

Civil society joint statement on the EBRD's draft safeguards

The draft updates of the EBRD's Environmental and Social Policy and Access to Information Policy set out the environmental and social requirements for EBRD-supported projects and the Bank's due diligence procedures. However, despite some improvements, these draft safeguards are insufficient to ensure human rights are respected and protected, especially in countries with significant democratic deficits. Therefore, we strongly urge the EBRD to enhance its human rights due diligence in the following ways to protect communities affected by its investments:

1. Improve environmental and social information disclosure

- The EBRD's approach to project risk assessment should be transparent so that civil society organisations are given the opportunity to provide feedback and ensure the Bank adopts an effective approach. The EBRD should disclose its risk assessment methodology and environmental, social and human rights due diligence procedures.
- The EBRD needs to improve its approach to the disclosure of environmental and social information for medium- and low-risk (category B) projects, which comprise most of the EBRD's project portfolio. While the draft safeguards propose enhanced disclosure for category B projects likely to have significant impacts on biodiversity and land acquisition, further amendments are required. Mandatory disclosure for all projects involving public sector clients in this category is essential. Such a measure will increase transparency in the public sector and facilitate effective engagement with stakeholders and rights holders, including taxpayers.
- The EBRD should regularly disclose environmental and social monitoring reports for all projects to ensure ongoing due diligence and facilitate meaningful stakeholder engagement. The draft safeguards propose that only high-risk (category A) projects, which comprise a minor share of the EBRD's project portfolio, should be subject to the disclosure of environmental and social action plan implementation reports and that financial intermediaries should report on the implementation of environmental and social management systems. However, these reports should be disclosed annually (not only upon the project's completion) to ensure regular opportunities for any course correction needed and to facilitate rights holders' feedback. Yet, the EBRD has made no commitment to ensure the disclosure of annual environmental and social audit reports for medium- and low-risk (category B) projects. This lack of publicly disclosed information on project environmental and social performance limits the opportunities for public monitoring and effective risk management by the EBRD.

2. Consider the views of rights holders and take responsibility for project verification

- The EBRD should proactively seek information from rights holders as part of its due diligence, including through regular site visits and engagement with community members, workers and other rights holders, particularly for projects outside the EU. This should cover all stages, from initial risk screening and assessment through to implementation and monitoring. This will allow for enhanced project categorisation, the consideration of alternatives, the verification of information supplied by the client, and ensure adequate assessment and effective mitigation measures are in place. While the EBRD claims that these steps are taken in certain cases, the Bank's approach needs to be systematically incorporated into its safeguards.

3. Assess and address retaliation risks

- The EBRD needs to take responsibility for assessing and mitigating retaliation risk and develop an effective response mechanism. The draft safeguards impose additional requirements on clients. However, clients are tasked with conducting retaliation risk assessments by themselves. Given that the client is usually the perpetrator of these reprisals, this cannot be considered an effective approach. Therefore, it is crucial that the EBRD strengthens its own assessment, monitoring and handling of reprisals throughout the entire project life cycle, clearly defining the procedures and actions the Bank will implement to address allegations of retaliation.

4. Share the responsibility for remedy

- The draft safeguards reinforce the requirement that the client is solely responsible for providing remedy. This is not enough. The EBRD must also commit to providing remedy in cases where its actions or omissions contribute to harm. For example, in instances where the EBRD fails to comply with the EBRD's Environmental and Social Policy, and this non-compliance contributes to harm, the EBRD should share the responsibility for remedy with the client. This does not always imply financial compensation but rather whatever change is needed to remedy the harm done. To this end, the EBRD should ensure that funding is available for remedial actions taken by the EBRD and the client.
- The EBRD should develop responsible exit principles to ensure that it does not leave environmental and social harm unaddressed when it exits investments.

5. Avoid further weakening accountability

- The EBRD's proposed management-level grievance redress mechanism should not be included in the policy. The proposed approach risks weakening the EBRD's existing mechanisms, such as the

Independent Project Accountability Mechanism, the Office of the Chief Compliance Officer, the Access to Information Appeals Panel, and project-level grievance redress mechanisms. The Bank should focus on improving the effective operation of the existing problem-solving and accountability mechanisms, not multiplying them.

- The EBRD must require that its proposed common approach to assessing, developing, and implementing projects co-funded by other financial institutions aligns with the EBRD's Environmental and Social Policy. The draft safeguards indicate that the environmental and social performance of projects should be measured against a common approach agreed by the client and lenders. This strategy is likely to undermine the EBRD's environmental and social standards and its accountability for its own policy commitments and aspirations.
- The Bank should reinstate the reference to the Aarhus Convention in the EBRD's policy commitments section to demonstrate its commitment to public access to information and public participation in decision-making on environmental matters. This will send a clearer message to clients that they should act in line with the Convention irrespective of whether their country is a party.
- The Bank should reinstate the Financial Intermediary Referral List (itself reinstated in 2019 as a response to problems with small hydropower plants financed via commercial banks), to improve due diligence, transparency and accountability of intermediated investments.

Signatures:

A 11 - Initiative for Economic and Social Rights, Serbia
Accountability Counsel
African Law Foundation (AFRILAW), Nigeria
Arab Watch Coalition
Association 'Ecoforum of Kazakhstan'
Bankwatch Network
Bank Information Center
Bir Duino Kyrgyzstan
Business & Human Rights Resource Centre
Cairo Institute for Human Rights Studies, MENA region
Centre for Community Mobilization and Support, Armenia
Centre for Environmental Initiatives 'Ecoaction', Ukraine
Centre for Research and Advocacy, Manipur
Civic IDEA, Georgia
Crude Accountability, USA
Defenders in Development Campaign
Development Center Tarakkiet, Tajikistan
Derecho Ambiente y Recursos Naturales, Peru

Eco China Info Initiative Group
Ecological Right NGO, Armenia
Ecological Society Green Salvation, Republic of Kazakhstan, Almaty
"Ecolur" informational NGO, Armenia
Ecosense, Ukraine, Zaporizhzhia
Elseidi law firm, Egypt
Erfaan Hussein Babak - The Awakening, Pakistan
FIDH (International Federation for Human Rights)
Georgian Young Lawyers' Association (GYLA), Georgia
Global Labor Justice
Human Rights Society of Uzbekistan' Ezgulik'
Inclusive Development International
Initiative for Right View (IRV)
Interamerican Association for Environmental Defense - AIDA
International Accountability Project
Jamaa Resource Initiatives, Kenya
Just Finance International
Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP)
LSD Senegal
MenaFem Movement For Economic, Development And Ecological Justice
MoveGreen, Kyrgyzstan
National Ecological Center of Ukraine
NGO Ecoclub, Ukraine
Nemolchi.Uz, Uzbekistan
Oil Workers Rights Protection Organization, Azerbaijan
Organic Agriculture Association
Oyu Tolgoi Watch
Protection International
Public Association Echo, Kazakhstan
Public Fund "EMIR", Kazakhstan
Razom We Stand
Reactor - Research in Action, North Macedonia
Recourse
Republican Center Gutta-Club, R. Moldova
Rivers without Boundaries Coalition, Mongolia
Rivers without Boundaries International Coalition
Social Justice Center, Georgia
Transparency International Anticorruption Center, Armenia
Urban initiative Peshcom (public fund Peshcom), Kyrgyzstan
Urgewald
Uzbek Forum for Human Rights
Witness Radio, Uganda
Zero Waste Society, Ukraine