



Lost in transition

25 years of the
European Bank for
Reconstruction and
Development



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Executive Summary

On 15 April 2016 the European Bank for Reconstruction and Development (EBRD) will mark its 25th anniversary. This opportunity should kick-start a debate about what the London-based public bank has achieved since it started operations in 1991 and to reflect on its future.

The EBRD, whose largest shareholders include the United States, the European Union and its member states and Japan, has a mandate to promote transition to market economies and sustainable development in the countries of eastern Europe and the former Soviet Union. Its geographical scope later expanded to include Mongolia, Turkey and countries of the southern and eastern Mediterranean.

At its founding, the EBRD's transition mission seemed relatively short-term, and its successful accomplishment should have been marked by winding up the bank or changing its mandate. However, transition has not gone as planned, and in 2013 even the bank itself had to admit that many of its countries of operation were 'stuck in transition.'

Pushing privatisation and liberalisation in countries with weak institutions and high levels of corruption was never likely to end well. Many of the region's governments lack a commitment to public participation, democracy and sustainable development, and the EBRD's rather permissive definition of these concepts has led to the bank's involvement in a number of harmful projects with questionable impacts on a country's overall development.

This report examines a selection of cases monitored by CEE Bankwatch Network and its partners in recent years and highlights some of the weaknesses observed in the EBRD's approach to environmental, social, democracy and development issues.

The first set of cases looks at the EBRD's involvement in three resource-dependent countries – Azerbaijan, Egypt and Mongolia. Such countries are often associated with the so-called 'resource curse,' in which wealth from natural resources ends up benefiting a small elite, rather than the wider population, and leaves the countries' economies vulnerable to downturns in commodity

prices. The cases show that the bank, in spite of its frequent calls to diversify economies, has instead participated in perpetuating commodity dependence through support for the development of the Shah Deniz II gas field in Azerbaijan and numerous mining projects in Mongolia – a situation which has left Mongolia with high debts and stuck in a pattern of ever-expanding mining to pay them off.

The sections on Azerbaijan and Egypt also show that the EBRD has exhibited a very uneven approach towards Article 1 of its statute, which limits the bank's operations to countries that are committed to and applying principles of multiparty democracy, pluralism and market economics. While the bank restricts investments in Turkmenistan, Uzbekistan and Belarus, other countries that receive low rankings in metrics like the Economist Intelligence Unit Democracy Index (including Azerbaijan and Egypt) are not subject to the same treatment. This raises concerns about the messages that the bank is sending to these countries, and casts doubt on its practical ability to ensure public participation regarding its investment projects, particularly large infrastructure projects with serious impacts eg. in the energy sector.

The second set of cases illustrates the EBRD's overly flexible approach to its sustainable development mandate, and demonstrates that its claim to raise the standards of environmentally-problematic projects is often not justified. Civil society organisations have warned the bank about environmental and social problems associated with potential investments, only for the EBRD to anyway approve the projects. Often this is due to the bank placing excessive trust in its clients' claims, while in other cases the bank acknowledges a project's weaknesses but still finances it anyway.

In the case of the Ukraine nuclear safety upgrade project, approved in 2013, the bank did both. While the project name sounds much-needed and harmless, in fact many elements aim at extending the lifetime of Ukraine's old nuclear reactors, rather than closing them down. Three years since the project was approved, Ukrenergoatom, the project sponsor, has yet to implement several conditions of the loan, but the EBRD appears to be going ahead with the project.

In several cases where recurring problems plague a project, the EBRD has approved multiple loans to the same client or for the same type of project. For example the EBRD has provided three loans to industrial chicken producer Myronivsky Hliboproduct (MHP) in Ukraine, where communities have resorted to blockades to prevent construction of chicken farms and activists have been beaten apparently due to their opposition to the company.

Three hydropower projects financed by the EBRD in Georgia have caused biodiversity damage, and in the Dariali case, an inadequate assessment of geodynamic risk played a part in

the deaths of around ten workers and truck drivers near the construction site after mudflows in May and August 2014. Yet the EBRD is still considering financing a further Georgian hydropower project, Nenskra, which exhibits many of the same weaknesses as previous ones.

Why is the EBRD repeating the same mistakes over and over again? Presumably a large part of the answer is because it is allowed to. There have been positive examples of shareholders taking an active role, for example in preventing the bank's attempt to weaken its Environmental and Social Policy in 2014 and its avoidance of taking any real action to address the findings from its project complaint mechanism relating to the Kolubara mining project in Serbia. However the volume of projects being processed by the Board of Directors as well as political considerations by shareholder countries means that the bank's shareholders are not successful enough in preventing the bank from financing environmentally and socially harmful projects.

In the last few years the bank has also consistently found new roles for itself, which deflects attention away from the results of its previous investments. Only one country – the Czech Republic – has ever 'graduated' as a recipient country from the EBRD, in 2007. Shortly thereafter, the financial crisis struck, which on the one hand dealt a blow to the market models that the bank had been promoting, but also gave the EBRD a renewed role in stabilising the financial system. Then the Arab Spring that started in late 2010 again provided a new opening for the bank to expand its operations well beyond the former Eastern Bloc.

In July 2014 many of the EBRD's shareholders instructed the bank that they would not support new projects in Russia for the time being, due to its actions in Ukraine. The loss of its largest country of operations leaves the bank with a surplus of funds on its hands, which looks set to exacerbate an existing problem, the desire to keep up certain lending volumes. The EBRD's way of thinking has always been less like a development institution and more like a commercial bank, and this is currently of particular concern in the case of Ukraine. One billion euros annually until 2020 has been allocated for possible EBRD financing in the country, but it is questionable whether the quality of the projects put forward to the bank is sufficiently high to merit such levels of investment.

In summary, after 25 years of EBRD operations, the transition concept has become increasingly blurry, the bank's region of operations has shifted considerably, it has – at least for now – lost its largest country of operation, and its environmental, social and development results remain as elusive as ever. This situation calls for a thorough re-think of the bank's purpose and added-value relative to similar institutions, especially the European Investment Bank. The question is whether the bank's shareholders are ready to take on this challenge?

Introduction: Transition – still?

The European Bank for Reconstruction and Development was established in 1990 and has been in operation since April 1991. Its task is to “foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics.”¹ It is also obliged “to promote in the full range of its activities environmentally sound and sustainable development”.²

Back in the early nineties, this three-part mandate to bring together market economics, multiparty democracy and sustainable development may have seemed clear enough to the banks’ founders. Following the fall of the Berlin Wall and the end of the Cold War, the victory of the market and parliamentary democracy seemed complete, and it was just a question of how long the countries that had made up the Eastern Bloc would need to make the transition.

However, as EBRD President Sir Suma Chakrabarti said in 2015:

“the transition process was not as short or as smooth as some had expected... Underneath the region’s catch-up growth, which began to bring countries back to the level of output achieved prior to the onset of the transition recession, inequalities started to grow. There were clear winners and losers in the transition process; important regional disparities; and increasingly divergent paths across countries. These imbalances and growing tensions were also reflected in politics: political crises and new sets of powerful vested interests partially reversed or hindered reforms.”³

The 2008 financial crisis and its fallout across much of the EBRD’s region of operations further challenged the concept of transition and shook up the perception that the western model of market economies was a model worthy of emulation. Yet the crisis increased the need for public financing from banks such as the EBRD. This enabled it to find a new justification for its continued engagement in central European countries. While the crisis led to some re-think within the bank about issues such as foreign currency loans and commodity dependence, the rush to stabilise the financial system led to missed opportunities for a more thorough and wider ranging reconsideration about the role of the bank and the concept of transition.

In May 2011 Bankwatch published a report about the extent to which the EBRD has applied its mandate, particularly in relation to sustainable development and democracy. Entitled “Are we nearly there yet? Dilemmas of transition after 20 years of the EBRD’s operations”, it concluded that, considering that only

the Czech Republic had ever ‘graduated’ from recipient-country status at the EBRD, the bank’s shareholders needed to reconsider the EBRD’s added value, especially in central Europe, and develop a clear exit strategy⁴. Given the difficulties with the transition concept, the report proposed to focus the bank’s mandate more explicitly on sustainable development, or to bring the bank to an end. A sustainable development mandate would also place the EBRD more into line with Article 21 of the Lisbon Treaty on the goals of the EU’s external assistance.

At the time there was little appetite among the bank’s shareholders for such messages. However, these issues have become more and more pertinent.

The Arab Spring that began in 2010 provided a further impetus for the bank to expand its mission to countries that were substantially different from those in which it had been set up to operate. Since these countries never relied completely on centralised economies, the nature and endpoint of transition became even more unclear. Moreover, the promise of democracy since then has been even further from assured in the southern and eastern Mediterranean.

In late 2013 the EBRD’s annual transition report admitted that much of its region was ‘Stuck in Transition’⁵. Quite how stuck was to be illustrated during the subsequent months in Ukraine, a country which illustrated - and continues to illustrate - the hazards of operating in an environment with high levels of corruption and low levels of the rule of law.

In a 2014 update of our 2011 Are We Nearly There Yet? report, we drew attention to a number of serious questions that needed - and still need - to be answered:

“How much can the EBRD truly achieve in Russia or other countries with authoritarian regimes? If natural resources tend to be a barrier to the development of democracy, why is the bank investing so much in them? What will be the difference between the EBRD and the IFC or EIB? If difficult economic conditions persist in its region of operations, who will believe in transition any more and how will the EBRD respond to this challenge?”⁶

Time has only amplified the urgency of these questions. Since July 2014, at the request of several of its shareholders, the EBRD has not supported new projects in Russia.⁷ This makes Turkey – which was never a fully-centralised economy and is rated a ‘hybrid regime’ (not even a ‘flawed democracy’) by the Economist Intelligence Unit - the largest recipient of EBRD financing. China, a country not noted for its multiparty democracy, has become a shareholder of the bank, as has Libya, which in 2015

fell no less than 34 places down the Economist Intelligence Unit's Democracy Index to languish in 153rd place⁸. Ukraine, meanwhile, may benefit from around one billion euros annually until to 2020 in EBRD financial backing,⁹ even while fundamental problems of governance and corruption have not been resolved.

Not only have no countries graduated since the Czech Republic in 2007, but the EBRD has even increased its presence in the EU by commencing limited operations until 2020 in Cyprus and Greece. Some of the bank's shareholders such as France actively advocate keeping up a certain level of activity within the eastern EU countries in order to balance the bank's financial risks, while others such as the US, Canada and Japan believe that the bank should increase lending further south and east in order to have a greater added value¹⁰. On the other hand, moving south and east brings increasingly difficult questions about the kinds of regimes the bank is willing to work with.

In short, after 25 years of EBRD operations, the situation looks quite different than it did in the early nineties. There is little consensus on what kind of economy will serve society well in the future or how to achieve sustainable development, and democracy is shaky in much of the EBRD region, where it exists at all. Yet in the last EBRD Transition Report 2015-2016 'Rebalancing Finance,' the concept of the transition remains unchanged i.e. 'to promote market economy and entrepreneurship'.¹¹ This definition cannot account for the developments over the last 25 years presented above and the shift in the geographical scope from countries with planned economic systems.

Market economies

As noted above, the financial and economic crises brought a certain amount of soul-searching to the EBRD about the nature of resilient economies, but this was not as deep as it might have been due to the rush to pump money back into the banking system again. Nevertheless, the bank appeared to take seriously issues such as commodity dependence and foreign currency loans, as did the need for strong institutions to support and regulate market activity, rather than concentrating just on privatising companies and liberalising markets. Indeed, Sir Suma Chakrabarti has acknowledged weaknesses in the bank's operations in this regard:

"...our early efforts to support privatisation in eastern Europe were stymied by the absence of acceptable participants in deeply flawed privatisation processes. Our attempts to inject private sector and commercial discipline into infrastructure projects was hindered by both the public's lack of readiness (for example in the case of toll roads in Hungary) and the weakness or complete absence of effective regulatory authorities."

and:

"Moving too quickly to privatise municipal services in non-competitive markets, when the state was still weak, delivered sub-optimal results, such as with water utilities in Bulgaria. There is no point replacing a state monopoly with a private one if you don't have a strong and effective state to regulate service provision and quality. In such contexts, strengthening the public provider might have been a more appropriate intermediate step than pushing prematurely for private sector solutions. Ownership, public or private, matters less than the environment within which firms operate. These lessons influenced the way the EBRD thought about transition and the way it did business."

Such reflections, while belated, are welcome. One of the main questions this paper seeks to answer is whether the EBRD has indeed sufficiently taken into account the results of its experiences and made significant adjustments in its operations?

Environmental soundness and sustainable development

Environmentally-sound and sustainable development is particularly tricky, as no country has yet perfected it, so there is little agreement on what should be the gold standard. In 2011, we characterised the EBRD's interpretation of sustainable development as the integration of EU environmental protection standards into its projects. We pointed out that although following EU standards in transition countries would indeed bring improvements in many sectors, following the same development patterns as western economies would not lead to the desired result of sustainable development.

Since then the bank has made some positive steps. In 2013 its new Energy Strategy virtually excluded financing for new coal power plants, and in the same year it introduced the Sustainable Resource Initiative, which builds on the Sustainable Energy Initiative, and introduces water and materials efficiency as principles for investment¹². It has also expanded its country-level transition indicators to include energy, water and material efficiency indicators.

However project-level transition indicators still do not include any environmental and social components,¹³ with social, environmental and/or climate benefits from projects being seen as an added bonus, not a part of the EBRD's core indicators. Such thinking has, for example, made it possible for the bank to support Serbia's state electricity company Elektroprivreda



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Srbije no less than six times since 2001, without being able to steer the company away from its over-reliance on lignite, which still makes up around 70 percent of annual power generation.¹⁴ The EBRD has also so far proved similarly unable or unwilling to influence EPS' unacceptable approach towards resettling people whose lives have been made unbearable by its opencast mining operations – an issue which has been confirmed by the bank's own Project Complaint Mechanism.¹⁵ It remains to be seen whether the latest loan, for corporate restructuring, approved in 2015, can still improve the situation.

