation measures to address human rights risks and impacts.
- Disclose third-party monitoring reports addressing environmental and social issues for all projects, including reports compiled by the lenders' technical advisor (LTA).
- Enhance the monitoring and disclosure of human rights risks and impacts.
- Communicate the results of all implemented environmental and social preventive, mitigation and remedial measures agreed with the project promoters on a regular basis.
- Seek information from rights holders on project implementation to verify project compliance with standards.
- Provide an aggregated overview of the challenges and issues encountered during project implementation, along with the major learnings in addressing environmental, social and human rights issues, in the annual sustainability reports.

### Grievance redress mechanisms

As previously mentioned, the **EIB's** Environmental and Social Policy refers to the application of a human rights mitigation hierarchy 'premised on the principles of protect, respect and remedy'.<sup>107</sup> However, the EIB's role in facilitating remedy in the event of negative impacts is only briefly touched upon and there is no mention of how the bank contributes to this process. The EIB requires the client to provide information on the measures it has taken to reduce potential negative impacts, and to establish a grievance mechanism to ensure access to remedy for affected stakeholders. As for the EIB's monitoring role, it reviews project compliance by consulting relevant legal requirements, provisions in the Policy, and contractual conditions.

<sup>107</sup> European Investment Bank Group, [Environmental and Social Sustainability Framework – The EIB Group Environmental and Social Policy](#), European Investment Bank Group, 6, 2 February 2022.



However, the Policy contains scant information on the procedures followed in cases of non-compliance, except for mentioning that the bank ‘may take follow-up action, when appropriate’.<sup>108</sup>

According to the EIB Group Complaints Mechanism, complaints may be submitted in relation to instances of maladministration, including ‘administrative irregularities, unlawful discrimination, unjustified refusals of information, abuse of power, unnecessary delays as well as a failure by the EIB Group to comply with its own obligations in the appraisal and monitoring of projects financed by the EIB Group’.<sup>109</sup> Importantly, the Mechanism explicitly includes the failure to comply with human rights in its definition of maladministration. It also takes into account the environmental and social impacts of projects, as well as their compliance with national and EU law and EIB policies.

The **EBRD’s** Environmental and Social Policy contains provisions explaining the bank’s role in facilitating remedy in cases of environmental and social failures. It also specifies the obligations of the bank in monitoring:

EBRD reviews annual environmental and social reports on the environmental and social performance of the project, implementation of the ESAP and the compliance of the client with the environmental and social covenants in the financing agreements. If the client fails to comply with its social and environmental commitments, as set out in the financing agreements, EBRD may agree with the client remedial measures to be taken by the client to achieve compliance.<sup>110</sup>

For all projects, the EBRD requires the client to ‘establish an effective grievance mechanism as early as possible in the project development process, to receive and facilitate resolution of stakeholders’ concerns and grievances...’.<sup>111</sup> Supporting these efforts, the Independent Project Accountability Mechanism, established under the Project Accountability Policy,<sup>112</sup> serves as a channel through which project-impacted people and civil society organisations can express their grievances and seek resolution for any harm caused by EBRD-financed projects. The EBRD also provides other issue-specific channels where allegations can be dealt with. These include the Trade Union Communication Mechanism (TUCM), which enables trade unions to raise concerns related to working conditions on EBRD projects, and the internal Gender-based Violence and Harassment (GBVH) Incident Reporting Procedure.

The **IFC’s** Policy on Environmental and Social Sustainability contains a provision outlining the bank’s role in facilitating remedy in cases of environmental and social failures:

IFC’s agreements pertaining to the financing of clients’ activities include specific provisions with which clients undertake to comply. These include complying with the applicable requirements of the

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<sup>108</sup> Ibid., 11.

<sup>109</sup> European Investment Bank Group, [EIB Group Complaints Mechanism Policy](#), *European Investment Bank Group*, 8, 13 November 2018.

<sup>110</sup> European Bank for Reconstruction and Development, [Environmental and Social Policy](#), *European Bank for Reconstruction and Development*, 8, 25 April 2019.

<sup>111</sup> Ibid., 49.

<sup>112</sup> European Bank for Reconstruction and Development, [Project Accountability Policy](#), *European Bank for Reconstruction and Development*, April 2019.

