



# **The EBRD: a Decade of misinformation and secrecy**

**A report by the  
CEE Bankwatch Network**

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# The EBRD: a Decade of misinformation and secrecy

*Openness, transparency and public involvement in decision making are all considered fundamental aspects of both democracy and sustainable development. The European Bank for Reconstruction and Development (EBRD) proclaims that it will foster the development of democracy and sustainable development in the regions of Central and Eastern Europe (CEE) and the Commonwealth of Independent States (CIS). The EBRD has now been in operation for a decade. Over these 10 years it has not only failed in promoting democracy and sustainable development, but has used tactics of misinformation, secrecy and denial of public involvement to advance its own agenda. This paper will examine how the EBRD has failed to protect the interests of the people and the natural environment of these regions, the shortcomings of the Public Information Policy (PIP), and also presents case studies that demonstrate EBRD failings.*

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## Introduction

EBRD supported projects are usually large and expensive. They often have the potential to affect many people and even whole communities and regions. Local people may be affected by a project as a result of changes in: employment levels and conditions; the natural environment, fishery and agricultural systems; health; lifestyle; the price of goods and services; local economic composition and activity. Also the reclamation of land and houses, and the removal of profits from the area or country resulting from EBRD projects affect local people.

When a project has the potential to affect people so fundamentally, it should be a guaranteed right that those people have the right to have their opinions on the project heard and taken into account by those responsible for the project. Unfortunately, the EBRD does not see this as the case and has a record of placing the profit of foreign investors above the wellbeing of local people.

Over the last decade, local people have had great difficulty in getting access to information about EBRD supported projects and have been actively shut out of the decision making processes. In many cases, and some of these will be presented later in the paper, the EBRD has proceeded with the financing of a project even though there is clearly evident that local people will be adversely affected. Many of these projects would not be allowed to be undertaken in Western countries.

The EBRD uses the fact that it operates in countries that have yet to establish necessary legislation and procedures to protect the interests of their citizens to further the profits of foreign investors.

Growing alarm and criticism led the EBRD to revise its policy regarding access to information and the involvement of people in the project development process. The Public Information Policy (PIP) was introduced mid-2000. While an improvement on previous policies, the PIP fails to guarantee that local, affected people will be provided with EBRD project information, and are able to participate in the project development process. Public access to information and public consultation is yet to be seen as fundamental rights by the management of this publicly funded institution

### **BACKGROUND TO THE EBRD**

The EBRD was established in 1991 with the aim of assisting countries of Central and Eastern Europe (CEE) and the Commonwealth of Independent States (CIS) with the transition to market-orientated economies. It is answerable to its shareholders, which include 58 countries as well as the EU and the European Investment Bank. These shareholders provide the EBRD with ECU 20 billion in capital.

The EBRD provides loans, equity investments and guarantees for private and public sector projects in the areas of finance, infrastructure, industry and commerce in 28 countries in the CEE and CIS regions. The nature of financed projects varies greatly and ranges from nuclear power generation through to cheese manufacturing. The EBRD is now the largest foreign investor in these regions.

## The EBRD Public Information Policy

In July 2000, the Board of Directors of the European Bank for Reconstruction and Development (EBRD) approved a Public Information Policy (PIP)<sup>1</sup>. The PIP, which subsumes the 1996 Public Access and Disclosure of Information Policy, defines what information and documentation the EBRD will make available to the public and how it will be made available.

The EBRD claims that the PIP places 'particular emphasis on public accountability, and its inextricable link with the institution's role as a promoter of transition' (PIP, p.9). The number of documents that have been made publicly available and open to comment has indeed increased. However, there is little evidence that they are now significantly more accountable to the public than they were before. The EBRD continues to see public access to information as a privilege rather than a right. The public still often have to struggle to gain access to documents about policies and projects that are affecting them and their environment. Transparency and openness, two attributes often associated with democracy are yet to come to the fore in the EBRD.

The Bank has committed to continually reviewing the PIP and reporting to the Board of Directors annually on its implementation. The first report should therefore happen in mid 2001. The review process should allow for continual improvement to the PIP. To date there has been no notification of procedures or dates for reviews. It is therefore unclear whether the EBRD will ask the public for comments on their experiences with the Policy or for their input into the reviews. Regardless, it is important that concerned citizens and NGOs campaign for changes to the Policy and inform the EBRD of any problems they may have had with accessing information.

### ***Problems with the Policy***

There are several aspects of the Policy that the CEE Bankwatch Network is concerned about. These include:

#### **Releasing of policies and project related information in national languages**

The working languages of the EBRD are English, French, German and Russian. Most documents, both policy and project related, tend to be prepared in English. Very few of these are translated into the languages of the 26 countries of operation. Citizens of operating countries are often not able to access information about projects and policies that are affecting them, their communities, their economy and their natural environment. If they require a document in their local language, they must pay for the translation themselves. The EBRD claims that the cost of translating documents is prohibitive and will therefore not commit to making all documents available in local languages.

The CEE Bankwatch Network recommends that the Policy be changed to guarantee that a greater number of documents are made available in the local languages of the 26 countries of operation. At a minimum, documents relating to policies and projects that are affecting or will affect people in a particular country should be made available in the language of that country.

Related to this, and perhaps **the issue of greatest concern and significance**, is the language requirements, or lack thereof for EIAs. Section A3(ii) of the Policy stipulates that only an executive summary of project Environmental Impact Assessments (EIA) must be made available by the Project Sponsor in the local language of the country where the project is being conducted. This practice actively denies local people who are likely to be affected by a project, environmental information about that project.