In addition, most of the annual transition report country profiles still do not include any environmental sustainability content. Sometimes they even support moves which cannot be considered sustainable even by the bank's own standards. For example the Transition Report 2015-16 says of Montenegro: "Doubling the current capacity of the country's sole thermal power plant is important, as the submarine power link between Italy and Montenegro (connecting the Western Balkans with the EU market) is scheduled for operation in 2018". It is quite unclear why the EBRD would praise this planned new lignite plant, which is not only unacceptable from a climate point of view and would not qualify for financing under the bank's Energy Strategy, but also raises a number of questions from an economic point of view.¹⁶

The EBRD also revised in 2014 its Environmental and Social Policy. While the draft document represented a significant step backwards in comparison to the 2008 policy, the final document¹⁷ did bring some steps forward, thanks to interventions from civil society and some of the bank's shareholders. However, implementation of the bank's environmental and social policies remains a serious concern, as will be discussed later.

Regarding the social impacts of transition, the bank has made some attempts to examine the issue, for example through its 2006 and 2010 Life In Transition surveys¹⁸, its activities on gender¹⁹ and by somewhat expanding its country-level transition indicators to include 'inclusion' indicators on gender, youth and rural populations.²⁰

What is still missing in many cases, though, is a thorough assessment of the impacts of specific EBRD-financed projects on communities affected by bank operations, as well as the wider impacts on a country's development. Public participation in decision-making remains pitifully low even in many of the more advanced transition countries, and too often the expansion of the private sector is prioritised over respecting the rights of communities to continue with their livelihoods, as we will see in the following sections.

Multiparty democracy

The goal of applying multiparty democracy and pluralism ought to be clearer than promoting market economies or sustainable development. While western democracies are subject to

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criticism for their frequent failure to represent the interests of ordinary people and to respond to massive challenges such as the financial and climate crises, there are at least a relatively clear set of criteria for deciding what a representative democracy looks like, which can serve as a minimum condition for EBRD involvement in a country.²¹

The bank's assessment of which countries need a restrictive investment approach in order to avoid supporting undemocratic regimes only concentrates on a few countries such as Turkmenistan, Uzbekistan and Belarus²², and does not restrict investments in other countries like Azerbaijan, Tajikistan or Egypt, which are considered undemocratic by metrics like those of the Economist Intelligence Unit and Freedom House.

The bank is faced with a constant dilemma about whether it will achieve better results by engaging with or isolating authoritarian governments. On one hand the bank's exclusion of investments in Uzbekistan has been cited by some in the bank as not having brought sufficient results, while on the other hand, Russia was for many years the bank's largest country of operations, in spite of increasing authoritarianism.

The Economist Intelligence Unit shows that democracy is threatened with rollback in much of the EBRD region and beyond:

"Eastern Europe's score in the Democracy Index deteriorated in 2015, and, since we created the index in 2006, the region's trajectory overall has been one of regression. Meanwhile, in the developed West, a decline in political participation, weaknesses in the functioning of government, and curbs on civil liberties are having a corrosive effect on some long-established democracies."

Some countries are clearly in a much worse situation than others:

"It appeared conceivable for a time that the Arab Spring, which began in late 2010, might herald a period of political transformation analogous to that in eastern Europe in the 1990s. However, only Tunisia has consolidated any democratic gains, graduating into a "flawed democracy" in 2014. Egypt has reverted to authoritarian rule, while numerous countries in the region, notably Libya and Syria, have descended into bloody civil war."²³

It is unclear whether the bank has had internal discussions about the lessons learned from its engagement in Russia, but it certainly has not shown any signs of it externally. Its approval of Egypt as a full country of operations in October 2015²⁴ does not exhibit a great deal of concern for compliance with Article 1 of the bank's statute, which specifies that the bank is to operate in countries that are committed to and applying the principles of

multiparty democracy, pluralism and market economics. As we will see in the next sections, the bank still too often turns a blind eye to human rights violations and repression in its countries of operations. Why is this is another key question that this paper seeks to examine. Is it because of inadequate bank standards, implementation, political pressure, or all of the above?



EBRD operations – bringing positive change?

Resource dependence and democracy

While the EBRD has recognised the perils of an excessive reliance on commodities for economic development, its operations have often contributed to perpetuating this situation. Here we examine the cases of Azerbaijan, Egypt and Mongolia. In Azerbaijan, the overriding question is whether the EBRD should operate in the country at all, given the high level of repression exhibited by the government. If it does, however, the question then is what contribution the bank is making and whether it is contributing to a much-needed diversification away from hydrocarbons. In Mongolia, the country's resource boom has been heavily supported by the EBRD, in spite of the obvious dangers of resource dependence. At the same time, this has been accompanied by high levels of public debt, which will only encourage additional unsustainable exploitation of resources to pay it off.

The EBRD in Azerbaijan

According to the EBRD's 2014 Country Strategy, Azerbaijan is committed to the principles of multiparty democracy, pluralism and market economics, as outlined in Article 1.

When determining this compliance, the strategy includes an assessment of a variety of issues, including: free elections, accountability of the government, acting in accordance with the rule of law, independence of the judiciary, respect for basic civil and political human rights, especially equality in access to the law, fair criminal procedures, freedom of speech, of association and peaceful assembly, freedom of movement and others.

The 2014 strategy ticks the boxes of the aforementioned, with mildly worded statements like:

- "A more consistent application of these principles [multiparty democracy, pluralism and market economics] would enhance political accountability, strengthen the rule of law, and help overcome the

country's remaining challenges."

- "The government has been encouraged to end the use of criminal defamation and release the journalists and bloggers who were deprived of their liberty as a result of expressing their views".

Nevertheless, no analysis is made about whether the EBRD's investments support the regime and perpetuate this situation and how alternative courses of action could impact in different ways.

Political pluralism and multiparty democracy?

Azerbaijan's institutional structure grants particularly consolidated powers to the president, with limited competence for the parliament.

A 2009 referendum eliminated presidential term limits. Changes made to laws on freedom of assembly and NGOs in 2012 and 2013 further restricted the ability to organize and hold rallies. Genuine political opposition has not only been physically harassed but also has had virtually no access to coverage on television, which is the most popular source of news and information in Azerbaijan. Meanwhile, to give the impression of a multiparty system, a series of small parties exist, which are loyal to the government²⁵.

It might be argued that the country is in transition and that it takes time to bring about visible results. Quite the contrary: over the last two years, beginning with President Ilham Aliyev's re-election for a third term in October 2013, the political situation in the country has deteriorated.

During the elections, the regime conducted a systemic campaign of repression and intimidation, with rival candidates jailed, their children viciously beaten and supporters' rallies forbidden. Presidential elections were assessed by Organization of Security and Cooperation in Europe (OSCE) as "*undermined by limitations on the freedoms of expression, assembly, and association that did not guarantee a level playing field for candidates. Continued allegations of candidate and voter intimidation and a restrictive media environment marred the campaign.*"²⁶

Azerbaijan's relationship with the OSCE has since further deteriorated, after the OSCE refused for the first time in its history to send a delegation to the last Parliamentary elections in 2015, following President Aliyev's opposition to a number of proposed representatives, which was directly counter to the country's



OSCE commitments and in contradiction to ODIHR's election observation mandate.²⁷ The election resulted in a victory for the President's ruling New Azerbaijan Party, which won 69 of the 125 seats in the National Assembly amidst a boycott of opposition parties including a major one, Musavat.

According to the Freedom House report "Freedom in the World 2015"²⁸, Azerbaijan has the status of "not free". On a scale of 1-7, with 7 as the worst score, Azerbaijan is rated 6 for freedom, civil liberties and political rights.

Not only is the institutional structure designed to empower a president who has held power since 2003, and whose family held power long before that, but also it serves the Aliyev family in benefitting from the country's resources.

The Aliyev regime is almost entirely funded by income from fossil fuels, while Azeri citizens are left with crumbling infrastructure and unaffordable healthcare. The money from the oil industry was supposed to be controlled by the State Oil Fund for Azerbaijan, which was intended to finance the transition of the Azeri economy away from oil and to ensure that wealth was kept for future generations. Much of the money however has been used for overpriced construction projects. Intentional price inflation enables companies to make large amounts of money from construction projects, and much of Azerbaijan's oil and gas revenues ends up in offshore bank accounts. Investigations by Azeri journalists have linked these companies to the Azeri elite, including the president and his family.²⁹

According to records collected by the Organized Crime and Corruption Reporting Project (OCCRP), members of the Aliyev family and their close advisors are significant shareholders in at least eight major Azerbaijan banks. They control assets in

those institutions worth more than USD 3 billion³⁰. There is no simple way to check who benefits from any transaction with the government, as information about corporate ownership is confidential in Azerbaijan³¹. In September 2015, OCCRP journalist Khadija Ismayilova, who was regularly exposing the corruption at the heart of the Aliyev regime, was sentenced to seven years in jail on politically-motivated charges, joining numerous other journalists and activists behind bars.³²

Civil society, independent media and human rights

Together with the increasing autocratic power of President Aliyev, the deterioration of human rights has accelerated during the last 2 years. According to the Human Rights Watch Report 2015³³, the Azerbaijan government has escalated repression against its critics, marking a dramatic decline in its already poor rights record.

"Over the past two years, indeed, the human rights situation in Azerbaijan has deteriorated significantly. The people targeted, the type of charges, the length of the sentences and the blatant irregularities in the conduct of the trials all cast doubt on the authorities'

willingness to respect the fundamental values of the Council of Europe – stated PACE President Anne Brasseur in her opening address for the PACE autumn session on 28 September 2015.³⁴

The crackdown appeared to start in response to youth groups' attempts to organise protests in Baku soon after the uprisings broke out in the Middle East and North Africa in 2011. The repression intensified in mid-2012, apparently in anticipation of the October 2013 presidential elections. The government has been engaged in a concerted effort to curtail opposition political activity, punish public allegations of corruption and other criticism of government practices, and exercise greater control over civil society and independent media.

At the time of writing, in late March 2016, at least 80 human rights defenders, political and civil activists, journalists, and bloggers are still imprisoned on politically motivated charges, while many others have fled the country or gone into hiding. Many of those detained complain of ill-treatment or have even been tortured in police custody. Human rights defenders Leyla and Arif Yunus were finally released from prison in late 2015 but prevented from travelling to access much-needed health care.³⁵ Opposition politician Ilgar Mammadov has been recognized as a prisoner of conscience by Amnesty International, and his detention has been ruled illegal by the European Court of Human Rights.³⁶ Azerbaijan authorities have frozen the bank accounts of independent civic groups and their leaders, impeded their work by refusing to register foreign grants, and imposed foreign travel bans on some. Many organisations, including several leading rights groups, have been forced to cease their activities.

The Freedom of the Press Report 2015³⁷ by Freedom House assessed the press status in Azerbaijan as “not free” (on a scale of 1-100 with 100 as the worst, Azerbaijan scored 87) and indicated that Azerbaijan's media environment deteriorated more sharply in 2014, as the government pursued a harsh campaign to silence criticism and dissent. Violence against journalists continued, and impunity for attacks remained the norm. The crackdown on freedom of expression and other human rights occurred even as Azerbaijan chaired the Committee of Ministers of the Council of Europe in 2014.

In its 2014 report on Azerbaijan's implementation of the European Neighbourhood Policy, the EU noted that Azerbaijan's “achievements were overshadowed by regression in most areas of deep and sustainable democracy, human rights and fundamental freedoms”³⁸. The report also referred to 17 statements issued by the EU in 2014 “calling for strict observation by Azerbaijan of its international commitments and obligations”. As a result, the government effectively froze political dialogue on all levels with the EU. Notably, the annual human rights dialogue between Azerbaijan and the EU has not taken place since 2013.

International response

The crisis of democracy and human rights in Azerbaijan has also been noticed by European and international institutions.

The last resolution of the Parliamentary Assembly of the Council of Europe (PACE) on the functioning of democratic institutions in Azerbaijan³⁹, issued in 2015, showed clearly the deficiencies of democracy and human rights in Azerbaijan. It called on Azerbaijan authorities to put an end to the systemic repression of human rights defenders, the media and those critical of the government, including politically-motivated prosecutions; allow for effective judicial review of such attempts; and ensure that the overall climate can become conducive to political pluralism.

A European Parliament resolution from 10 September 2015 was the strongest ever regarding Azerbaijan, not only calling on the Azeri government to improve its democracy and human rights record, but also pointing out the steps to be undertaken by European institutions:

“The European Parliament reiterates that the negotiations for a Strategic Partnership Agreement with Azerbaijan should be immediately put on hold as long the government fails to take concrete steps in advancing respect for universal human rights; (...)

Calls on the Council, the Commission and the European External Action Service (EEAS) to strictly apply the ‘more for more’ principle, with a specific focus on the situation of human rights defenders (...)

Calls on the Commission to review and suspend temporarily, if needed, all funding not related to human rights, civil society and grassroots level people-to-people cooperation granted to Azerbaijan through the European Neighbourhood Instrument, in light of the abovementioned incidents of human rights defenders being targeted for documenting human rights violations in Azerbaijan; (...)

Calls on the Council, the Commission, and the VP/HR to mount a strong and unified response to the crackdown under way in Azerbaijan, in order to make it clear that the prevailing situation is wholly unacceptable and that it cannot be ‘business as usual’ until the government releases all those imprisoned on politically motivated charges and ends the ongoing crackdown against independent civil society groups; (...)