Performance Standards and specific conditions included in action plans, as well as relevant provisions for environmental and social reporting. If the client fails to comply with its environmental and social commitments, as expressed in the legal agreements and associated documents IFC will work with the client to bring it back into compliance, and if the client fails to reestablish compliance, IFC will exercise its rights and remedies, as appropriate.<sup>113</sup>

The IFC also requires that its clients establish ‘an effective grievance mechanism that can facilitate early indication of, and prompt remediation of various project-related grievances’.<sup>114</sup>

The **AFD** financing agreements contain environmental and social commitment plans for all category A, B+ and B projects. If non-compliance is found, the AFD commits to supporting the client in achieving compliance with the financing agreement.<sup>115</sup> Our interview with the AFD revealed that the bank expects the client to address any areas of non-compliance. For projects classified as having high and substantial risks, the client is responsible for establishing and funding a grievance redress mechanism.<sup>116</sup>

The AFD provides the Environmental and Social Complaints Mechanism for individuals, groups, and legal entities seeking to file complaints in relation to the negative environmental and social impacts of AFD-financed projects located outside France. Information about the mechanism and its procedures is available on the AFD’s dedicated web page.<sup>117</sup> The mechanism provides avenues for conciliation between the claimant and the client, which can lead to various kinds of remedies, including compensation. An external expert assesses whether the grievance raised is suitable for conciliation or further investigation through a compliance audit.

## Summary

Public development banks, as financial institutions with development mandates and corresponding due diligence obligations, have a shared responsibility to provide appropriate redress for any harm caused by the projects they fund. At the very least, they should retain the means to leverage remedy in cases where people or the environment have been negatively affected. Unfortunately, the existing policy provisions describing the banks’ role in facilitating remedy are insufficient. Although they claim to incorporate relevant environmental and social conditions into financial contracts and conduct regular project monitoring and reviews, it remains unclear whether and to what extent they have the authority to identify and address instances of non-compliance and resulting harm. Their policies are unclear with regard to the measures they can take to address issues with their clients and the mechanisms used to enforce them. Statements such as ‘the bank may take follow up action, when appropriate’ or ‘the bank may agree with the client

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<sup>113</sup> International Finance Corporation, [International Finance Corporation’s Policy on Environmental and Social Sustainability](#), *International Finance Corporation*, 5, 1 January 2012.

<sup>114</sup> *Ibid.*, 3.

<sup>115</sup> French Development Agency, [Environmental and Social Risk Management Policy for AFD-funded Operations](#), *French Development Agency*, 5, 6, 13 July 2017.

<sup>116</sup> *Ibid.*, 7.

<sup>117</sup> French Development Agency, [E & S Complaints Mechanism](#), *French Development Agency*, accessed 14 December 2023.

remedial measures' do not provide any assurance of effective remedy, especially in situations where additional financial resources would have to be raised to cover the costs involved. Furthermore, none of the public development banks investigated declared responsibility for providing redress, which would entail providing a range of reparation options, potentially by the banks themselves.

All of the banks covered in this review have project complaints mechanisms in place. Yet, for each project, it is still primarily up to the client to make complainants aware of the availability of these mechanisms and that they can be accessed. Complaints mechanisms typically raise awareness about their operations through civil society organisations. For instance, this can involve organising joint regional outreach events for civil society and other interested stakeholders. However, the banks themselves do not actively promote or directly notify project stakeholders that these mechanisms exist. According to the Accountability Counsel, an organisation that amplifies community voices to safeguard human rights and the environment, independent accountability mechanism processes 'often do not result in the full remediation of identified harm'.<sup>118</sup>

Civil society organisations actively advocate for development banks to establish effective accountability mechanisms. Based on the reports and policy positions of these organisations, the independent accountability mechanisms overseen by these banks do not fully meet the eight effectiveness criteria for non-judicial grievance mechanisms, as set out in Principle 31 in the UN Guiding Principles on Business and Human Rights. Specifically, these mechanisms should be 'legitimate', 'accessible', 'predictable', 'equitable', 'transparent', 'rights-compatible', 'a source of continuous learning', and 'based on engagement and dialogue'.<sup>119</sup> The common consensus is that the effectiveness of existing complaints mechanisms will be greatly improved if banks thoroughly review and adhere to the UN Guiding Principles on Business and Human Rights.<sup>120</sup>

In recent years, civil society organisations and development banks have engaged in intensive discussions on remedy mechanisms, informed by significant input from the research and policy proposals of the OHCHR. Some of the proposals for enhancing existing redress and accountability mechanisms include providing more resources for project remedy funds, contingencies, and insurance.<sup>121</sup>

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<sup>118</sup> Stephanie Amoako, [For Public Development Banks to Effectively Address the World's Crises, They Have to Be Accountable](#), *Accountability Counsel*, 12 September 2023.