Project Sponsors do usually produce an EIA in the official language of the country where the project will be undertaken as they must meet local environmental regulatory requirements which include the submission of an EIA to the local environmental agency. In the many countries of the CEE region, however, public consultation

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<sup>1</sup> The full text of the PIP can be found at [www.ebrd.org/english/policies/public\\_inform/PIPfinal.pdf](http://www.ebrd.org/english/policies/public_inform/PIPfinal.pdf)

and participation is yet to be established as a cultural and legislative norm. There are therefore often no requirements regarding the public release of the EIA for the public consultation purposes.

The EBRD is not blind to its responsibilities to help develop democratic practices through public consultation and participation in the CEE region. In fact in the Policy it is stated “it is incumbent on the Bank to promote the notion of public information” (p.1). The Policy also claims that it takes into account the Aarhus Convention<sup>2</sup> and the G-22 Working Group on Transparency and Accountability<sup>3</sup>. Regardless of these statements the EBRD does not truly promote public consultation and participation. If they did, they would require Project Sponsors to release full EIAs in local languages.

A major project that does not release a full EIA in the local language of the country where it is being undertaken, therefore limiting input from local affected people would not be allowed to proceed in most Western nations that are member states of the EBRD. The EBRD is therefore providing financing for projects that would not meet Western standards. It is helping to perpetuate systems that do not support transparency, public accountability or active citizenship.

The CEE Bankwatch Network is recommending that the Policy be changed so that all Project Sponsors who must prepare an EIA for a proposed project, make that EIA publicly available in the local language of the country (or area) of where the project will be undertaken.

## Access to information

The EBRD has, following pressure from NGOs, started to make greater use of its website. A website is a fast and efficient way to distribute information. The Policy indicates that several documents that are to be made publicly available and open to comment will be posted on the website. While the website is confusing in its layout and presentation, it is now widely used by people wanting information on the EBRD or its activities. It should, however, be remembered that access to the Internet is not widespread in many of the countries that the EBRD operates in. Citizens of these countries must also be guaranteed fast and efficient access to information. Each country of operation has an EBRD Resident Office. The Resident Offices are ideally placed to distribute documentation and make information available in the language of the country where they are located.

The CEE Bankwatch recommends that the Policy be changed so that all publicly available documents are posted on the website. To ensure that people who do not have access to the Internet are also guaranteed information, it is recommended that the Resident Offices distribute information in English and in local languages in their country of operation. The Policy states that the EBRD will make efforts to establish a mailing list to notify people of impending reviews of Sectoral Policies. This should be extended and used to notify all interested people and organizations of plans to review any policy, when there is a public consultation process being undertaken or when documents of interest are being released.

## Comment periods

The Policy details the length of public comment periods for Draft Sectoral Policies and EIAs. For EIAs the public comment period varies depending on whether the project is a public sector or private sector project (60 days for private sector projects, 120 days for public sector projects). CEE Bankwatch does not see why the comment periods should be different. It is therefore recommending that the Policy be changed so that the length

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<sup>2</sup> The Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters is a United Nations convention developed in 1998. Signatories to the convention guarantee that they will contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, and will guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters. For more information go to [www.unece.org/env/pp/](http://www.unece.org/env/pp/).

<sup>3</sup> A working group established to examine the importance of transparency and accountability as it relates to the stability of international financial systems. For more information and the full text of their report, go to: [www.imf.org/external/np/g22/#trans](http://www.imf.org/external/np/g22/#trans).

of public comment periods for EIAs be standardized to 120 days for all projects. It is also recommending that the comment period for Draft Sectoral Policies be increased from 45 days to 60 days to allow people adequate time to prepare informed and detailed comments.

In addition, Country Strategies should include a public comment period in their development. Ideally, Environmental Analyses that are prepared for “category B” projects should also have a public comment period. At a minimum, environmental analyses should be released to the public 60 days before they are considered by the Board of Directors, even if they are not open to comment.

### **Commercial confidentiality**

The Policy emphasizes the EBRD’s intent to always protect commercial confidentiality. Commercial confidentiality is not clearly defined in the Policy, yet it is given as a reason for withholding from public release parts or all of Project Summary Documents and information on projects prior to lending approval by the Board of Directors, and, even the waiving of public consultation requirements for projects.

The CEE Bankwatch Network would like to see business confidentiality defined in the Policy and the inclusion of a statement that it will not be used as a reason for projects not having to meet all environmental procedures including public consultation requirements. All Project Summary Documents, in full, should therefore be made publicly available.

### **Emergency response plans**

EIAs for ‘category A’ projects do not currently include Oil Spill Response Plans or other emergency response plans. It is imperative that such plans be developed for projects that could potentially have oil spills or other emergencies. Such instances present a threat to local residents and the environment. The CEE Bankwatch Network will be suggesting that these plans be developed where needed and made publicly available with the EIA and throughout the life of the project.

### **Public availability of other documents**

While the Policy stipulates what documents will be publicly available, there are many documents that contain important project and policy information that are not publicly available and not mentioned in the Policy. This includes Environmental Analyses, expanded Annual Monitoring Reports, Operation Performance Reports and minutes and Chairman’s Summary of Board of Director’s meetings. The CEE Bankwatch recommends that the Policy include these documents among those that are publicly available. Additionally, it will suggest that the environmental section of Final Review Memorandums be made available before they are considered by the Board of Directors.