Calls on the EU authorities to conduct a thorough

investigation into the corruption allegations against President Aliyev and members of his family revealed by the work of the investigative journalist Khadija Ismaylova;

Calls on the Council to avoid double standards in relation to the EaP countries, and to consider, in this regard, targeted sanctions and visa bans on all politicians, officials and judges involved in the political persecutions;⁴⁰

In the United States, the House of Representatives introduced the Azerbaijan Democracy Act of 2015 in December. This legislation denies US visas to senior Azerbaijani officials due to Baku's 'appalling human rights violations.' Shortly thereafter, a member of the Azerbaijan Parliament, Rovshan Rzayev, drafted a counter-bill entitled "On the human rights situation in the United States," which envisages visa bans against US officials and the termination of all relations with US companies.

Also in December 2015, the Secretary General of the Council of Europe, Thorbjørn Jagland, launched an official inquiry into Azerbaijan's implementation of the European Convention on Human Rights. Similarly, UN human rights experts from the Special Procedures of the Human Rights Council issued two statements in 2015 calling on the authorities of Azerbaijan to put an immediate end to all forms of persecution against human rights activists in the country.

Yet the EU and its member states are sending mixed messages to the Azeri regime. The impact of the public criticisms mentioned above is diminished by the EU's prioritisation of the Southern Gas Corridor and support for the development of the Shah Deniz gas field.

The EBRD's contribution

The above poses the question of whether the EBRD aims to support countries in their transition efforts according to an even-handed application of criteria on pluralist democracy or whether it simply invests in any country even where democracy and human rights are on the decline, if it is beneficial for the interests of the EBRD's stakeholders.

The EBRD has long supported the hydrocarbons sector in Azerbaijan, most notably in the case of the Baku-Tbilisi-Ceyhan (BTC) pipeline project, for which the bank approved a USD 250 million loan in 2003⁴¹. From the beginning, the BTC project was touted as a world class model development project and BP, the project sponsor, agreed to follow standards on human rights

set by the OECD and the US and UK governments⁴². Yet criticism of the BTC pipeline was not tolerated in the countries involved: Azerbaijan, Georgia and Turkey. While journalists were arrested in Azerbaijan, critics were intimidated, arrested and even tortured in Turkey, and villagers protecting their lands were beaten and hospitalised by riot police.

In 2011, the UK government announced that the BTC Company had broken the commitments it had made to abide by international human rights standards⁴³. Following a complaint to the US government in 2010, the Overseas Private Investment Corporation, another project investor, recommended that BP needed more precautions to safeguard the pipeline and "to comply with the applicable environmental and social policies and guidelines of the lenders [...] and with national law."⁴⁴

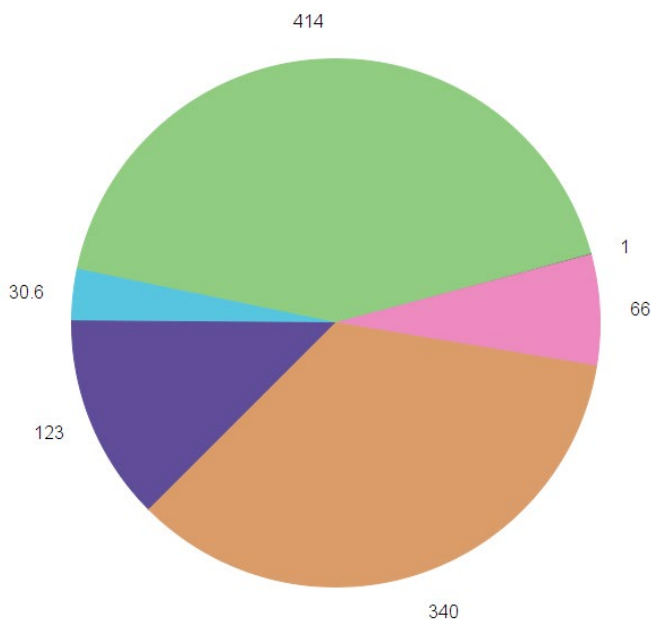
Women in particular were affected by the BTC project. As Bankwatch's study 'Boom time blues' shows, the project led to increased prostitution and trafficking along the pipeline, new health problems and worsening socio-economic conditions.⁴⁵

After this, the EBRD has now for several years called for the greater diversification of Azerbaijan's economy: "Azerbaijan has reached a critical stage in its development. With oil output set to decline from 2017 and the economy's dependence on accumulated hydrocarbon revenues very high, diversification of the economy will be critical to ensure that Azerbaijan enters the post-oil period with a modern and vibrant private sector."⁴⁶

Yet far from drawing the conclusion that it should withdraw from the hydrocarbons sector, the bank points to the likely growth in gas production in the coming years and says:

"The Bank will remain engaged in the hydrocarbons sector in order to support increased competition, the introduction of best governance practices, and policy dialogue on the regulatory framework, as well as to stimulate the development of privately and competitively provided ancillary services. Involvement in strategically important projects such as the southern gas corridor will contribute to export route diversification and regional energy security in Europe."

Indeed its investments in recent years do not indicate much diversification. From 2011 to 2015 the EBRD has financed the following in Azerbaijan



EBRD investments in Azerbaijan 2011-2015 in million EUR

Financial sector (bank and non-bank transactions)	123
Agribusiness	30.6
Natural Resources	414
Equity	1
Manufacturing	66
Transport	340

The two natural resources projects consisted of loans to Russia’s Lukoil for the Shah Deniz II gas fields, while the transport sector consisted of one large loan for road improvements. Together, these loans dwarf all the others. They raise the question of whether the EBRD is serious about diversification or just led by the EU’s plans to lessen gas dependence on Russia by increasing its dependence on Azerbaijan.

The Azeri regime has until recently had little reason to hurry

with diversification. Income from corporate income taxes and payments to the State Oil Fund of the Republic of Azerbaijan (SOFAZ) have benefitted the government: since 2010 more than half of the state budget has been supplied by the fund,⁴⁷ enabling the regime a high degree of independence from public opinion. However with recent low oil prices and the devaluation of the Manat currency, social instability has been rising and the Fund appears to be dwindling⁴⁸. Diversification suddenly looks like something that should have been done much sooner.

Recommendations on Azerbaijan

1. In the light of concerns both about the undemocratic nature of Azerbaijan’s regime and the country’s unsustainable economic structure, the EBRD and the EU must end business-as-usual in their relations with Azerbaijan and introduce clear human rights benchmarks in negotiations on all areas of cooperation, including energy.

2. Given the current human rights and democracy crises in Azerbaijan, the EBRD should conduct an extraordinary and thorough assessment of this situation in Azerbaijan and condition further cooperation on the genuine application of Article 1 by the Azerbaijan government.



The EBRD in the MENA region: how is public participation and oversight ensured without basic freedoms in Egypt?

The wave of Arab spring revolutions has brought both new governments and hopes of better collaboration with the international community. However, of all Arab spring countries, only Tunisia is regarded as a relative success - eg. being ranked as a flawed democracy in the Economist Intelligence Unit 2015

Lost in transition: 25 years of the EBRD

Democracy Index - and Egypt in particular seeing degradation of basic freedoms. Nevertheless, the EBRD has expanded its mandate to invest in the region.

Although the bank has acknowledged in its most recent assessment of Egypt's political and economic situation⁴⁹ that critical setbacks remain with respect to democratic freedoms and practices in the country, the bank continues business as usual, even having recently upgraded the status of the country as a full recipient. This raises both general concerns over the message that the bank is sending to the Egyptian authorities regarding the level of multiparty democracy it expects, and specific concerns about how communities and other possible interested stakeholders can be meaningfully consulted on investment projects in sectors such as energy and large infrastructure when their basic rights to freedom of expression and participation are not ensured.

Seeking democracy in practice, not in theory

Human Rights Watch regards the human rights situation in Egypt as a 'crisis,' in which demonstrations are banned, tens of thousands are imprisoned, often without fair trial, and where

government forces are treated with impunity. While an EBRD political assessment made public in late 2015 acknowledges a handful of crackdowns on civil society and basic freedoms in the years since the revolution, it fails to clarify how it will address these challenges in its business dealings with Egypt.

Yet in October 2015 the bank still upgraded Egypt to full recipient country status, thus implicitly recognising it as committed to an applying the principles of multiparty democracy. The EBRD argues that a number of steps have been taken in the areas of political rights, basic freedoms and justice based on provisions included in the new 2014 constitution. However, it is questionable to what extent these provisions are actually being implemented.

The EBRD political and economic assessment for Egypt concludes that the presidential elections since the 2011 uprisings have been fair and inclusive. This is in spite of the 2014 takeover of power by current President Sisi from the democratically-elected Muslim Brotherhood. The EBRD acknowledges that international observers, including the EU, pointed to serious concerns during the 2014 elections⁵⁰ with the elections monopolised by Sisi's party, little space given for the mobilisation and assembly of new, independent parties and the complete exclusion of the Muslim Brotherhood.

According to the EBRD's Egypt assessment, the 2014 constitution puts forward a set of reforms with respect to the division of power in the state, as well as to the rights and freedoms of civil society. The EBRD positively assesses the rise in the number of organisations registered, as well as the legitimization by the Egyptian state of a number of national councils. However, there are still a number of serious barriers impeding the work of civil society in the country, including the criminalisation of receiving foreign funding.

The EBRD endorses the results of a European Commission analysis that finds press freedom to have been reduced significant⁵¹ in recent years, despite inclusion of such freedoms in the 2014 constitution. The same applies to the freedom of speech, information, association and assembly where the EBRD acknowledges the Commission's conclusion, noting that "Constitution includes an unprecedented level of protection for human rights and individual freedoms, but that there is a distinction between the rights enshrined in the Constitution and the practice applied by some state institutions."⁵² Freedom of assembly and speech are highly restricted, often resulting in arrests and unfair trials. The use of violence and indiscriminate killings during the 2013 sit-ins have still have not been fairly investigated or prosecuted. Thousands of people are still in custody from the 2013 clashes between different political factions.

In spite of this, in its 2014 and 2015 transition reports, the EBRD ignored the political and social situation in Egypt, dismissing any possible impact that these setbacks in basic freedoms might have on economic transition and its projects and priorities for Egypt. The transition reports for Egypt focus strictly on progress made in the business environment and on policies

and legislation that need to be improved in the banking and financial sectors in order to foster investments.

The energy sector, presented as the area where most reforms are needed, has received a number of investments since the beginning of EBRD operations in the region, projects that are in critical need of transparency about the profile of companies being supported and the degree to which public participation and freedom of speech can be exercised by those possibly affected and interested.

Since December 2013, when the EBRD approved its first project in Egypt (a USD 50 million loan for IPR Transoil Corporation, IPR Energy Red Sea, Inc. and IPR Energy Suez, Inc.)⁵³ significant investments in the energy sector have included a USD 200 million loan to the state-owned Egyptian Electricity Holding Company (EEHC) and its subsidiary West Delta Electricity Production Company (WDEPC) for the construction of a new combined cycle gas turbine⁵⁴. EEHC also received another loan the previous year, USD 190 million for improving generation capacity at two gas turbines.⁵⁵

As a state-owned company in a country where even the EBRD regards as having its industrial sectors dominated by oligopolies and monopolies with corruption at all levels,⁵⁶ EEHC operates in an environment where freedom of expression and civil society scrutiny is hindered by the ruling government despite the provisions included in the new constitution.

A recent CEE Bankwatch Network analysis of EBRD projects⁵⁷ in the MENA region shows that the bank invested heavily in fossil fuels in its first years of operations there (2012-2014), with little attention given to sustainable energy investments like energy efficiency and renewables.

In addition, the oil industry and natural resources in general are recognised – including in the EBRD's own 2013 Transition Report – as enabling regimes to avoid implementing democratic reforms, due to the revenues that make authoritative governments less dependent on income from taxes⁵⁸.

However, the EBRD has so far not assessed at any level - project or country transition report - the impacts that Egypt's constraints on public participation and transparency will have on the bank's operations or the impact that the bank will have on public participation and democracy by investing in Egypt, particularly in the natural resources sector.

Recommendations on Egypt

1. The EBRD needs to assess in its transition report and in the new country strategy the progress made by Egypt in implementing the provisions from the 2014 constitution on freedom of speech, assembly, political rights and access to a fair justice system. Moreover the bank should propose an operational approach to deal with the challenges in ensuring transparency, proper stakeholder engagement and public participation in decision-making on EBRD-financed projects.

2. The EBRD needs to carefully assess in its due diligence the operational environment for its projects, ensuring that special provisions are put into place in order for interested parties to be able to have a say in the project at the local and national levels.

3. The EBRD should refrain from investing in projects in sectors that are difficult to monitor with respect to transparency and corruption, such as large energy infrastructure projects

Mongolia's debt trap

At February's Central Asia Forum in Istanbul, EBRD President Chakrabarti almost nostalgically reminded the audience that not so long ago, Mongolia was the world's fastest growing economy.⁵⁹ But the story of Mongolia's economy since the beginning of the century is not one of growth but a cautionary tale about public debt reaching distressing levels and the vulnerability to boom and bust commodity cycles. Some also read the tale as a story of extinction, with the disappearance of the one of the world's last nomadic cultures and the unique ecosystems and biodiversity of the Gobi desert. This case study presents elements of Mongolia's model of unsustainable development – financial, environmental and social – and examines more closely the role of the EBRD in the country.

Growth in Mongolia during the boom decade of the last commodity supercycle starting in the 2000s did help lift people out of poverty: for every one per cent of growth in GDP, 1 per cent of the population crossed the two dollars a day threshold. However, economic growth in Mongolia has also increased inequality^{60 61}. And while the rapid but short-lived growth did not translate into significant and lasting progress, with a fifth to a one quarter of Mongolians still living in poverty⁶², the current crisis is expected to hit hardest the poor, the majority of whom live in rural areas⁶³.

