



European Bank
for Reconstruction and Development

For the attention of: Raquel Rolnik
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living,
and on the right to non-discrimination in this context
United Nations
Office of the United Nations
High Commissioner for Human Rights
Palais de Nations
CH-1211 GENEVE 10

(Full list of addressees attached)

22 May 2014

BY POST AND BY EMAIL urgent-action@ohchr.org

Subject: EBRD Environmental and Social Policy

Dear Members of the UN Human Rights Council,

Thank you for your letter dated 5 May 2014 concerning revisions to the Bank's Good Governance Policies. As you may have seen, EBRD's Board of Directors recently approved these three policies on 7 May 2014. A link to the approved policies can be found at the following website address:

<http://www.ebrd.com/english/pages/news/press/2014/140509.shtml>

To provide additional clarity to the Council concerning key changes to the Environmental and Social Policy (ESP), as they relate to the human rights issues raised in your letter, please see below:

A clear commitment to human rights

As you are aware, the Agreement Establishing the European Bank for Reconstruction and Development (EBRD), commits the Bank to fundamental principles including the rule of law and respect for human rights. With this in mind, the 2014 ESP was further strengthened to capture the Bank's commitments to protecting human rights. For example, paragraph 8 of the ESP now reads:

EBRD recognises the ratification of international environmental and social agreements, treaties and conventions by its countries of operations. Within its mandate, EBRD will seek to structure the projects it finances so that they are guided by the relevant principles and substantive requirements of international law. The EBRD will not knowingly finance projects that would contravene country obligations under relevant international treaties and agreements, as identified during project appraisal.



Paragraph 9 also now includes explicit language on business and human rights:

EBRD recognises the responsibility of clients and their business activities to respect human rights¹ and that this is an integral aspect of environmental and social sustainability. This responsibility involves respecting human rights, avoiding infringement on the human rights of others, and addressing adverse human rights impacts that their business activities may cause, or to which they may contribute.

Whilst we did not specifically reference the *Guiding Principles on Business and Human Rights* in the ESP, we feel that the revised language closely follows principles and spirit. Furthermore, many of the core principles of the Guiding Principles, such as the necessity of an effective grievance mechanism, have been incorporated throughout the PRs (PRs 1, 5, 7 and 10).

Human rights due diligence and related impact assessments

The assessment of human rights impacts forms an important component of the Bank's environmental and social appraisal process. While EBRD's commitments are captured in the policy itself, the requirements for our clients are included in the PRs. For example, clients are now required to identify and address any potential impacts (including human rights impacts), under paragraphs 2, 4, 7 and 8 of PR 1 (the term "social" captures human rights, as identified in Footnote 1, PR1).

Paragraph 8 specifically states:

The assessment process will be commensurate with and proportional to the potential impacts and issues of the project and will cover, in an integrated way, all relevant direct and indirect environmental and social impacts and issues of the project, and the relevant stages of the project cycle (e.g. preconstruction, construction, operation, and decommissioning or closure and reinstatement). It may be appropriate for the client to complement its environmental and social assessment with further studies focusing on specific risks and impacts, such as climate change, human rights and gender.

Security Personnel

The issues outlined in your letter concerning the conduct of security personnel are, in our opinion, adequately covered in PR 2, paragraphs 27-29. As you have highlighted, our requirements are specifically guided by the *Voluntary Principles on Security and Human Rights*:

27. When the client retains employees or contractors to provide security to safeguard its personnel and property, it will agree a standard of practice and behaviour for the security personnel, guided by the principle of proportionality and GIP (e.g. Voluntary Principles on Security and Human Rights), in terms of hiring, rules of conduct, training, equipping and monitoring of such personnel. The client will make reasonable inquiries to satisfy itself that those providing security services are not implicated in past abuses, will ensure they are trained adequately in the use of force (and where applicable, firearms) and appropriate conduct toward workers and the local community, and require them to act within the applicable law. The client will not sanction any use of force except when used for preventive and defensive purposes in proportion to the nature and extent of the threat. The client will establish and maintain an effective grievance mechanism to allow the affected community and workers to express concerns about the security arrangements and actions of security personnel, and will inform communities and workers of the availability and use of the grievance mechanisms, in accordance with this PR and PR 10.

¹ For purposes of this policy, EBRD will be guided by the International Bill of Human Rights, the UN Declaration of Human Rights and the eight core conventions of the International Labour Organization.



28. If government security personnel are deployed to provide security services for the client, the client will identify and assess potential risks arising from such use, communicate to the relevant public authorities its intent that the security personnel act in a manner consistent with paragraph 27 above, and encourage the relevant public authorities to disclose the security arrangements for the client's facilities to the public, subject to overriding security concerns.

29. The client will investigate any allegations of unlawful or abusive acts of security personnel, take action (or urge appropriate parties to take action) to prevent recurrence, and report unlawful and abusive acts to public authorities.

Involuntary resettlement

Concerning involuntary resettlement, numerous revisions have been made to PR5 since the draft document was disclosed to the public in January 2014, including language around forced evictions (ESP, paragraph 21), adequate housing (PR 5, FN 10), and the reinstatement of "legal assistance" criteria for displaced people (PR5, paragraph 28), which had been deleted by mistake. In addition, PR5 now includes requirements for clients to assess potential adverse impacts to host communities that could be affected by a client's resettlement process, to name just a few.

In closing, the 2014 ESP revision process was the most extensive policy consultation initiative that the Bank has undertaken to date, including public meetings in seven countries, client surveys, IFI peer reviews, focus groups on particular topics, discussions with CSOs (including Human Rights Watch and Amnesty International), industry associations, the UNOHCHR, ILO and the Bank's Environmental and Social Advisory Council. We hope you will agree, that the final text has been greatly enhanced by this extensive consultation.

Thank you again for participating in this process. Should the Human Rights Council wish to discuss any aspect of the Bank's 2014 Environmental and Social Policy in more detail, we would be more than happy to meet with you.

Yours sincerely,

Alistair Clark

Managing Director
Environment and Sustainability Department

Michaela Bergman

Chief Social Counsellor
Environment and Sustainability Department

Cc: Sir Suma Chakrabarti
Members of the Board of Directors



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