### **Appeals**

The EBRD has yet to establish an independent body that the public can approach with appeals and grievances, including those related to access to information. The CEE Bankwatch Network has been campaigning for some time for the EBRD to establish a body similar to the World Bank’s Independent Inspection Panel. It will continue to campaign for this, including as a part of the campaign for changes to the Public Information Policy.

### **Updates**

The CEE Bankwatch Network is suggesting that the Policy include a statement that the EBRD will provide monthly updates on its website of projects that it has in the pipeline. The update should include projects, both public and private sector, that have been approved as well as those that are being considered, and contracts that were awarded in EBRD financed operations.

## Does the PIP Work?

Put simply, the PIP fails to meet its own objectives as well as fails to guarantee the interests of people directly affected by EBRD funded projects. The Bankwatch Network has experienced numerous instances of:

- project documents not being available in national languages;
- miscategorisation of projects; and
- late and incomplete release of documentation.

In all such cases the PIP has failed to be of assistance or has simply been ignored. Beginning in December 2000, the Bankwatch Network requested the Board Reports for the National Power Grid Company, Romania and the Electric Power Reconstruction Project, Bosnia and Herzegovina project. The EBRD was slow in providing these reports and consulted with project sponsors before they were supplied. When the Board reports were made available, they had 'sensitive' information emitted. This included environmental information. The EBRD was in effect denying the public access to environmental information about major projects.

This is not an isolated incident. Below are several case studies that highlight the many types of difficulties that have been experienced, the inadequacies of the PIP and the discrimination of people of the CEE and CIS regions by the EBRD.

### ***Khmelnitsky 2 and Rivne 4***

#### **Background**

Khmelnitsky 2 and Rivne 4 (K2/R4) are two partially built, Russian designed 1000 MW VVER nuclear units in Ukraine. The Ukrainian government has not been able to complete K2/R4 on its own and has therefore been seeking the necessary 1.48 billion USD from other sources to complete the plants. On December 7 2000, the EBRD approved a loan of 215 million USD towards the project.

#### **Environmental Impacts**

The potential environmental and social impacts from a large scale nuclear development are well recognised. One need only look to the disaster of another Ukrainian nuclear facility, Chernobyl, to see the type and extent of impacts that may be realised. Environmental impacts also extend beyond the project site and its surroundings, to the impacts of mining and transportation of uranium and the transportation and disposal of radioactive wastes.

#### **Issues**

The K2R4 project can never be bankable under normal conditions. The Ukrainian government therefore decided to use Chernobyl as a bargaining chip, claiming that without Western funding for K2/R4, it would not be able to close Chernobyl's last operational unit.

The EBRD approved the loan application for K2R4 just eight days before Chernobyl was permanently shut down. The EBRD Board approved the loan of 215 million USD with by 63.7 % of shareholding countries voting in favour, 9 countries voted against it and 11 abstained from voting. This vote does not accurately portray the significant concerns that were raised regarding safety, economic costs and public participation in the environmental impact assessment process. These concerns have led many experts to conclude that the project represent such safety and financial risks that it should not be undertaken.

Following the EBRD decision, European Commission on behalf of EURATOM approved a 585 million USD loan. The remainder of the funding will come from the Russian Government (124 million USD), the Ukrainian government (50 million USD), Energoatom (the project sponsor, a Ukrainian state owned nuclear generating company - 159 million USD), and Export Credit Agencies (UK 28 million, Czech Republic 16 million, France 136 million, Spain 23 million, Switzerland 14 million, and USA 131 million.).

The project sponsors have not been forthcoming with essential information regarding the project, and have obstructed efforts by NGOs and the public to gain access to this information and to participate in the planning process.

### **The Public Participation Process**

Despite repeated requests for information, the controversial K2/R4 project has been marked by a lack of communication with the public throughout the project appraisal process. In their dealings with members of the public and NGO community, Ukrainian government officials have consistently demonstrated a lack of interest and understanding in what public participation in environmental decision-making actually means. Officials of the project's sponsor, Energoatom, have stated openly that they are not concerned about what the public thinks about the project, and that they intend to disregard public opinion in any case.

The Ukrainian government also appeared set on using the issue of Chernobyl as a bargaining chip to secure foreign aid for its energy policy, and has made no secret of this strategy. For example, before a visit of EBRD President to the Ukraine in November 2001, the Chairman of the Ukrainian Parliament, Ivan Pliusch, said he would initiate a revision of President Kuchma's decision to shut down Chornobyl NPP, if no compensation is provided for construction of the reactors at Khmelnytsky and Rivne NPPs.

The Ukrainian government apparently has little patience with any public opposition which may weaken this strategy. Not only has it been uncooperative in fostering a public dialogue about the project, but has ignored numerous public appeals, and in some cases, it has actually attempted to silence opposition to the project.

### **The Scoping Process**

The scoping process for the K2/R4 project began in 1996 with the organisation of three scoping meetings: in Kiev, Neteshin (the Khmelnytsky plant's satellite city) and in Rivne. Virtually no information was supplied through the press about the start of the process, with the exception of one short article which appeared in a local Rivne area newspaper. Significantly, that article did not invite the stakeholders to take part in the meeting. Hearings were planned without regard to whether concerned citizens will actually be able to attend them. For example, the project sponsors planned public hearings in Kuznetsovsk and Neteshin, towns that are far from regional population centres and are not well served by public transport, thus effectively discouraging attendance.