The role of the EBRD and its strategy in Mongolia

Since 2006 when the EBRD began operations in Mongolia, the bank has directed a sizeable proportion of its portfolio to the natural resources sector, in spite of the risks it identified in its own country strategies for Mongolia. The size of the EBRD's natural resources portfolio in Mongolia outweighs the bank's stated strategic priority to support the diversification of the country's economy away from an excessive reliance on extractive industries. A 2013 study of the Mongolia Cooperation Fund by the EBRD Evaluation Department acknowledges that "the natural resources sector became the core area of the EBRD's intervention in Mongolia" after the signing on 30 April 2007 of a Memorandum of Understanding between the government of Mongolia and IFIs (World Bank Group, Asian Development Bank and the EBRD) to ensure the sustainable long-term development of the mining sector in Mongolia, including strategic mining deposits and associated infrastructures⁶⁴.

As early as 2011 and 2012, Bankwatch raised concerns that in the two country strategy periods since 2006, the natural resources sector had received the lion's share of the EBRD money in Mongolia at EUR 176 million. Bankwatch estimates that for the period up to 2010, more than 70 per cent of the EBRD's investments in Mongolia were in natural resources, while the portfolio of approved projects in 2011-12 was more than 90 per cent in mining.⁶⁵ The EBRD has so far invested in the following mines in Mongolia⁶⁶:

- Eldev ‘clean coal’ mine, as part of a USD 45 million loan investment in the Mongolian company MAK in 2007;
- Ukhaa Hudag hard coal mine: two projects with Energy Resources, including Phase 1 (USD 30 million in equity signed in 2009) and Phase 2 (USD 180 million loan signed in 2010); as well as a related loan for the mine’s contractor, Leighton Mongolia (USD 35 million signed in 2009) and a loan of up to USD 200 million for Leighton as Lessee and Khan Bank as Lessor (with unclear status⁶⁷);
- Altain Khuder iron ore mine: USD 25 million in equity and USD 30 million loan signed in 2011;
- Tsagaan Suvarga copper mine: USD 350 million term loan and USD 100 million stand by facility signed with MAK in 2011;
- Gatsuurt gold mine (ESIA disclosure expected in 2Q 2016), through several investments in Centerra Gold, the latest one a USD 150 million, five-year corporate revolving debt facility signed in 2016⁶⁸.

Additionally the EBRD invested USD 6.6 million in gold exploration with Altan Rio in 2013⁶⁹ and in several natural resources projects through a Direct Investment Facility: a 4.5 million loan for exploration with Australian Independent Diamond Drilling in 2007; a USD 6 million equity in oil drilling with Petro Matad in 2009⁷⁰; and a USD 10 million loan for the Sharyn Gol coal mine signed in 2014⁷¹. The EBRD has invested in MT petrol stations: USD 35 million in debt and equity signed in 2008 and an additional USD 50 million signed in 2011.

In its 2013 country strategy for Mongolia,⁷² the EBRD prioritized the diversification of the country’s economy, yet envisioned a continued role in “responsible mining” projects. Juggling these two priorities was never going to be easy, given the known threat of Dutch disease. Neither the EBRD’s country strategy nor an EBRD paper from 2012 propose a credible way for how these two priorities can be reconciled: “Specialisation in natural resources will make it more difficult to develop non-resource sectors, while diversification of the economy is associated with certain benefits.”⁷³ Both of these papers also focus predominantly on fiscal policies and institutional capacity and pay little attention to environmental and cultural limitations, like the scarcity of water and desertification in Mongolia, or the adverse impacts of mining on livestock and herders.

In December 2015 the EBRD arranged a USD 1.2 billion syndicated loan for the Oyu Tolgoi Phase 2 project. The EBRD is providing USD 400 million of its own resources, and a syndicate of 15 commercial and development banks will provide the remainder of the USD 4.4 billion package⁷⁴. With a total of 78 EBRD -financed projects in Mongolia and cumulative investments of EUR 1.3 billion⁷⁵, the OT deal could hardly ever be matched by the bank’s efforts to diversify Mongolia’s economy. The implementation

of the Oyu Tolgoi project to date has raised concerns about the ability of the EBRD and other lenders to ensure environmental sustainability and mitigate against the impacts on herders. Upon approval the Oyu Tolgoi project received a derogation from the EBRD’s biodiversity standards, due to the impact of the project on the critical habitat of Houbara Bustards⁷⁶.

Independent auditors appointed to assist the lenders with compliance monitoring have noted the inconsistent approach to environmental sustainability since auditing the first phase of operations in 2010, including

- negative impacts on critical habitats “without any current ability to evaluate the significance of these impacts and without a clear plan of action in place”;
- delays with the installation of underpasses for wildlife, lack of a “costed management plan” and assurance about tangible outcomes on this measure;
- inadequate strategic management and environmental assessment of land disturbance;
- and a lack of an ambient air monitoring network that complies with lenders’ standards⁷⁷.



Although the same auditors consider as adequately implemented most of the measures addressing the negative impacts on nomadic herders, the sustainability of these measures is still to be tested, as unresolved problems with water and pastures continue to be of great concern⁷⁸.

A number of unresolved issues, such as the Undai river diversion, have been closed and deferred to the Tripartite Committee (TPC) – comprised of the company, the local government and elected herders – which took over the complaint process facilitated so far by the IFC's Compliance Advisory Ombudsman (CAO).

A report developed by a team of independent experts for the CAO process also contradicts the audit conclusion in that there is no significant risk of groundwater impacts from the mine and that Oyu Tolgoi is in compliance on water management issues⁷⁹.

As Oyu Tolgoi Phase 2 underground mine development is already under way, herders who are still coming to terms with the impacts of Phase 1 are in the dark about the plans for Phase 2⁸⁰. In its 2012 project summary document, the EBRD said about Phase 2: *"It is still at an early stage of planning and is considered as part of the assessment of cumulative impacts in the project ESIA. Any such expansion would be subject to the environmental and social review and approval process outlined in the ESIA for*

Management of Change." Now that the USD 4 billion investment is secured, however, both the company and the lenders have indicated that the 2012 ESIA does not need an up-date, nor is a new round of public consultations on the Phase 2 ESIA planned.

In its 2013 Mongolia country strategy, the EBRD committed to support the preparation of a regional biodiversity strategy (*"given likely on-going impacts of mining development on this fragile ecosystem"*), as well as a regional water strategy and a regional groundwater management plan (*"given the proliferation of mining activities, particularly in the South Gobi"*)⁸¹. While there seems to be no developments on a regional biodiversity strategy, the Oyu Tolgoi biodiversity offsetting plan is still in preparation, without adequate baseline data, five years after mine construction started⁸².

Similarly, there are more questions than answers about national and regional water resources management, and the IFC, the EBRD and their clients' initiatives, like the South Gobi Water and Mining Industry Roundtable⁸³, apparently count that once Mongolia directs significant amounts of debt towards mining development, water will follow.



Mongolia's debt

Between 2011 and 2015, GDP growth in Mongolia dropped from 17.5 to between two and three per cent,⁸⁴ a decline recently described by the head of the country's Parliament as the economic 'hangover after the party.'⁸⁵ In the early 2000s, when big mineral deposits were discovered in the Gobi desert, the proximity of the country to the world's largest commodity market, China, was seen as a major competitive advantage and an incentive for the country to embark on a massive mining sector development. After several warning shocks since 2007, the slowdown in demand from China (and globally) exposed Mongolia's unsustainable dependence on mineral wealth extraction for export.

Mongolia owns a 34 per cent stake in the Oyu Tolgoi copper mine and similar stakes in fifteen more 'strategic' deposits. Therefore it has to secure the heavy front-loaded investments for developing the mines and then wait for years to recoup mine revenues. Such considerations weighed heavily on the negotiations for the Oyu Tolgoi Phase 2, when Rio Tinto and the Mongolian government argued over Phase 1 cost overruns and tax disputes.

The country could have taken a slower phased approach to developing its mineral deposits, while simultaneously developing institutional capacity to manage fiscal and regulatory challenges. However, it had to bow to the pressure of mining companies and investors and dispel accusations of resource nationalism by providing a good business environment and favourable investment climate⁸⁶. Populist moves by the government that were widely discussed by observers⁸⁷, like cash transfers to Mongolian citizens, only illustrate the additional pressures that Mongolian decision-makers faced during the mining boom.

As foreign direct investment poured into Ulanbataar, causing uncontrollable inflation and increasing social inequalities, political parties vying for election competed to demonstrate how a development model based on mining can help lift vulnerable groups out of poverty. This weak policy scenario has prevailed since 2012. Investments in public infrastructure were supposed to support the mining boom, ensure that the benefits would be long-lasting and cushion the effects of a downturn; however, this was also fuelled by debt and managed non-transparently. It is difficult to find consistent figures on Mongolia's debt, since different entities (like the Ministry of Finance, researchers, and the IMF and World Bank) classify national debt using different metrics. According to a report published in November by Fitch, the ratings agency, Mongolia now has the second highest external debt to GDP ratio in the world at 129.8 per cent⁸⁸, representing some USD 22 billion⁸⁹. In its most recent Debt Sustainability Analysis (DSA), the IMF notes that public debt could rise further in the near term as the newly passed Debt Management Law allows more room for the government to contract debt and guarantees.

Mongolia does not have a good track record in public finance management, as it has been bailed-out six times by the IMF in the last 25 years. The country's debt management capacity was assessed as 'low' by the World Bank in 2010⁹⁰, a year after the 2009 IMF bail-out⁹¹. Nonetheless, the risk of external debt distress was also rated 'low' by a 2010 joint World Bank and IMF DSA. By 2013 Mongolia faced a moderate risk of external debt distress,⁹² and by March 2015, the IMF DSA concluded that Mongolia is at high risk of public debt distress, as "*the elevated debt risk is mainly attributable to aggressive borrowing*."⁹³ Declining foreign direct investment (FDI) and revenues from mining, as well as "*overly loose macro policies*"⁹⁴ were cited as the other risk factors contributing to the current lack of liquidity in Mongolia and the related concerns about the ability of the country to deliver on its looming debt repayment deadlines.

As growth slowed in 2012 (to 11 from 17 per cent in the previous year), Mongolia turned to capital markets to raise funds.⁹⁵ In March 2012 the Development Bank of Mongolia (DBM) sold USD 580 million of five-year US dollar-denominated debt in its first public bond sale. These government-guaranteed bonds are owed to creditors in 2017. In November the same year Mongolia issued its first sovereign debt bonds, the USD 1.5 billion 'Chinggis bonds', with repayments of USD 500 million due in January 2018. In 2013 "*in a push to offset a weakening economic cycle*", the DBM issued a USD 290 million (¥30 billion) 10-year 'Samurai Bond' in Japan⁹⁶. The coupon was 90 per cent guaranteed by the Japan Bank for International Cooperation (JBIC), in spite of analysts' concern that the deal was "*stretching the country's borrowing rules to the limit*"⁹⁷ and the Financial Stability Law (FSL) was losing traction. In essence the IMF's "*weak policy scenario*", which would trigger re-classification of Mongolia to a country at high risk of debt distress, was already visible. A USD 2.4 billion bilateral three-year swap line with the People's Bank of China is due to expire in 2017, though it is expected to be extended. A CNY 1 billion (USD 161.1 million) three-year sovereign 'dim sum' bond was issued in June⁹⁸.

Commentators are concerned that the management of the issuance is not transparent and will be used for infrastructure projects, such as the Eg River hydropower plant and a 38 kilometre highway, which are "*inappropriate and don't correlate to the current government's external debt situation that's nearing emergency levels*"⁹⁹.

Mongolian politicians argue that the nation's debts are small in comparison to the debts of other countries, and international financial institutions also downplay the significance of the crisis, pointing to the long-term prospects for Mongolia in view of the country's resource wealth, which is estimated at up to USD 3 trillion: "*Mongolia is thus projected to be solvent given the strong projected revenues from mining over the long term [... as] mining exports ramp up*"¹⁰⁰. In other words, in order to develop its precious underground resources, Mongolia took on



significant debt, and in order to pay back this debt, the country has to continue developing its mining sector, deepening the reliance on mineral commodities exports – i.e. the opposite of diversification.

In fact the negative impact on Mongolia's finances during the protracted negotiations of the government with Rio Tinto on the Oyu Tolgoi Phase 2 project show the pressure on a country to open up its mineral reserves, regardless of its capacity to manage massive mining projects, both financially and in terms of regulation of environmental and social impacts. As the 2015 IMF DSA points out *"The uncertainty surrounding OT-2 represents an important downside risk, but debt ratios would still decline steadily even if the project were delayed by three years. [...] Spikes of external debt service ratios would be more severe than under the baseline assumption of no delay in OT-2"*.

Summary

In crises like the current one, fingers are usually pointed at the governments of resource-rich countries that almost inevitably (unless they are Norway) fall victim to the 'resource curse'. The IFIs, however, are not exactly observers of these developments, but active players through their investments and policy dialogue, so some responsibility as lenders must be assumed. Wider research raises the concern that *"there is no evidence that growth and lending is reducing dependence on primary*

*commodities"*¹⁰¹, questioning the premises on which IFIs build their strategies for Mongolia – heavy lending to the natural resources sector, warnings against "resource nationalism" and encouraging less state-regulated "business environment", and at the same time diversifying mostly on paper.

The EBRD's own prognosis was correct: *"Despite sustained high commodity prices, public and external debts are projected to continue rising as mining projects and related infrastructure require significant public and private investments. The economy remains vulnerable to a renewed downturn in global commodity prices, which may weaken investment and economic activity and lead to delays with key mining projects. Developing manufacturing sectors in a volatile macroeconomic environment will also present a major challenge as will dealing with a possible appreciation of the Tugrog eroding Mongolia's price competitiveness ("Dutch disease")."*

The EBRD's strategy in Mongolia has incompatible priorities, and the bank's investment and policy dialogue have a lot more to show in the mining sector than in the efforts to diversify the economy. Mongolia's development path has proven to be unsustainable – both financially and in terms of the environmental and social impacts. During the revision of the country strategy in 2016, the EBRD will have to demonstrate how it has delivered on its strategy and its wider mandate and how it plans to address the situation in the future.