<sup>119</sup> Office of the United Nations High Commissioner for Human Rights, [Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework](#), *Office of the United Nations High Commissioner for Human Rights*, 33, 34, 16 June 2011.

<sup>120</sup> See, for example: CEE Bankwatch Network, [EIB to weaken accountability mechanism, despite civil society criticism](#), *CEE Bankwatch Network*, 13 November 2018; Sara Jaramillo, [Making IAMS accessible for all communities](#), *Accountability Console*, 7 August 2023; Accountability Counsel, Bank Information Center, Center for International Environmental Law, Centre for Research on Multinational Corporations, Community Empowerment and Social Justice Network, Gender Action, Green Advocates International, Inclusive Development International, International Accountability Project, Jamaa Resource Initiatives, Urgewald e.V., [Good Policy Paper – Guiding Practice from the Policies of Independent Accountability Mechanisms](#), *Accountability Counsel*, December 2021.

<sup>121</sup> See, for example: Office of the United Nations High Commissioner for Human Rights, [Remedy in Development Finance: Guidance and Practice](#), *Office of the United Nations High Commissioner for Human Rights*, 23 February 2022; Office of the United Nations High Commissioner for Human Rights, [Benchmarking Study of Development Finance Institutions' Safeguard Policies](#), *Office of the United Nations High Commissioner for Human Rights*, February 2023.

### Existing good practices and policy provisions

- The EBRD and IFC make explicit policy commitments to facilitate remedy in the event of client non-compliance.
- All four banks make it clear that clients are obliged to establish and self-finance project grievance mechanisms.
- The EIB and AFD require clients to inform project stakeholders about their complaints mechanisms.
- The AFD's Environmental and Social Complaints Mechanism is an extrajudicial mechanism with a dedicated team and budget separate from AFD's organisation chart.
- The EBRD's Trade Union Communication Mechanism (TUCM) and Gender-based Violence and Harassment (GBVH) Incident Reporting Procedure.

### Areas for improvement

- Review accountability mechanisms to ensure that they meet the effectiveness criteria for non-judicial grievance mechanisms in the UN Guiding Principles on Business and Human Rights.
- Reserve the unilateral right to determine client non-compliance and the subsequent steps required to address any harm caused.
- Clearly outline in the relevant policy the actions that the bank can take in cases where the client has violated its obligations and the mechanisms in place for enforcing these actions.
- Provide information on potential sources of funding for remedial measures, such as remedy funds, insurance schemes, escrow arrangements, trust funds, contingency funds, contingent guarantees, and letters of credit.

## Existing good practices and policy provisions

	EIB	EBRD	AFD	IFC
<b>Public policy statements</b>				
High-level policy commitment to respect and promote human rights	+	+	+	
Public anti-reprisals statement	+	+		+
<b>Risk assessment and project categorisation</b>				
Early contextual assessments covering country, sector and promoter	+	+	+	+
Mandatory site visits for projects in certain categories		+		+
<i>Ex ante</i> assessment of the potential positive and negative risks, impacts, and opportunities of a project and its expected contributions to the realisation of human rights and the mitigation of negative risks and impacts			+	
Clearly and transparently defining the due diligence scope for each project		+		+
Transparent justification of project categorisation				+
Issue-specific internal assessment tools relating to fragility and conflict, gender, child labour, forced labour, or supply chain risks	+	+		+
A provision on human rights impact assessment	+	+		+
<b>Transparency and public participation of development banks in environmental and social due diligence</b>				
Disclosure of ESIA-related documents for public consultation before project approval		+		+
<b>Mitigating risks and preventing human rights impacts</b>				
Transparent gap analysis on environmental and social standards and corresponding action plans		+		+
Required public consultations of environmental and social action plans for higher risk projects			+	+
Guidance notes for promoters on the application of environmental and social standards	+	+	+	+



<b>Monitoring</b>				
Third-party monitoring involving the commissioning of external environmental and social consultants or lenders' technical advisors	+	+	+	+
Watch-list of projects with significant implementation problems, including non-compliance with environmental and social requirements	+			
Tracking tool for the implementation of activities agreed in the ESAPs and financing agreements				+
Disclosure of project promoters' reports on action plans to project-affected stakeholders				+
<b>Grievance redress mechanism</b>				
Commitments to facilitate remedy in the event of client non-compliance		+		+
Obligation for promoters to establish and self-finance project grievance mechanisms	+	+	+	+
Obligation for promoters to inform project stakeholders about the bank's complaint mechanism	+			