Many interested groups received no information regarding the public participation process at all. Only a small number of interested organisations were invited to the scoping meetings, and those which were invited were given insufficient time to prepare. In one case, a NGO was invited by telephone only one day before the Rivne scoping meeting, and because of poor notification procedures, it was the only NGO in attendance at the meeting. NGOs which were not involved in the scoping meeting, but which sent requests for registration in the public participation process later, got no responses to their requests.

Documentation was not made available in Ukrainian (only in Russian) during the first phase of scoping, although EBRD Environmental Procedures require that the Project Sponsor must make the EIA publicly available in the local language. Ukraine's official language is Ukrainian, and in the western part of the country, where the plants at Khmelnytsky and Rivne are situated, people speak only Ukrainian and need informational materials in Ukrainian.

On 2 September 1997, following number of complains by Ukrainian and foreign NGOs, a new scoping and public feedback meeting was planned to restart the public participation process. Yet virtually no information was made available about it. Organisers explained that they sent a press release about the meeting to around 40 news agencies and newspapers, and could not be held responsible for the fact that the information was not published. However, the press release was so poorly written and difficult to understand that the media were understandably not very interested in using it, and the information was not published.



Although the new scoping meeting was a positive development, the inadequate and short notice for it presented major problems. Only a limited number of groups were informed about the meeting, and these were mostly NGOs located in Kiev, as opposed to groups in areas closer to the nuclear plants. Those groups that were informed were given less than two weeks' notice prior to the meeting. This is hardly adequate preparation time, especially for those from locations near the power plants and concerned NGOs outside Ukraine.

At the meeting, its organisers limited NGO representatives in their opportunities to speak and ask questions. The Energoatom representative who facilitated the meeting announced that only one representative from each NGO would have the opportunity to speak. He also set a time limit for speakers and rudely interrupted them if they exceeded this time limit. Meeting organisers also declined to discuss procedures for consultations with public, although this issue is supposed to be one of the main topics to be discussed during the scoping meeting.

After the September scoping meeting, a period of only two weeks was allowed for reviewing the content of Environmental Impact Assessment (EIA) and submitting comments and recommendations. Again, this can hardly be considered sufficient time for the preparation and submission of comments.

### **Public Consultations**

Despite the numerous requests not to begin this phase during summer vacation, on August 18, 1998, the representatives of the "Energoatom" company gathered mass media representatives and informed them about start of public consultations. Information provided on the consultations was very confusing.

The first month of the consultations included several violations of EBRD procedure and a number of mistakes called by project sponsor as "occasional", such as:

- There was no official announcement about the consultations in the mass media which included information about the location of information centres, their addresses or phone and fax numbers so that people would be able to take part in the process. As a result, only a limited number of specialists had information about the start of the consultations.
- Members of the environmental movement from Rivne had to wait 15 days until the EIA and other documents became available.
- The official information centres started operating in Khmelnytsky only in late August and in Rivne only on September 1 (this is two weeks after the official start of the consultations).
- Just before the consultations began, 150 Ukrainian and foreign environmental organizations registered to participate in it, but most of them were not informed about the start of the consultations. The project organizers explained it as an 'occasional' glitch in their database.

All this is testimony to the fact that "Energoatom" managers, realizing that they have no public support, were doing all they can to avoid the citizen and NGO input.

Three meetings with the public for K2/R4 discussion were conducted in October in Netishyn, Rivne and Kyiv. Participants at each meeting demonstrated the high level of public opposition to nuclear power development in Ukraine. Representatives of the public and NGOs, as well as various experts, criticised the presented project documentation, which included the EIA prepared by Mouchel Consulting Ltd., economic analyses by „Stone and Webster“ and a risk assessment by Riskaudit in their speeches. They also criticised the way public consultations were conducted and the undemocratic behaviour of the project's management.

### **Lack of International Cooperation**

International environmental groups have been in contact with the project sponsors in order to encourage them to co-operate in the public participation process. Notably, CEE Bankwatch Network sent a letter on 12 September to the sponsors with detailed comments and suggestions on the EIA process and the 2 September scoping meeting. This letter included a number of comments and suggestions regarding the public participation process, to which the sponsors were asked to respond. The project sponsors acknowledged receipt of the 12 September letter, but they failed to respond to its contents. Two follow-up letters were sent to the project sponsors in the interim, but to date there has been no response, nor has the EBRD responded in writing to the recommendations.

At a meeting in London between the new acting President of the EBRD and NGOs, CEE Bankwatch Network once again requested the Terms of Reference for one of the Stone and Webster reports. The Terms of Reference were not provided till recently.

Even information on basic safety assessments has not been made readily available. For example, the European Commission only released the conclusion of the TACIS Nuclear Safety Expert Group (NSEG) meetings in June 1997. When that conclusion finally was released, it became clear that it was based only on generic information regarding VVER 1000/320 safety problems and deficiencies, rather than on specific data from K2/R4. One of the most glaring examples of the lack of communication surrounding K2/R4 was the European Union's TACIS Nuclear Safety Expert Group's decision, made without the involvement of either the European Parliament or the public, to give its technical approval to the project.