Lack of leverage and learning lessons from environmentally-risky projects

Since the late 1990s, Bankwatch has observed deficiencies in the EBRD's application of environmental and social standards. At that time, the problem was mostly exhibited by the fact that the bank did not have publicly available and detailed environmental and social standards or an independent complaints mechanism.

Since then, the nature of the issue has shifted: the bank's safeguard policies have steadily improved despite an alarming attempt at rollback in 2014, and in 2010 the Project Complaint Mechanism was launched, replacing the earlier, ineffective, Independent Recourse Mechanism.

However it has often been observed that the bank does not uphold its own safeguard standards or that when it attempts to do so, it is unable to influence its clients. This has led to situations in which a series of projects have been approved in spite of warnings from Bankwatch and partners about the likely impacts.

The examples presented here are a small selection of the ones that Bankwatch and its members have followed over a number of years. In the case of Ukraine's nuclear safety upgrade project, the bank does not appear to have insisted that its client carry out proper public consultations about the lifetime extension for the country's old nuclear reactors. In the Georgian hydropower sector, the bank aspires to raise environmental standards but has been unsuccessful in doing so. However this has not deterred it from approving a series of similar projects. In the case of the MHP industrial chicken farming projects in Ukraine, environmental and social problems have escalated, resulting in several blockades of sites where MHP seeks to expand its operations and the beating of activists who oppose this expansion.

Prolonging the pain in Ukraine's nuclear sector

The ongoing political and social struggles in Ukraine show that no quick fix can solve the problems stemming from the country's poor legislative framework and the lack of political willingness for reform and corruption. The association agreement signed

with the EU, as well as the Energy Community Treaty, require steady but firm steps to be taken by Ukraine to fill the gaps in administrative reforms and in strengthening the country's key sectors, including most notably the energy sector.

The EBRD stressed in its last two country assessments of Ukraine¹⁰² that reforming the energy sector is a key priority for the country's stability. However most of the EBRD's support to the country's energy sector during 2007-2014 went into traditional unsustainable energy sources, such as nuclear and fossil fuels (natural gas)¹⁰³, with the nuclear sector being notable for its lack of progress in addressing key problems it generates: The costs of decommissioning, construction of spent fuel stores and long-term waste storage are far from being completely covered by the price of nuclear-generated electricity in Ukraine in order to keep tariffs low.

In 2013 the EBRD approved a EUR 300 million loan for a nuclear safety upgrade programme for Ukraine's old nuclear fleet, enabling reactor lifetime extensions and locking the country into nuclear energy for another 20 to 30 years. Furthermore, the poor scrutiny of the EBRD over the conditionality of its nuclear financing, including priority legislative reforms and the *laissez-faire* attitude towards the breach of international law by Ukraine, causes concern about the project's contribution to a transition to democracy.

Nuclear safety upgrades, a step towards lifetime extension

As the most energy-intensive country in Europe with an energy efficiency rate two times below the OECD average and with an ageing nuclear fleet that provides half of its electricity supply but is dependent on Russia for nuclear fuel, Ukraine is in dire need of support for alternative energy sources to drive the country towards energy efficiency and diversification of energy sources. But the recent lifetime extension of nuclear reactors raises concerns that the country will be locked into a nuclear future and will delay Ukraine in developing a safer, efficient and reliable energy system, in line with EU objectives.

The nuclear safety upgrade programme is to be implemented over the next five years and is designed to bring the country's 15 Soviet-era reactors in line with international standards. Before

the approval of the loan, Bankwatch correctly assessed that the programme is a pre-condition for Ukraine's plans to extend the licence of at least 12 reactors by 10-20 years beyond their initial designated lifetime. The EBRD argued that the measures were necessary even if the reactors would be closed or not, which Bankwatch and independent experts disputed. But the bank did not include any conditionality relating to the closure of the reactors in its project, thus missing a major opportunity to ensure that the unsafe old reactors would really be closed. Moreover, the EBRD loan which needs to be paid back created additional (financial) pressure on the decision-makers to keep old units in operation to ensure necessary cash flow.

Ukrainian nuclear authorities have so far approved extensions

for four nuclear reactors: Rivne 1 and 2 and South Ukraine 1 and 2, in processes which violate the Aarhus and Espoo Conventions. These lifetime extensions have been made despite the fact that Ukraine's nuclear capacities are underused. Ukraine's priorities are now to increase efficiency of energy use, and decrease dependency on imported fuels (all nuclear fuel is imported, mainly from Russia) so the country's nuclear fleet can and should be gradually reduced.

This year marks the thirtieth anniversary of the Chernobyl disaster, a reminder of issues that the EBRD seems to be side-stepping: the safety and environmental sustainability of its nuclear support for Ukraine as well the contribution of its projects to more democratic practices in the country.



Undemocratic practices in the nuclear sector

The EBRD's mandate clearly states its role in strengthening pluralism and multi-party democracies. It might not be the most obvious institution to support such processes; however, the EBRD does have a strong set of tools at its disposal, including guarantee agreements, loan agreements and environmental and social action plans that attached to financing can serve as strong leverage for countries that lag behind.

In the case of the nuclear safety upgrade project, the EBRD requires on paper that:

1. Energoatom (the state nuclear company operating the 15 Ukrainian reactors) should ensure that international requirements and law are maintained in accordance with international agreements, in particular the Espoo and Aarhus Conventions (Environmental and Social Action Plan, 1.10);

2. the Ukrainian government ensures that the end of the implementation of the safety upgrade program at Ukrainian nuclear power plants" is 31 December 2017, unless another date is approved by the lender.

So far these two key requirements have been breached by the Ukrainian government and the responsible state institutions. Bankwatch has repeatedly informed the EBRD about these developments. However, it is still not clear whether any leverage has so far been exercised by the bank.

Public participation is not being carried out in line with EU standards in the case of the nuclear lifetime extension programme in Ukraine, even though this is an EBRD requirement. The Ukrainian government has continuously breached the Espoo Convention on Environmental Impact Assessment in a Transboundary Context. The decision to extend the lifetime of four nuclear units mentioned above was made without carrying out an environmental impact assessment (EIA) and consulting with Ukrainian public and potentially affected countries beforehand.

In 2010 national legislation in Ukraine was changed allowing decisions of extending the lifetime of nuclear reactors to be exempt from environmental impact assessment and full-scale public consultation. This enabled the whole process of such extensions to happen between the operator of the units and state nuclear regulatory authority. The public participation process for a decision of national importance and with potential negative impact on millions is now limited to a series of „hearings“ in small towns within a 30 km zone around the nuclear power

plants, and publishing some highly technical reports on the company's webpage.

Under pressure from civil society Energoatom prepared „environmental impacts assessment reports“ in late 2015 for the South Ukraine and Zaporizhia nuclear power plants and submitted them to the Ministry of Ecology and Natural Resources for expert review. However, there were no public hearings organized regarding these reports, and there is no mechanism to take into account the public consultation results in lifetime extension decision-making. The studies therefore have zero added value in increasing democratization of the decision-making process and improving its quality.

Moreover, Ukraine has denied the applicability of the Espoo Convention when approached through official diplomatic channels by the governments of Austria, Hungary, Romania and Slovakia. The four countries have requested an exchange of information on Ukraine's nuclear programme and more specifically on the lifetime extension of nuclear reactors. Furthermore, the government of Romania, Slovakia and Hungary have expressed their interest in taking part in transboundary consultations as per the Espoo convention¹⁰⁴ and the Executive Directors representing these countries at the EBRD should take this into account in communicating with the bank's management about the project. The bank's lax approach to public consultation also goes against its priorities in its Ukraine country strategies on strengthening the rule of law, and the role of civil society and legislative reforms in the country.

A decree by Ukraine's government passed in September 2015 moves the deadline for the full implementation of the safety upgrade programme from 2017 to 2020. At a press briefing in October 2015, Mr Grygoriy Plachkov, a deputy director of Energoatom, said that the postponement of the project implementation is currently being negotiated with the EBRD, suggesting that the Ukrainian government made a decision to postpone the implementation of the project without prior approval of two donors, the EBRD and the EU's EURATOM. In its reply to a NECU request, EBRD management admitted that as of November 2015 the bank *“has not received any official request from Energoatom in regard to changing the completion schedule of the Project”*. Bank management was unable to respond to questions about the postponement.

Talking safety and environmental sustainability in the nuclear sector

Postponing the deadline for the whole safety upgrade programme led to the postponement of the implementation deadlines for the upgrade measures for individual reactors that have had their lifetimes gradually extended. The latest decision in December 2015 was on South Ukraine 2, which received a green light to operate for ten additional years, in spite of not having fully implemented at least ten measures from a list of those with the highest priority for safety. According to the inspection findings of October 2015 following the regulatory inspectorate's mission to the South Ukraine reactor, 21 safety measures initially identified as necessary before a decision on the possibility of unit's extension beyond projected operations were postponed until 2016 or 2017, and ten of these are top safety priorities. These postponements have been 'rubber stamped' by the nuclear regulator, raising concerns about whether the decision to re-start the unit was justified given the existing safety gaps. This situation now brings together the worst of both worlds: the safety measures are not implemented, while the reactors' lifetimes are extended.

Lastly, the prolongation of the lifetime of nuclear reactors is contrary to principles of environmental sustainability. Nuclear energy is not a sustainable energy source, as it has drastic impacts on the environment at the nuclear cycle frontend - uranium mining, enrichment and fabrication, as well as at the backend. Every year the Ukrainian nuclear fleet produces on average 5500 m3 of radioactive waste (both solid and liquid) and over 500 spent fuel rods that need to be isolated for very long periods of time as they are hazardous for people and the environment. For decades Ukraine has made no investments into the construction of interim storage for spent nuclear fuel for three of its nuclear power plants. EBRD support for the continuing operation of the aging nuclear units is contributing to these problems.



Summary and recommendations

The case study from Ukraine illustrates a lack of leverage by the EBRD over its client Energoatom and the Ukrainian government as the loan guarantor for the timely implementation of the safety upgrade programme and to ensure that the conditions bound to the loan are respected by Ukraine. The EUR 300 million loan was supposed to bring the country's operating nuclear reactors in line both with international standards and local regulations¹⁰⁵ as well as contribute to key legislative reforms in the country, but so far has done neither.

The compliance of Ukraine with loan conditionalities could bring forward key administrative and legislative reforms in the country, including: the adoption of an environmental impact assessment law in line with the EU EIA Directive and clear procedures for conducting transboundary consultations and thus enhancing public participation. These necessary reforms are in line with EBRD priorities for Ukraine laid out in the last two country assessments and need to be pushed for by:

- Suspending the loan proceedings for the Ukraine safety upgrade programme until:

- Ukraine adopts EIA legislation according to the EU EIA Directive and ensures that the decision-making process on lifetime extension is amended to take into full consideration the results of EIAs for each nuclear unit to be extended, including the results of respective national and transboundary consultations with all concerned stakeholders and potentially affected countries; and

- All safety measures are in place according to the initially approved schedule;

- A nuclear phase-out plan is developed based on comprehensive assessment of risks and alternatives;

• After an explanation has been provided by the Ukrainian government regarding the postponement of the project's implementation deadline without prior agreement as set in the guarantee agreement, the postponement should be reconsidered with the involvement of the donors and nuclear safety specialists. The justification for the final decision on the matter should be made available to public;

• Making available to the public the monitoring reports of the loan conditionality in order to ensure transparent decision-making and public participation;

Looking more widely the EBRD ought to align its financial support for the Ukrainian energy sector with the energy savings and renewable energy potentials of the country. This would also make a major contribution to other areas such as stimulating

research and innovation in the country, the diversification of private sector activities and the alignment with global climate change objectives.



Who is to benefit from the Georgian hydropower development rush?

Georgia has set ambitious goals for the growth of its electricity sector, largely based on hydropower, and the EBRD has been instrumental to this rush. By 2025 the government estimates that annual generation will more than double to 28 TWh, with hydropower accounting for 89 per cent of production. With domestic consumption estimated at 18 TWh, 35 per cent of the power will be available for export.¹⁰⁶ Currently, 114 hydropower plants, including 11 dams, are slated for construction in Georgia, and dozens of additional plants have been identified as potential investment opportunities.

In May 2015, EBRD President Chakrabarti announced the bank's interest in financing the 280 MW Nenskra project plant in the north of Georgia. The announcement reiterated the EBRD's strategic commitment to facilitating the exploitation of the country's hydropower sector and turning Georgia into a regional energy hub.

With its mountain rivers and untapped hydropower potential estimated at 24 TWh¹⁰⁷, Georgia is seemingly in a win-win situation for generating power for domestic and neighboring markets. However a number of hydropower schemes have failed to deliver on sustainability because the country lacks a master energy plan, inaccurate and incomplete assessments abound and adverse impacts on the environment and the surrounding communities persist. Through its active involvement in the deregulation of the energy sector and millions invested into three greenfield large hydropower plants, the EBRD has sadly contributed to the imprudent expansion of the hydropower sector in Georgia.

Flashback into history

At the same time that the EBRD's concept of transition was under fire with regard to the BTC oil pipeline project¹⁰⁸, the bank started to develop its penchant for hydropower in Georgia. The EBRD's 2004 Country Strategy for Georgia promoted the rehabilitation of the existing Enguri hydro plant and support for renewable energy, "particularly through investment in mini-hydro plants".¹⁰⁹ The bank invested in the Lopota and Okami small hydro power plants in 2006 and in 2013 financed the Akhmeta plant, possibly¹¹⁰ the latest small hydro in its portfolio. With its hands full pushing forward the completion of the BTC project, the bank set no specific goals for the hydropower sector in the subsequent country strategy from 2006.