### **Implementation of the Espoo Convention**

Ukraine has signed the Convention on Environmental Impact Assessment in a Transboundary Context, (Espoo Convention) and declared its intention to ratify it. Furthermore, the EBRD Environmental Procedures requires project sponsors to apply this convention, but the Ukrainian government has failed to notify potentially affected countries about the start-up of the project appraisal process. Project sponsors continue to be uncooperative in notifying potentially affected states of the planned project and of releasing information to those in the international community who request it.

### **Government Intimidation of K2/R4's Critics**

It has recently come to light that the government of Ukraine is attempting to silence debate about the K2/R4 project by using force to intimidate the project's critics. Incidents involving the Ukrainian Security Service (USS, the successor agency to the former KGB) have raised serious concerns regarding human rights violations against those who oppose K2/R4. There have been several documented cases in which USS officers have harassed, interrogated and arrested without warrant persons who have openly campaigned against the project.

### **Harassment and Interrogations of Environmental Campaigners**

On 18 February 1998, members of the ecological movement " Rainbow Keepers " and several other environmental NGOs sent an open letter to Charles Frank, acting President of the EBRD, during his visit to Kiev. The letter contained information about Ukrainian intentions to divert the funds provided by the bank for the Chernobyl nuclear power plant. After receiving the open letter, EBRD staff concluded that funds had indeed been diverted, and EBRD funding for Chernobyl was subsequently halted. Soon after this incident, key equipment of the "Keepers", including a computer, camera, tape recorder, answering machine and cassettes disappeared from a flat, while the rest of the flat's contents were left untouched. After another demonstration on the anniversary of the Chernobyl disaster on 23 April, another flat was searched without justification.

Police intimidation in Ukraine escalated in the days leading up to the EBRD's 1998 annual meeting held in Kiev. In early May, a Ukrainian student and activist was interrogated and harassed by a member of the Ukrainian Secret Service. During the interrogation, the officer informed the student that he knew of his involvement in ecological organisations, and of these organisations' intent to protest about the K2/R4 project during the EBRD meeting. The officer threatened the use of physical violence against protesters and threatened the student personally with expulsion from the university where he is studying. He also asked the student how he would react if told that somebody he cared for had been killed, raped or robbed.

The officer commented that the Ukrainian Security Service's main objective was to prevent any public demonstration against the bank's policies during the EBRD meeting, and that this aim was to be carried out by "localising" activists for the duration of the summit, meaning that the police would arrest them preventively. Other members of environmental groups have also been interrogated, threatened and placed under surveillance. One activist was placed under arrest for forty-five minutes in the early hours of May 9th and was threatened by his arresting officers with physical violence and murder. After he was released, he was shadowed by a car on his way home.

## Arrests of Peaceful Protesters

On the following day, a banner action against the K2/R4 project was planned in front of the building where the EBRD meeting was taking place. Not surprisingly, a number of activists were intimidated by recent events and did not attend. Among those who did attend, five were arrested and sentenced to three to five days in jail for distributing flyers calling for the EBRD not to fund K2/R4. These detentions, as well as the harassment, interrogations and arrests of activists in the days leading up to the EBRD meeting raise very serious questions regarding the Ukrainian government's willingness to comply with the EBRD's requirement for a full public participation process.

Under conditions such as these, it is impossible to speak about an open public participation process. Not only are the Ukrainian authorities uncooperative and secretive regarding the process; they are also actively involved in attempting to silence those who disagree with this particular project and with government decisions, even if this means using force and coercive tactics. Such incidents are sobering reminders that public participation in environmental decision-making is dependent on societies that tolerate a broad range of views, including those opposed to government policies. An obvious prerequisite to ensuring that the public has a voice in environmental decision-making is an assurance that members of the public can make their voices heard without fear of reprisals. Unfortunately, this is apparently not the case in Ukraine, and the problems of both public participation and civil rights brought to light by the K2/R4 case deserve serious consideration by the international community.

## Summary of Issues

This case shows that for the environmental impact assessment process to be effective, it must go hand in hand with an open public debate and participation in the process. Without ample opportunity for the public and NGOs to be involved in the environmental impact assessment process - at both the national and international level - the process itself becomes meaningless.

In the case of K2/R4, the Ukrainian authorities have shown their disregard and contempt for public participation in environmental decision-making through actions ranging from the merely uncooperative to outright intimidation and coercion. This includes:

- Not providing adequate notice of scoping meetings and public consultations;
- Not making information available in the national language;
- Using the closure of Chernobyl as bargaining chip for the funding of K2/R4;
- Not providing adequate time for the submission of comments; and
- Harassment of critics of the project.

Such actions make a mockery of the public participation process and highlight Ukraine's flagrant non-compliance with international norms regarding public participation in the case of the K2/R4 project.

## Bankwatch Demands

The EBRD loan for K2/R4 was approved even though it was well known that there were many safety and financial concerns about the project. It was also known that there were many violations of EBRD policies throughout the approval process. The loan was approved subject to conditionalities. Whether these conditionalities are met by the project sponsor is to be determined by EBRD staff, the project will not be presented to the Board again. The Bankwatch Network demands that the Board be responsible for ensuring that the conditionalities are met and that the public is notified of all assessments and decisions.

## *Frontera Resources Project*

### Background

In July 2000 the EBRD decided to allocate a 60 million USD loan for the commercial exploitation of oil by the Frontera Resources Corporation in the Kursangi and Karabagli fields in Azerbaijan and in Block 12 in eastern Georgia. This was the logical continuation of the process started in March 2000, when due to the

miscategorisation of the project, a 10 million USD loan was approved by the EBRD Board without requiring an Environmental Impact Assessment (EIA) and proper public consultations.

## Environmental impacts

The Frontera Resources Corporation project in Azerbaijan and Georgia represents a clear example of a highly controversial project in the whole cycle of development. The project violated EBRD environmental procedures and aims to extract oil in a strict Nature Reserve area in Azerbaijan, established for the protection the endangered Jayran deer. The inadequate Environmental Impact Assessment raises many local and regional issues: weak oil spill response and waste management plans, weak environmental monitoring plans, absence of a calculation of full life time cycle of CO<sub>2</sub> and non-compliance with the Espoo Convention.

## Issues

Among all of these controversies, one of the most acute issues appeared - problems with the public participation process. According to the EBRD, its involvement in the project was guaranteed to strengthen democracy and "higher standards of business conduct and environmental protection". In the Frontera case this was far from true as problems with the public participation process appeared at each step. Despite this, however, there was not an adequate response from EBRD. Examples of these problem areas are:

### Scoping Process

Frontera Resources informed the NGO community about scoping two days in advance in both countries. At the scoping meeting in Georgia, the organizers had problems determining the aims of meeting. The documents about the content of the Environmental Impact Assessment and the public consultation process were not distributed either before or during the meeting. Furthermore, in Azerbaijan Frontera Resources held the scoping meeting in Salyan, a regional center 120 km from Baku where the project would be implemented and they distributed information only three days before the meeting. This actually reduced the participation of environmental groups from Baku.

### Environmental Impact Assessment documentation and Language issue

Frontera Resources Corporation does not provide the Georgian and Azerbaijani public with Environmental Impact Assessments (EIA) and other relevant documentation in national languages. Even more, they further limited the public participation process by refusing to provide interested people with electronic and hard copies. In Georgia, for example, public hearings were arranged on June 23rd, without presenting documentation in Georgian. On July 12, 2000, a Georgian version of the project's EIA was submitted to the State Regulatory Agency of Oil and Gas Resources of Georgia. This illustrates the aims of Frontera to restrict the Georgian language EIA information flow during the EBRD procedures.

Azerbaijani NGOs have many problems getting information from the Company. Several times Azerbaijani NGOs requested EBRD to present the EIA documents in the local language so that the community could read them. Eventually only a summary of the EIA was translated into Russian and Azeri before the public hearings

### Public Hearings

During the public hearings that were held in Salyan and in Baku, residents of Salyan, as well NGOs, clearly stated their position against oil drilling in the zapovednik. Previously, Frontera Resources tried to claim that local residents were in favour of oil drilling. However, the public demand was clear - that Salyan Oil and Frontera Resources comply with Azerbaijani laws, which forbids any type of industrial activity on the zapovednik and that the full EIA be translated into Azeri.

Eventually Frontera Resources translated the document into Russian for the Azerbaijan public. However, despite the public arguments against the drilling in zapovednik, company or EBRD representatives never have addressed these comments adequately.

The EBRD Board approved the project with lots of conditionalities; however, officially nothing was announced to the public. The Georgian and Azerbaijani public still does not know the EBRD requirements so they can evaluate the company's compliance with these requirements.

After all of these problems, it should not be surprising that the Azerbaijanian public negatively evaluated the EBRD's performance in their country. "Despite the inadequate EIA process, Frontera's strong support from the governments of the US and Azerbaijan enabled it to win a loan of \$60 million from the EBRD to finance its projects in Azerbaijan and Georgia. Whether because the EBRD purposely ignores the laws of developing countries or because it wishes to 'gratify' the Azerbaijani regime, which even members of the Bank consider to be undemocratic, Azerbaijani NGOs lost the opportunity to influence Frontera's project through existing, democratic institutions. They were left to oppose their government alone."<sup>4</sup>

The EBRD tried to claim that it is a unique Bank among international financial institutions because it has a political mandate to support democracy, pluralism and market economics. However, it seems that the Bank has a different standard when it operates in the East.

## Summary of Issues

At every step of the approval process, the project sponsor has tried to limit the involvement of the public and NGOs. Some of the difficulties that have been experienced by NGOs and the public include:

- Only 2 days notice of scoping meetings given;
- Project information was not made available before or during the scoping meetings;
- Information has not been translated into Georgian languages in a timely manner;
- Only the executive summary of the EIA was made available in Georgian languages;
- Public comments were not addressed adequately by the project sponsor or by the EBRD; and
- Information on the conditionalities to the loan approval have not been made public.

## *Bratislava Road Bridge, Slovakia*

### Background

Late last year (2000), the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB) announced their joint venture in financing the construction of a road bridge ('Kosicka bridge') in Bratislava, Slovakia. The EIB has already approved a loan for bridge construction, and the project was scheduled to go to the Board of the EBRD in March 2001 for final approval. Concerned citizens and organizations in Bratislava are unsatisfied with the situation surrounding Kosicka bridge and have demanded from the Banks, a full Environmental Impact Assessment (EIA) process, which would include further consultations and environmental and social analysis.

Kosicka bridge was first contrived decades ago as an element of the urban transport scheme in Bratislava. The bridge is planned to connect the southern side of a major residential area to the centre of Bratislava, crossing the Danube on the northern side of the city. Originally, the project was to be funded primarily by the European Banks, with the EBRD and EIB contributing equal shares and the remaining one-fourth of the funding coming from local banks.