The 2010 strategy opened the door to the development of

hydropower plants and a transmission system that would facilitate energy trading in the Caucasus region. The bank commits in the strategy to "support investment in the rehabilitation of existing hydropower plants and the construction of new green field facilities promoting the implementation of best international practices in terms of environment, social responsibility and procurement".¹¹¹

Despite this honourable pledge, the EBRD has not learned lessons from the BTC pipeline. Instead, it has supported the exploitation of Georgia's water resources and the cross-border trade without sufficient understanding of how to ensure adequate environmental and social performance. Likewise the bank has not demonstrated how to accommodate environmental and social considerations into the project-level transition performance indicators. Moreover as seen below, Georgia's hydropower development has been accompanied by breaches of Georgian legislation, the bank's own policies and EU standards.

Excellence in transition, failure on compliance

To date the EBRD has invested in the 87 MW Paravani, 109 MW Dariali and 185 MW Shuakhevi run-of-river hydropower plants (HPPs).¹¹² The Paravani project received an 'excellent' transition impact potential ratings when evaluated on the basis of generating positive demonstration effects, attracting Turkish private investment and stimulating growth of the hydropower sector.¹¹³ Both Dariali and Shuakhevi HPPs are expected to stimulate private ownership. Additionally, Dariali's transition impact is based on 'setting standards for corporate governance and business conduct' by improving standards for hydropower in Georgia through the application of international best practices.¹¹⁴

Yet when seen through the prism of environmental and social performance, the projects lose their shine. When justifying the Paravani HPP by its likely transition impacts, the EBRD argued that its participation would ensure operations follow best environmental practice.¹¹⁵ Yet four years later, the bank's own complaint mechanism found the Paravani project non-compliant with the EBRD's policy requirements on environmental and social impact assessment (ESIA) and public consultations. The compliance expert flagged in particular that biodiversity assessments were not properly available prior to the board's decision on the project.¹¹⁶

A complaint on the Dariali project has been registered with the EBRD's Project Complaint Mechanism and the upcoming inspection is to verify alleged breaches of the bank's Environmental and Social Policy outlined below¹¹⁷. With a poor quality ESIA and flawed consultation process at the Nenskra project so far¹¹⁸, the EBRD is late to engage in meaningful stakeholder dialogue, and a robust environmental and social assessment is unlikely.

The EBRD's non-compliance with its own standards is even more surprising given the cautionary tone sounded in its 2013 Georgia Country Strategy: 'In line with Georgia's commitment to hydropower development, many new projects are being proposed on rivers that are as yet unaffected by previous development. For such projects in particular, careful attention has to be paid to biodiversity, as well as impacts on local populations, which may include vulnerable groups. In river basins where new projects are to be added to existing developments, the Bank will require that cumulative impacts be considered.'

The case of non-compliance in the Paravani case, a pending complaint on Dariali and communication over assessment shortcomings in the Shuakhevi and Nenskra projects are signals that something systemic is amiss. On the one hand, it is a matter of project due-diligence. On the other, it is the transition impact: how can Paravani be rated excellent in the view of the facts above?

The EBRD is an international standard setter. As a part of its transition objectives it strives to create a demonstration effect through its operations. What message does the EBRD's non-compliance send to private investors keen on getting a piece of the Georgian hydropower action? That it is tolerable to bypass national legislation and international benchmarks?

What's in it for the people of Georgia?

Georgia is keen to go beyond just satisfying growing domestic energy demand with hydropower. The soaring energy deficit in Turkey and high electricity generation costs of its neighbours add to Georgia's electricity export appetite. While the government eyes the European market, its plans are likely to clash with the overall electricity surplus in Europe .

Given the scale of hydropower development, it is alarming that no key policy framework is in place to provide for sustainability of the sector. Despite being approached about this by Bankwatch and its Georgian member Green Alternative, the EBRD has cast a blind eye to the fact that Georgia has no energy strategy to set the direction and targets for how hydropower fits together with all renewable energy and energy savings alternatives.¹¹⁹ Calls for a cost-benefit analysis of the sector has also fallen on deaf ears at the bank. We have warned in vain that freestanding economic assessments are unable to assess the broader implications like the loss of private property and livelihood, resettlement, environmental degradation and the effects of a project on national energy supply and demand.¹²⁰ To date, no strategic environment assessment has been prepared for the more than 30 hydropower projects planned in the Enguri river basin alone.

The dilemma between quantity and quality in Georgia's hydro odyssey is symptomatic of a core problem with the EBRD's transition concept. The orientation towards market expansion has driven EBRD involvement in the sector irrespective of whether and how market growth contributes to social welfare and environmental sustainability.





The EU is increasingly aware of the problem. While the association agreement established a goal of promoting the “[...] *development and support of renewable energies with a primary focus on hydro resources and promotion of bilateral and regional integration in this field*,”¹²¹ only a few months later the European Parliament realised that Georgia is heavily in need of guidance on the sustainability of hydropower. In December 2014, it called on the European Commission “to assist and monitor closely the Georgian authorities in their investment programme for the construction, rehabilitation and reconstruction of hydropower plants, urging them to comply fully with EU standards and norms with regard, in particular, to the environmental impact assessment of the larger plants”.¹²²

Matching regional energy demand with a precautionary approach to hydropower regulation in Georgia should not be a challenging task for an institution like the EBRD, which is more than 60 percent governed by the EU and its member states and committed to promoting the adoption of EU environmental standards in its investments.

So far, there has not been much benefit from hydropower for affected communities and the rest of the Georgian population.

Lost in transition: 25 years of the EBRD

The current environmental assessment process required by Georgian legislation omits an evaluation of social impacts and the assurance of inclusive, timely public participation in decision-making. While the EU and EBRD safeguards require such scoping processes, it has been standard practice in Georgia that preparatory and construction works take place prior to the full identification of stakeholders, the preparation of a stakeholder engagement plan and other management plans. Poor ESIA and flawed consultations have repeatedly led to mistrust by the affected populations and inappropriate mitigation measures.

During the consultations on the Dariali ESIA, environmental groups challenged the lack of a proper study for the hydrological regime on the Tergi River and its glacier tributaries. Environmentalists warned that the hydrological peculiarities at the site would aggravate geodynamic hazards such as landslides, rockslides and riverbank erosion. While the ESIA report deemed geological risks as minimal during the operation phase, the construction works have already faced delays and technical difficulties due to mudflows.¹²³ In May and August 2014 two large mudflows hit the Dariali gorge, resulting in around ten casualties and destroying the Larsi HPP located immediately

downstream from Dariali. Also erosion of the riverbanks at Dariali have come precariously close to impacting the nearest households.

The Shuakhevi ESIA report failed to properly assess the project impact area and to include in it villages located outside of the construction site but affected by the works. Environmentalists pointed out that the project area is characterised by landslides, and the construction of derivation tunnels and reservoirs in the vicinity of the villages may trigger erosion. The project company denied risks of landslides and refused to sign warranty compensation contracts with the villagers. But as construction proceeds, landslides and cracks in houses have appeared.

The Paravani ESIA set a dangerous precedent for minimal water flow levels for other diversion hydropower plants in Georgia. After the 10 percent environmental flow limit appeared in the ESIA, it became widely adopted as ‘best practice’ at all other diversion plants, including the Dariali and Nenskra projects, threatening surrounding ecosystems. An internal investigation by the Project Complaints Mechanism into Paravani confirmed that the bank had failed to properly assess the environmental risks associated with the project.

The Nenskra ESIA was prepared without project scoping and an early identification of and consultation with stakeholders. As a result, the assessment misjudged the social and economic benefits and costs of the project for the local Svan community and failed to suggest corresponding management measures.

Tensions have risen over hydropower and the lack of participation

in Upper Svaneti and other Georgian regions. Svan families have recently protested against the Nenskra dam, and Svan residents in the Khaishi community have released a statement against the Khudoni dam and the threat to expropriate their farmland.¹²⁴ On 17 March 2016, villagers in Khinchauri whose houses were damaged by blasting during the construction on Shuakhevi, organised a protest against the plant.¹²⁵

Communities have increasingly come to realise that hydropower will not bring any long-term solution to poverty reduction and socio-economic development or improve their livelihoods. Conflict over hydropower has corroded social cohesion, which is already precarious in the South Caucasus.

To woo private investment in the hydropower sector, the Georgian government commits to fixed tariffs and compulsory purchases of electricity generated by large projects during winter months. With a lack of transparency for some project agreements, the level of tariffs is unclear and the public is left in the dark about potential electricity hikes. Due to the size of large hydropower investments, many expect significant tariff increases.

Deaths caused by mudslides, price hikes, degraded environment and loss of livelihoods are certainly not images of successful transition. The EBRD’s shareholders should seek to transform Georgia’s power sector so that has clear benefits for people and the environment. After all, it is not the market that matters. Public subsidies for hydropower should aim at improving public welfare. Unless the EBRD is ready to seriously rethink the concept of transition, this will be mission impossible.

Recommendations on Georgian hydropower

- 1)** The EBRD should suspend consideration of the Nenskra project and any other new hydropower project until the Georgian government adopts comprehensive strategies for the sector, including a national energy strategy, a sectoral strategic environmental assessment and a societal cost-benefit analysis.
- 2)** The EBRD should ensure that all hydropower projects developed in Georgia are in a line with EU environmental and social legislation, as is required by the EU-Georgia Association Agreement and Resolution of the European Parliament (A8-0042/2014);
- 3)** The EBRD should honour the principles of meaningful consultations and begin assessment processes at an early stage to allow for participatory, well-informed and early engagement of stakeholders in a project.
- 4)** The EBRD should review the transition impact assessment and incorporate environmental and social considerations. Market-oriented impacts should not be the sole indicator for high transition ratings on investments such as hydropower.

EBRD support for intensive chicken farming - Myronivsky Hliboproduct (MHP), Ukraine

Since 2010 the EBRD has approved three loans for Ukraine's industrial chicken producer Myronivsky Hliboproduct (MHP). The choice of client is somewhat odd for a bank that is supposed to promote competition on the market, since MHP is the largest industrial chicken production company in Ukraine, with around 60 per cent of the chicken-rearing market as of 2014, and is headed and majority owned by Yuriy Kosiuk, one of the country's richest men, who has an estimated personal fortune of USD 1.16 billion.¹²⁶

The EBRD loans comprise:

1) USD 65 million approved in 2010 for working capital and the construction of a biogas plant at the Oril Leader poultry farm in the Dnipropetrovsk region.¹²⁷

2) USD 55 million approved in 2013 for the acquisition of agricultural and grain operations in Russia and capital expenditures for agricultural equipment for MHP's Ukraine operations.¹²⁸

3) USD 85 million in 2015 for agricultural working capital for growing and processing grains and oilseeds for fodder production.¹²⁹

MHP has also received support since 2003 from the International Finance Corporation, to change its corporate governance and structure, expand existing poultry and grain growing operations and develop new facilities.¹³⁰ The European Investment Bank also provided the company with a EUR 85 million loan for the construction of an integrated chicken fodder production facility at the Vinnytsia complex.¹³¹ The Dutch export credit agency Atradius has also supported MHP with export credit

insurance for equipment supplied by Dutch companies¹³². MHP has therefore altogether received more than half a billion euros worth of support from international financial institutions.

Claimed benefits

The company and the EBRD have reported significant results from the investments including:

- improvement of animal welfare and food safety and quality;¹³³
- development of agricultural land by improving energy and resource efficiency and improving crop production methods;¹³⁴
- improvement of occupational health and safety;¹³⁵ and
- installation of MHP's first biogas plant using floating sludge and chicken manure to ensure energy savings, the reduction of MHP's carbon footprint and the cost of production¹³⁶.

Additionally, MHP brings jobs (as do most other economic activities). 3680 people are employed at the Vinnytsia complex¹³⁷. The benefits for the Ukrainian state in terms of taxes are limited though, as MHP S.A., the ultimate holding company, is registered in Luxembourg.¹³⁸

Growing opposition by local communities

MHP has attracted opposition from local communities for years,¹³⁹ however with the construction of the massive Vinnytsia poultry farm near Ladyzhyn in the Vinnytska region, and further planned expansions in the Kyiv, Cherkasy and Dnipropetrovsk regions, resistance by local communities has escalated.

The Vinnytsia poultry farm claims to be Europe's largest. The complex is being developed in two phases, with the first phase completed in 2014 and the second phase – which is expected to double the size of the complex – begun at the end of 2015 and continuing until 2018. The farm produced 205 000 tonnes of meat in 2014, or 117 million chickens.¹⁴⁰

In 2011 local communities raised concerns about the lack of adequate public consultations and negative impacts at the Vinnytsia poultry farm during the start of construction on the first rearing zones. As MHP was expecting a second loan from the EBRD, in October 2013 the following issues were raised by NECU to the company and the EBRD¹⁴¹:

- a lack of an adequate ESIA for the facilities and the absence of a cumulative ESIA for the complex;
- deficiencies in public consultations during the

decision-making process; and

- unmitigated impacts of construction including dust, noise, vibrations from trucks, lower than promised employment possibilities for the local population; and potential failures in labour safety on the construction sites.¹⁴²

The bank responded that the company performed according to national legislation and therefore the EBRD loan was approved.¹⁴³

NECU continued to raise these issues with the EBRD and in May 2015 a team of representatives from five EU-based NGOs carried out a fact-finding mission to examine the situation and speak to over 100 relevant stakeholders. MHP did not agree to a meeting with the delegation in spite of several requests. The results of the mission were published in September 2015,¹⁴⁴ with the main findings that the negative social and environmental impacts of the Vinnytsia complex, mainly odour, noise and vibrations, are significant and not mitigated sufficiently. Whether or not the company is in compliance with Ukrainian law, local people are not adequately protected.