### Environmental Impacts

A closer look at the project reveals several, severe problems related to the environment and community that have been ignored by the EBRD and EIB. The construction of Kosicka bridge will destroy hundreds of trees in the area; demolish a small park; increase noise beyond regulated levels; impair the safety of some 1,300 children attending the schools located on a nearby intersection which will be affected by increased traffic; and cause additional environmental and social effects that are unacceptable to residents in the community. Studies used to

<sup>4</sup> NGOs seek halt Oil drilling on Azerbaijan Nature Reserve, Samir Isaev, "Give&Take", ISAR, winter 2001 vol 3/issue 4

prepare emissions and noise analyses are years old, not to mention the fact that the bridge was planned thirty years ago when there was a drastically different situation in terms of transport in Bratislava (e.g. there was only one bridge crossing the Danube, compared to the four that now exist).

## Issues

Despite the impacts the bridge will have on the lives of local residents, public participation in the development of project has been limited. The EBRD has withheld vital environmental documents from the public including the Environmental Analysis (EA) which, according to the Bank's own policy, should be made publicly available. After NGOs had already begun to pressure the EBRD for the EA, the government and the city of Bratislava reconsidered the involvement of the EBRD in financing the bridge project. This suggests that there may be serious environmental information about the project that the government does not want released. Further, now that the Bank has suspended work on the project, it will not release the EA on the grounds that it is no longer in the project pipeline.

In addition to environmental information, the EA is to include reactions from the EBRD on public meetings that were held to discuss the project. Without such reactions, public consultations are reduced to rhetoric exercises with no real impact. In general, NGOs involved in consultations were unsatisfied with the entire process. They did not feel that they were considered as decision-makers in the project. Public meetings came too late, after project plans were already finalised. There were no proper minutes taken from the two consultations conducted so there is no way to measure the consequence, if any, of citizens' concerns raised at these meetings. Lastly, during the meeting with Bank representatives and NGOs, Metro company, the provider, released misinformation concerning how public consultations were announced to the community.

Since the Slovak government does not require a formal environmental and social assessment of the project, the EIB has also escaped accountability to the public. The EIB is so unconcerned with impacts of this project on the community that they approved funding for the bridge at the end of last year. Only after a letter signed by twenty-five Slovakian NGOs was sent to EIB officials, did the Bank respond that further actions are planned to respond to public concern. Future events will substantiate the EIB's statement.

## Summary of Issues

The Kosicka bridge project highlights the disregard that is shown for local people's desires by the EBRD. This is emphasised by the fact that:

- An EA was not made available to the public; and
- The EBRD failed to respond to public comments in the EA.

## Bankwatch Demands

Slovak civil society, and the Bankwatch Network, will not be satisfied until all their demands regarding the Kosicka bridge project are met and a sustainable alternative is endorsed. The EBRD must release environmental studies completed on the bridge and the EIB must respond to public concern.

## *Nasicecement D.D project*

### Background

On 13 December 2000 the EBRD Board of Directors approved financing for the Nasicecement D.D project. The project will convert the primary source of fuel for the company's cement kilns in Croatia from gas to coal, and also allow the use of supplemental fuels.

### Environmental Impacts

Given that this project will convert the primary source of fuel for the cement kilns from gas to coal, it is logical to assume that this will result in an increase in the emission of carbon dioxide and other greenhouse gasses as well as sulphur dioxide and particulates.

This project comes at a time when there is an increasing global trend for industries to convert from coal to gas due to environmental concerns. The Bankwatch Network is perplexed that the EBRD continues to support projects that increases dependency on coal in Eastern and Central Europe when the detrimental environmental and health consequences from years of ill and over use of coal in this region has been well documented.

Of even greater concern than the conversion to coal, are the plans for the use of supplemental fuels. Supplemental fuels often contain hazardous and toxic wastes including chlorinated organic compounds, heavy metals, sulphur, halogens and PCBs. The incineration of these substances in cement kilns does not lead to their complete destruction, but instead produces Products of Incomplete Combustion (PIC) and an increase in the release of persistent organic pollutants (POPs) and other toxic substances through smoke stack emissions, fly ash disposal, and the use of contaminated clinker in cement production. PIC and POPs are very nasty substances that have been associated with human health problems from kidney disease to brain damage, birth defects, cancer and reproductive problems. It would be reasonable to assume that a community would be very concerned if they were to learn the potential effects on them of a cement kiln in their area using coal and supplemental fuels.

## Issues

The Bankwatch Network is particularly alarmed about two main issues.

Firstly, the categorisation of the project as B/1. This means that it requires an environmental audit, but no Environmental Impact Assessment (EIA). The EBRD Environmental Procedures states that an „EIA is carried out .... where the impacts are potentially significant“ (p.3). We feel that a project of this nature has the potential to have significant local, regional and environmental impacts.

The Bankwatch Network believes that this project should have been classified as an „A“ level operation because the potential environmental and health consequences warrant it. Also, the Environmental Procedures states that „A,, level operations will include:

- „greenfield“ or major extension or transformation-conversion operations;
- integrated chemical installations including the manufacture and transportation of pesticides and hazardous/toxic materials; and
- waste-disposal installations for the incineration, chemical treatment or landfill of toxic and dangerous wastes.

The Nasicecement D.D project is all of these things. The project will be a major transformation-conversion project, it will involve the transport of large quantities of hazardous and toxic materials to the cement kilns and it will involve the incineration of these materials.

Without the conduct of an EIA, NGOs and individual citizens do not have an opportunity to comment on the project, raise environmental concerns, and ask for particular issues or alternative to be explored. Given that this project has the potential to affect local people and their environment through local air and water quality, the use of contaminated cement, the increased transportation of hazardous materials through their communities, and the dispose of contaminated fly ash, as well affect the global environment through an increase in greenhouse gas emissions, it is astounding that a full and proper public consultation was not undertaken.

Secondly, the Project Summary Document (PSD) was not released prior to the project being considered by the Board of Directors. The Public Information Policy clearly stipulates that PSDs for private sector projects will be released at least 30 days prior to Board consideration unless there is sound reasons for confidentiality.

Because of this, the public were again excluded from commenting on the project prior to a financing decision being made.

## Summary of Issues

The Nasicecement D.D project again clearly shows the disregard that the EBRD have for the desires and health of people of the CEE and CIS regions. This is demonstrated by:

- The miscategorisation of the project, therefore requiring fewer environmental checks and no public and NGO involvement; and
- The fact that the PSD was not publicly released prior to Board consideration of the project.

## **Bankwatch Demands**

The Bankwatch Network demands that the EBRD explain why there was a clear violation of the PIP, by not releasing the PSD prior to Board consideration of the project. It also wants the EBRD to outline what measures will be taken to ensure that this does not occur again.

## ***Tessaloniki – Skopje Pipeline***

### **Background**

The Greek company ELPET VALKANIKI S.A has received a 50 million USD EBRD loan to construct a 213 kilometre pipeline between Thessaloniki in Greece and Skopje in Macedonia. The 16 inch diameter pipeline will connect the ECO Refinery in Solun and OKTA Refinery in Skopje and will carry 2.5 million tones of various crude oils each year. The total cost of the project is 90 million USD with per annum operational costs of 2.5 million USD.

### **Environmental impacts**

The Skopje-Thessaloniki crude oil pipeline has the potential to have large-scale negative environmental impacts. 50 percent of the pipeline will pass through privately owned agricultural land. It will cross 7 rivers: the Vardar (3 times), Dosnica, Bosava, Luda Mara, Crna (twice), Bregalnica, and the Pcinja (twice). The pipeline will also cross the Veles–Stip regional road which is the main link between Eastern and Central Macedonia.

One of the greatest risks is contamination of the wells that provide drinking water to the village Bashino, and during drier months, to the city of Veles. Also, if there are any oil spills from the Solun Skopje pipeline contamination of the Vardar river will likely result.

### **Issues**

It was only through private conversations with EBRD staff at the EBRD annual meeting in April 2000 that the Bankwatch Network learned of the intention of the EBRD to fund this project. There was no public notification that this project was being considered.

According to the EBRD Environmental Procedures an Environmental Impact Assessment (EIA) is compulsory for this kind of project. For this project ELPET VALKANIKI S.A contracted ENVECO, a Greek environmental consultancy company to undertake the EIA.

The Macedonian NGOs had been requesting a copy of the EIA from the EBRD and asking for a meeting to discuss it since June 27 2000. It was only on October 24 that the Bankwatch Network was told that the just published EIA could be viewed at the OKTA Refinery in Skopje or at the EBRD's Resident Office in Skopje.

Macedonian NGO representative met twice with Meton Etep, the Macedonian contractor to discuss the EIA. However, Meton Etep failed to respond to correspondence about issues raised in these meetings. When Macedonian NGO representative visited their office to view the full EIA they were told that they could not see it as the Director was not there at the time of their visit.

Macedonian NGO representative viewed the full EIA at the EBRD Resident office on December 12, 12 days before the project was considered by the EBRD Board of Directors.



## Conclusions

Over the last 10 years the EBRD has funded projects that have negatively affected local people and do not have the support of local people. These projects have been forced on people who have not been given access to project information or the opportunity to comment and have their wishes taken into account. Weak national laws have been exploited so that public participation is minimised and profits for foreign investors are maximised. The people of the CEE and CIS regions are experiencing a new regime, in the form of the EBRD, that does not respect their rights.

This paper has demonstrated that the EBRD has a record of:

- Disregard for national languages;
- Miscategorisation of projects; and
- Late and incomplete release of project documentation.

This is hardly a good record for an institution that claims that it is promoting democratic processes. The PIP falls short of guaranteeing people access to environmental and other information and the right to participate in project development processes. It is critical that the PIP be updated so that it comes into line with western environmental and democratic standards and reflects the principles of the Aarhus and Espoo conventions. The EBRD must realise that as a publicly funded institution it must be accountable to the people - all people, including those of the CEE and CIS regions. These are the people who stand to lose or gain the most from EBRD projects..

## **This report was prepared by CEE Bankwatch Network**

**CEE Bankwatch Network** organises environmental NGOs from 11 countries in Central and Eastern Europe (Belarus, Bulgaria, Czech Republic, Estonia, Georgia, Hungary, Lithuania, Latvia Poland, Slovak Republic and Ukraine).

**The goals of the CEE Bankwatch Network** are to stimulate improvement in the state of the environment, promote and undertake charitable, expert and educational activities improving the state of environment, and support such activities undertaken by other non-profit organisations and especially to:

- Create public awareness about the activities of International Financial Institutions (IFIs) and their social and environmental impacts.
- Promote public participation in decision-making processes about IFIs policies and projects, on the local, national and regional levels.
- Help non-governmental environmental organisations and not-for-profit civic organisations to monitor IFIs.



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