Furthermore, the company's lack of transparency and unwillingness to engage with critical stakeholders has provoked mistrust among locals, health fears and concerns that dropping water tables are caused by MHP's operations. People in the villages of Ulianivka and Bilousivka have reported that the company is pressing them to lease land for the expansion of the Vinnytsia complex, in spite of their opposition, and appears to

be singling out older and more vulnerable community members for pressure. The company denies these accounts.

MHP's expansion plans have set off a series of protests by local residents at the planned locations. In the village of Yasnoziryra in the Cherkasy region, opposition began in 2003, when MHP planned to start construction but received a negative response from the community¹⁴⁵. In 2014 MHP attempted the construction again, but the Yasnoziryra village council reconfirmed its negative decision¹⁴⁶. Nevertheless, MHP started preparatory measures for construction on land in the village during the spring and summer 2015 and in response, Yasnoziryra residents physically blocked the construction site for eight months and prevented machinery from working there. The community meeting and village council also voted against construction.¹⁴⁷

In nearby Moshny, locals also set up a road block in summer 2015 to stop construction,¹⁴⁸ and on 3-5 October 2015, in the village of Chetvertynivka in the Vinnytsia region, people blocked the roads because MHP started construction of the expanded Vinnytsia complex even though local people clearly expressed their opposition at the public consultations¹⁴⁹. After several days of local protests an agreement was reached that the company would not proceed with construction until meaningful public consultations take place¹⁵⁰.

A similar pattern of MHP community negligence by attempting construction after clear opposition from the communities has been noted in three different regions of Ukraine (Kyiv, Cherkasy, Vinnytsya) and at least six communities¹⁵¹.



Growing repression against those raising concerns

Several people that have taken an active stand against MHP's activities have even been physically attacked. Shortly after the resolution of the road blockade in October 2015, Volodymyr Sukhopara, an activist from Chetvertynivka, was beaten up by unknown assailants at the market in Ladyzhyn. The victim considers this event to be related to his active position against MHP's construction in Chetvertynivka¹⁵². A similar attack took place earlier involving Andriy Skakodub, a civil society activist from Ladyzhyn who supports local communities in their dialogue with MHP.¹⁵³

Another activist was beaten in the village of Yasnoziryia (Cherkasy region) on the afternoon of 21 December 2015. Vasyl Tkachenko, chairman of Yasnoziryia village council, was severely beaten on the village council premises. He has actively opposed the construction of MHP chicken facilities within the village¹⁵⁴. According to witnesses, two unknown men entered the village council building and started to beat Tkachenko, who was subsequently hospitalised for more than a month. MHP has rejected any connection to the activist beatings incidents. However members of the Yasnoziryia village council believe that the only explanation for the attack is his stance against the construction of the MHP poultry farm near Yasnoziryia.

After NECU raised these issues on multiple occasions with the EBRD, the bank organised a monitoring visit to the site with a consultant in November 2015, which aimed at among other issues evaluating stakeholder engagement¹⁵⁵. This action might be considered as finally admitting that MHP has problems with stakeholder engagement - and this only after local people have been beaten and villagers launched blockades.

Thirteen years of partnerships with international financial institutions, including six with the EBRD, have not only failed to result in a corporate culture of transparency and accountability within MHP, but the situation appears to be getting worse.

Impasse on environmental concerns

Regarding the environmental issues that caused community opposition to MHP in the first place, communication between CSOs and the EBRD has been largely inconclusive.

NECU has not been able to obtain the EIA documentation for the existing plants or the planned expansions from the company in spite of repeated requests¹⁵⁶. In the meantime EIAs for several

new facilities and expansions in the Cherkasy, Vinnytsya and Dnipropetrovsk regions have been obtained from Atradius, the Dutch export credit agency, and the EIB. These show significant weaknesses, including:

- Salami-slicing - the studies are carried out for each rearing facility separately with no analysis of cumulative impacts, even though these are grouped just one to three kilometres from each other.
- For the plant near Yabluniv, it is not mentioned that the farm will be constructed very near the planned the Serechnyodniprovsky national nature park.
- Some lack an assessment of ammonia, dust, hydrogen sulphide and nitrous oxide emissions from the chicken housing. Significant levels of artesian water intakes are mentioned, however the EIA lacks a hydrogeological assessment of the potential effects on these.
- Lack of description of the manure storage and disposal system.

The EBRD claimed in a letter dated 15 October 2015 that MHP facilities generally operate in line with Ukrainian and EU standards for environment, occupational health and safety, animal welfare, management of biological waste, and manure storage and that an IFC audit had also shown compliance with EU regulations. In a letter of 25 January 2016 the bank also claimed that "No significant environmental and social issues were identified."

But the bank has offered no evidence of how these conclusions were reached. Neither has it responded to the fact that a report by the Ivano-Frankivsk Regional Commission of the State Service for Mining Supervision and Industrial Safety, which conducted an unscheduled check of the Gorodenkivska branch of JSC Zernoproduct MHP - Perspektiv¹⁵⁷ on 18-20 May 2015, revealed 81 breaches of legislative requirements on safety. It is not clear whether the bank has not seen the report or whether it considers 81 breaches to be a minor matter.

Such independent reports are rare, as most state inspections have been suspended in Ukraine. As part of a series of measures to deregulate the business environment in Ukraine, the government imposed a moratorium on government inspections of businesses in 2014, with an extension in 2015 and 2016. Also the difficulty in ensuring proper health and safety relates to the reform of the old system, and the creation of a new State Agency for Labour¹⁵⁸, which does not have even a full legal basis for its work.

According to the IFC, the simplification of inspections has saved the industry millions of euros, as agribusiness did not have to undergo an annual technical check of agricultural machinery in 2014, among other things.¹⁵⁹ However, it also includes a moratorium on environmental inspections, posing a high risk that environmental violations by the private sector remain unidentified. The EBRD states that in order to export to the EU,

MHP has to undergo regular inspections by Ukrainian state veterinary institutions, but it did not outline what these involve, how often, or what conclusions have been reached.

Why the fundamental differences in the views of local people and the EBRD about MHP?

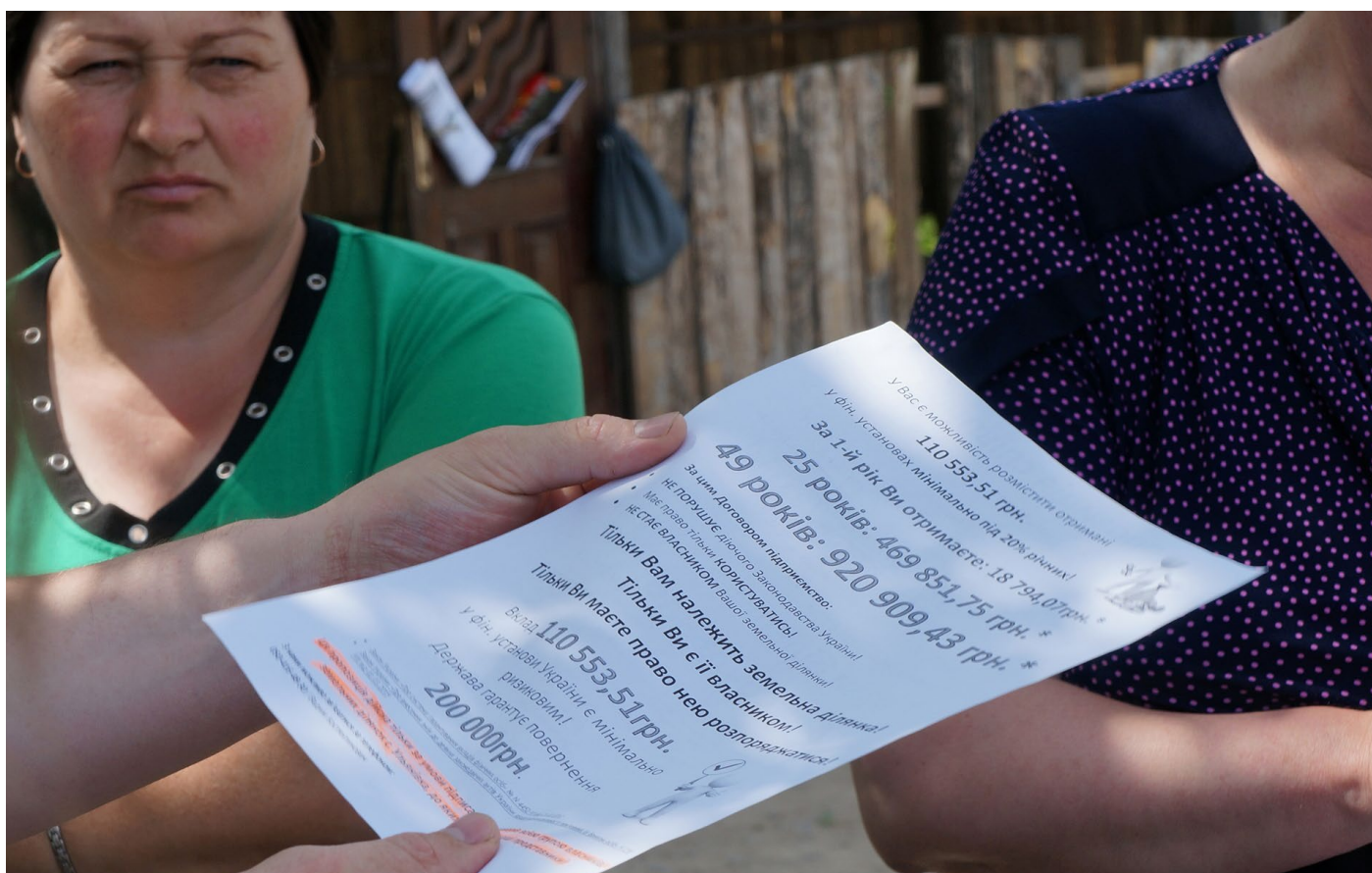
One issue is due diligence. While corporate-wide due diligence was carried out for the 2010 loan, the environmental and social due diligence for the 2013 and 2015 loans had a very narrow focus, on land acquisition and machinery for crops production and on the soy processing facility respectively.¹⁶⁰ Considering the limited scope of the due diligence, it is not surprising that the findings were limited.

The second issue is excessive reliance on the company's word, an issue which has also badly affected relations between the EBRD and some civil society groups in numerous other projects. While the EBRD did carry out a monitoring visit in November 2015, it has repeatedly relayed the company's assurances

about compliance with legislation rather than providing in-depth answers on the substance of the concerns raised.

The EBRD has to understand that where there is smoke, there is usually fire. The bank has now accepted that MHP has stakeholder engagement issues, but it has not accepted that the company's environmental impacts are significant enough to seriously disturb local people. But if this is not the case, why are local people so opposed to the company's activities? People are aware of the fact that new industrial developments bring jobs, yet many still believe the negative impacts from MHP's operations are greater than the benefits. Such concerns should be taken seriously instead of repeatedly approving new loans for the company.

During the visit by international NGOs in May 2015, many of the local people near Ladyzhyn with whom the team spoke expressed pride about the quality of the famously black fertile 'chernozem' soil, its importance for their survival and concerns about the way that the company uses it for intensive monocultures. More communities – as now in the Cherkasy region – have become active and are warning local administrations¹⁶¹ not to make a decision without taking into account their opinions. Before the bank finances projects, it needs to ensure that local people agree with this model of development for their communities, not just support the projects and then see how to 'manage' the stakeholder fallout.



**Where are the results
and accountability?**

For several years now, civil society groups including Bankwatch have expressed concerns about the lack of (balanced) reporting on the real-life results of the EBRD's operations, but no significant progress has been noted. The bank has adopted the strapline "We invest in changing lives" but does not back up this claim with sufficient evidence.

On the project level, a project summary document posted on the bank's website is supposed to give an overview of the expected transition impacts, but these include only market elements such as greater competition or greater private ownership,¹⁶² not real life impacts on people. The expected transition impacts often look quite far-fetched from the perspective of improving the life of ordinary people, as shown by these recent examples:

MENA Infrastructure Fund II: *"The EBRD's proposed investment is expected to promote the more widespread private ownership of infrastructure projects in North Africa and Turkey. Furthermore, the Bank's investment is also expected to promote infrastructure equity as an asset class in the aforementioned region."*¹⁶³

In spite of President Chakrabarti's insights quoted in the above introduction that ownership is less important than management in infrastructure projects, it seems that promoting private ownership for the sake of promoting private ownership is alive and well in the EBRD.

D4/R7 Highway: *"The proposed Project is the second motorway construction project in Slovakia to be financed under a Public Private Partnership scheme. The transition impact for the Project is expected to come mainly from (i) a significant demonstration effect by promoting continued private sector involvement in the road sector through the participation in the financing of this PPP and; (ii) a regional demonstration effect associated with the replication of the concession programme by governments in neighbouring countries to continue developing their plans for similar PPP programmes."*¹⁶⁴

Not only do PPPs look like quite a far-fetched way to improve people's lives, but they are also quite far-fetched from the point of view of enhancing competition or efficiency as well, as they often end up as corporate welfare schemes with hardly any risk for the private partner after the infrastructure is built.¹⁶⁵

In the few cases where the bank offers concrete predictions of

greenhouse gas savings or similar measurable improvements, the case is weakened by the bank's greenhouse gas accounting methodology¹⁶⁶ which does not count so-called Scope 3 indirect emissions - those which are not directly emitted by the infrastructure in question but arise later as a result of its use, therefore giving the impression that eg. gas pipelines hardly have any CO2 emissions.

A further weakness is that the methodology gives hardly any guidance on setting baselines, therefore allowing the bank to compare e.g. a new power plant with an existing one, even if the existing one would have to be closed down due to age or environmental regulations and would therefore anyway not be operating in the future. This makes the new one look automatically favourable, even if it would not be better if compared with other options.

In any case, the bank's project summary documents are rarely updated with the results of projects, so the public rarely gets to see any clear results unless a project is selected for evaluation by the bank's Evaluation Department – and even in such cases, results are often aggregated or anonymised.

This problem is compounded by the use of various financial instruments such as intermediary banks, private equity funds and framework loans, which further obscure a project's details and the results of what has been achieved. Investments through commercial bank intermediaries are particularly opaque, as the EBRD does not disclose who are the final beneficiaries.

The private equity funds that the bank invests in usually name the companies that it has invested in after the investment has taken place, but not beforehand. The EBRD has invested in private equity funds since 1992. Yet it was not until the EBRD's 2015-16 annual transition report – twenty-three years later – that an effort was made to understand what was the impact of these investments and whether they helped create or destroy jobs in the target companies.¹⁶⁷

The report however looked at only a very narrow set of indicators and timeframe. It concluded that the role played by private equity funds in the transition region is quite different to that in some more mature market economies, where they have gained a bad name for extracting short-term value from companies at the expense of workers and long-term company development. The bank did not say how it will identify the conditions under which private equity companies are under threat of turning from a force for supporting small and medium businesses into a more predatory one, nor how it will put the genie back in the bottle if this turns out to be the case.

Environmentally positive projects are presented in the sustainability report, but the publication lacks balance due to its tendency to highlight the positive examples and leave out the less positive ones, or render invisible their impacts through questionable assessment methods as outlined above.

On the country and sector level, the situation is similar. Country

strategies do attempt to evaluate the results from the last strategy period, but this is done selectively and it is very rare for the bank to clearly admit that something did not work.

It is not only Bankwatch's view that the EBRD does not clearly communicate its results. In the 2013 and 2014 Aid Transparency Index the bank came in last place of the 17 multilateral development organisations surveyed, and was placed in the 'poor' category, scoring 24.5 per cent both years. Publish What You Fund, the organisation which compiles the index, stated that "Although impact appraisals and results information could be found for some activities, this information was not found consistently for all activities assessed".¹⁶⁸ In 2015 no full ranking was carried out, but the EBRD, in spite of having started to publish some information in the International Aid Transparency Initiative was still placed in the "poor" category¹⁶⁹.

Information published at the country level in the EBRD annual transition reports and the Life In Transition surveys is not directly connected to the EBRD's activities, but should nevertheless ring alarm bells about how much the bank has been able to achieve. Such questions are particularly relevant for larger recipient countries like Russia and Turkey, where it is unclear how much a bank like the EBRD can shape the direction of the country. In Russia, attempts by the EBRD and others to integrate the country into the global economy have not resulted in meaningful democracy, nor in a significant move away from dependency on natural resources.

With the suspension in 2014 of new EBRD operations in Russia, the same question now applies to Turkey, currently the bank's largest recipient but one also with questionable democratic credentials, as with Ukraine. While Ukraine's location makes it an obvious candidate for EU attempts at integration, there currently

appears to be a danger that the country will be showered with money irrespective of real progress on environmental and social issues and anti-corruption measures, especially with the EBRD having lost Russia as a country of new operations for the time being.

As stated above, in its 2013 transition report, the EBRD admitted that its region of operations was 'stuck in transition'. Quite how stuck is increasingly difficult to tell, as the scores are more and more difficult to compare each year. On one hand this is positive, with the addition of inclusion and sustainable resource-use indicators rather than just market-related indicators. On the other hand, the fundamental question of whether any progress is being made is more and more unclear.

Indices like the World Bank's Doing Business report might be said to provide some answers regarding market economy indicators, but Doing Business has been heavily criticised, even since the methodology was reviewed before the publication of the 2015 report¹⁷⁰ and does not appear to provide a balanced picture of how countries are actually developing.

What is clear, however, is that no matter how the market economy aspects of the EBRD's countries of operations are doing, the multiparty democracy aspects are not doing well at all. According to the Economist Intelligence Unit Democracy Rating 2015, not one of the EBRD's countries of operations is considered a full democracy. No fewer than nine countries of operation are considered authoritarian, although the EBRD has only formally restricted operations through its "calibrated approach" in two of them – Turkmenistan and Belarus. This is in addition to the 2014 request from its shareholders not to finance new operations in Russia and a de facto moratorium on new operations in Uzbekistan.

Southeastern Europe	Economist Intelligence Unit 2015 Democracy Rating
Albania	Hybrid regime
Bosnia and Herzegovina	Hybrid regime
Bulgaria	Flawed democracy
Cyprus	Flawed democracy
Macedonia	Flawed democracy
Greece	Flawed democracy
Kosovo	Not rated
Montenegro	Flawed democracy
Romania	Flawed democracy
Serbia	Flawed democracy
Central Europe and Baltic states	
Croatia	Flawed democracy
(Czech Republic)	Flawed democracy
Estonia	Flawed democracy
Hungary	Flawed democracy
Latvia	Flawed democracy
Lithuania	Flawed democracy
Poland	Flawed democracy
Slovak Republic	Flawed democracy
Slovenia	Flawed democracy
Eastern Europe and the Caucasus	
Armenia	Hybrid regime
Azerbaijan	Authoritarian
Belarus	Authoritarian
Georgia	Hybrid regime
Moldova	Flawed democracy
Ukraine	Hybrid regime
Central Asia	
Kazakhstan	Authoritarian
Kyrgyz Republic	Hybrid regime
Mongolia	Flawed democracy
Tajikistan	Authoritarian
Turkmenistan	Authoritarian
Uzbekistan	Authoritarian
Southern and Eastern Mediterranean	
Egypt	Authoritarian
Jordan	Authoritarian
Morocco	Hybrid regime
Tunisia	Flawed democracy
Others	
Russia	Authoritarian
Turkey	Hybrid regime

So why is the EBRD lending to so many authoritarian or ‘hybrid regimes’? In some cases these are countries in which the bank has traditionally operated and which have failed to improve significantly (e.g. Kyrgyzstan, Tajikistan). However in other cases such as Azerbaijan, Turkey or Egypt, it appears that the EBRD is largely following the interests of its larger shareholders, which rely on the countries for gas production, transit, military security or trade.

This is where we run into the EBRD’s accountability problem. The bank’s largest shares are owned by the United States, United Kingdom, Germany, Japan, Italy, and France,¹⁷¹ and it is to these countries that the bank is mainly accountable, even though most of their populations have hardly heard of it.

Our experience shows that some projects are approved at the board in spite of obvious shortcomings. It is difficult to track voting because most of the shareholders, with exceptions like the US, do not systematically disclose how they vote at the board.

Since 2010 the bank has had a Project Complaint Mechanism (PCM), which replaced the earlier Independent Recourse Mechanism, marking a step forward in increasing accountability at the EBRD. However the PCM’s remit is limited to implementation of the environmental and social policy and project-level provisions of the public information policy, leaving many other issues uncovered.

Integrity issues are dealt with by the Office of the Chief Compliance Officer, however unlike at the PCM there is no clearly defined process for dealing with complaints from the public, so it is difficult to track complaints and their resolution. Issues covered by the public information policy are dealt with by the office of the Secretary General, but there is no mechanism to deal with complaints on projects that are problematic for other reasons, such as economic impacts, technical unsuitability or environmental and social problems that are not adequately covered by the environmental and social policy.

This means that the majority of controversial decisions taken by the bank are only challengeable through exchanges of opinions, or cumbersome and time-consuming investigations within the shareholder countries, which is not a practical option for the majority of decisions taken within the bank.

This also means that people affected by the EBRD’s operations and those from donor countries concerned at how public money is being spent have enormous difficulties in holding the bank to account. Even the EIB, which has long been criticised for its lack of accountability, is at least an EU institution, meaning that it can be held accountable in the same ways as other EU institutions.

The EBRD’s lack of accountability within the EU framework is particularly unacceptable given that the EU and its member states control around 60 per cent of the EBRD’s shares, which means that the bank, when operating in developing countries, must follow Article 21 of the EU Treaty and apply the EU’s development principles. So far the EU has not systematically tracked whether this is the case, but it needs to take its role in the bank and its examination of the bank’s results more seriously if it is to act according to the Treaty.

This raises the question of what changes are needed to make sure that the EBRD’s results are adequately measured and communicated. The very minimum that could be done is changing the project-level transition indicators to include environmental and development factors and making sure that the project summary documents are regularly updated with the actual results of projects, not just predicted results. However, given the rather far-fetched interpretation of transition impact that is applied to many projects and the weaknesses in the bank’s greenhouse gas accounting methodology, this does not seem sufficient to make a real difference to projects on the ground. The transition concept has become an increasingly blurry catch-all and it is going to require an enormous effort from shareholders to redefine it and prevent any new definitions being subject to the same kind of stretching as the current project level transition impact indicators.

At the same time, the bank’s region of operations has shifted considerably, graduation has ground to a halt, and the EBRD has – at least for now - lost its largest country of operation. This situation calls for a more thorough re-think of the bank’s purpose and added value compared to related institutions, especially the European Investment Bank. While the EBRD has a more private sector focus than the European Investment Bank, its geographical focus overlaps to a large extent, and the public/private sector focuses are not mutually exclusive.



Lost in transition: 25 years of the EBRD

Conclusions

The EBRD was originally conceived as a policy bank to promote transition to market economies and sustainable development in the formerly centrally planned economies of eastern Europe and the former Soviet Union – or at least those committed to and implementing the principles of multiparty democracy. Its mission seemed relatively short-term, and its successful accomplishment should have been marked by the winding up of the bank or change to its mandate.

However, transition has not gone as smoothly as hoped, partly due to the weaknesses inherent to market economic models, partly due to the lack of commitment by many countries to public participation, democracy and sustainable development and partly due to the EBRD's own very flexible definition of these concepts and inconsistent approach towards making investments conditional on them.

This report presents several cases in which the EBRD, apparently due to interests of some of its shareholders, has continued to finance projects in countries that cannot be regarded as democratic, such as Azerbaijan and Egypt. Such countries are also often associated with the so-called 'resource curse,' in which a wealth of natural resources ends up benefiting a small elite, rather than the wider population, and leaves the countries' economies vulnerable to downturns in commodity prices. These cases show that the EBRD, in spite of its frequent warnings that diversification of economies is needed, has instead participated in perpetuating commodity dependence through repeated support for e.g. Lukoil in the Shah Deniz II project in Azerbaijan and numerous mining projects in Mongolia.

The bank's selection of projects does not always fit its sustainable development mandate, and its claim to raise the standards of environmentally-problematic projects is often not justified in reality. It might be understandable if occasional projects did not go according to plan, but for years we have witnessed a pattern of civil society organisations warning the bank of environmental and social problems, and the EBRD anyway approving the projects. Often this is due to the bank placing excessive trust in its clients' claims, while in other cases the bank acknowledges weaknesses but anyway proceeds with the project. Most worrying are cases where the bank has approved several loans to the same client or for the same type of project, even when previous weaknesses have been documented. This is the case with the loans to MHP in Ukraine and the series of hydropower projects in Georgia. While some Board members are very active in asking questions and checking the details of projects, this level of activity needs to be spread more equally across the Board and shareholder countries need to send a stronger signal to the EBRD management in such cases that it will not support problematic projects.

For larger projects like the Shah Deniz II loans for Lukoil or

decisions on levels of support for countries like Egypt or Ukraine, it seems likely that the EBRD directors' votes are influenced by their countries' political positions, although this is difficult to verify. It also seems likely that many countries are reluctant to vote against each other's projects, knowing that their own project might be up for approval soon. There have however also been positive examples of intervention from board members for example in strengthening the Environmental and Social Policy in 2014 and in ensuring that the Project Complaint Mechanism findings on the Kolubara coal project in Serbia were translated into a stronger Management Action Plan in 2015.

Another reason why the bank supports problematic projects appears to be the desire to keep up certain lending volumes – in other words, the EBRD is thinking less like a development institution and more like a commercial bank.

This is currently of particular concern in the case of Ukraine. One billion euros annually until 2020 has been allocated for possible EBRD financing in the country, but it is questionable whether the quality of the projects being put forward to the bank is sufficiently high to really merit such levels of support.

All of this raises the question of who is the EBRD accountable to and who is ready to make the necessary changes at the bank?

Given the remaining deficiencies in the EBRD's accountability to those affected by its operations, it is clear that it is mainly the bank's shareholders which can drive change within the institution. However this will only happen if they are able to scrutinize the bank's investments and results measurement much more closely, as well as sending a clear signal to the bank's management that it is the quality of the investments, and not the quantity, that matters. The very minimum that could be done is changing the project-level transition indicators to include environmental and development factors and making sure that the project summary documents are regularly updated with the actual results of projects, not just predicted results. However it is not clear whether this would be sufficient to bring the needed changes.

The issues raised in this report are in our opinion much larger than results indicators. After 25 years of EBRD operations, the transition concept has become increasingly blurry, the bank's region of operations has shifted considerably, it has – at least for now - lost its largest country of operation, and its environmental, social and development results remain as elusive as ever. The bank continues to finance environmentally harmful projects and those which put countries on the path to resource dependence. This situation calls for a thorough re-think of the bank's purpose and added value. The question is whether the bank's shareholders are ready to take on this challenge?

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138. Apart from its 30 operating subsidiaries in Ukraine and its holding entity in Luxembourg, the company also has a sub-holding located in Cyprus, a sunflower oil and poultry meat trading company in the British Virgin Islands, and has incorporated MHP B.V., a financing entity based in the Netherlands. For further details see: http://www.somo.nl/publications-en/Publication_4228
139. For example in 2003 people from the village of Yasnoziryia in the Cherkasy region successfully opposed the construction of an MHP facility. In 2007 local people in the village of Elizavetovka near Oril Leader complained about the unofficial disposal of biological waste on the fields and manure leakage from one of the storage sites, resulting in the contamination of 820 square metres of land.
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156. MHP claims that the studies are at the local company's offices and local administrations (who organise the public hearings), but as the international team was not allowed to enter the company's premises in Ladyzhyn in May 2015 and review the EIAs it is unclear whether this is the case.
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