



European Bank
for Reconstruction and Development

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Mark Fodor
Coordinator
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Coalition for Human Rights in Development

Via Electronic Mail
mfodor@rightsinddevelopment.org

6 May 2020

Dear Mr Fodor,

Thank you for your letter dated 14 April 2020 addressed to the EBRD President, in which you brought to our attention the increased risks of reprisals deriving from the restrictive measures put in place by governments across the EBRD region (and beyond) to contain the spread of the Covid-19 pandemic. The EBRD President has asked me to respond on his behalf.

First, I would like to reiterate the EBRD commitment to principles of democracy and pluralism, as set out in Article 1 of the Agreement Establishing the Bank. We are well aware of the challenges resulting from the COVID-19 crisis, and are indeed concerned with some of the developments. We are thus continuing to regularly monitor the situation and updating our Board - most recently, in the context of our annual country strategy review process – and, if relevant, through the Project Complaint Mechanism’s quarterly reporting via the Audit Committee. We share our views when communicating to authorities in our countries, and coordinate our positions and actions with other international actors. In our Solidarity Package aimed at helping the countries we work in address the crisis and its consequences, we have also noted worrying recent trends in the area of rule of law and human rights compliance and re-affirmed that the transition process could be undermined without functioning democracy and limits to state power.

In January 2019, we released a communication¹, where we publically re-affirmed the Bank’s zero-tolerance policy towards retaliation against civil society and project stakeholders. As stated in that note, any such retaliation could constitute a “Coercive Practice” under the EBRD’s Enforcement Policy and Procedures and result in sanctions, including debarment. In addition, under the current circumstances, the EBRD Environmental and Sustainability Department (ESD) and the Civil Society Engagement Unit are working hard to ensure the highest standards of stakeholder engagement at both project and institutional level, with a particular focus on accessibility and protection of human rights defenders.

At the project level, the standard approach to identifying environmental and social risks, including contextual risks, and engaging with our clients to ensure these are addressed appropriately remains critically relevant during Covid-19. This also relates to engagement with affected and interested stakeholders, including those vulnerable to reprisals. Our clients must provide access to safe and confidential channels for engagement and

¹ [Retaliation Against Civil Society and Project Stakeholders](#)



European Bank
for Reconstruction and Development

complaints management and continuously monitor their engagement mechanisms to ensure their accessibility and safety. Where this fails, the Bank provides for direct channels of communication as well, including with ESD and PCM, the Bank's independent accountability mechanism. More recently, direct communication is also possible through the Trade Union Communications Mechanism, established in 2019 in cooperation with the ITUC.

ESD has issued a Covid-19 briefing note on stakeholder engagement, reiterating the prime importance of information disclosure and consultation in social and environmental impact assessment and management, and providing information to EBRD clients about alternative approaches to consider for ensuring continued broad-based and meaningful engagement, taking account of mandatory, national Covid-19 restrictions and social distancing. In this briefing note we alert our clients to the potential for online engagement platforms to increase the risk of reprisals and the importance of ensuring that communication channels continue to be available for project complaints to be addressed securely and anonymously.

While the response will in many instances involve new technologies and online media, means of remote engagement need to remain both accessible and safe for vulnerable persons or groups, especially those who voice critical views on certain aspects of our projects. Data security and the possibility to raise complaints anonymously therefore need to be provided for. Where this cannot be guaranteed, additional channels of communication may need to be considered, including via third parties who can act as intermediaries. We are currently engaging internally and externally to better understand and address issues around digital security, and to enhance our support to CSOs as well as our clients for ensuring that requisite protection standards are being met.

In addition, in ESD's Covid-19 briefing notes on labour requirements and on workplace health and safety, we have stressed the importance of protecting all workers, and especially vulnerable and essential workers, consulting with workers and their representatives on any new measures taken, and demonstrating a zero tolerance stance with regards to discrimination against sick workers.

All briefing notes as well as additional reference materials and resources are available on ESD's new Covid-19 web-page at <https://www.ebrd.com/sustainability-covid.html>.

Under the EBRD Capacity Building Framework, we will keep supporting the role of civil society as public accountability mechanism, including when it comes to monitoring of public spending on Covid-19 response in terms of both crisis management and reconstruction. We are also committed to provide technical assistance on digital transformation to clients that may struggle more with the adoption of new ICT tools to comply with the new circumstances for ensuring inclusive and safe stakeholder engagement practices. Furthermore, we are working with our IT department to provide adequate ICT infrastructures and services to support the EBRD engagement with civil society through the adoption of enhanced digital security systems as well as access to platforms for dialogue such as the EBRD Consultation Hub.

In the context of PCM, the Mechanism continues to evaluate appropriate, secure communications channels through which to continue its engagement with complainants from both Project-affected communities and international civil society, in order to promote safe access to PCM. The Mechanism will employ a flexible approach to progress cases remotely where feasible --- guided by the availability, capacity, and unique circumstances of case parties.

The issues you have raised in your correspondence are being carefully considered where they relate to case processing, and PCM will continue to carry out its practice of highlighting the Bank and PCM's position on retaliation to case parties through bilateral engagement, both at the initiation of new cases and, where concerns



European Bank
for Reconstruction and Development

have been raised, throughout the case process. The 2019 Project Accountability Policy, set to come into effect 1 July 2020, further enshrines the accountability mechanism's approach.

The EBRD also actively participates in the working group of International Organisations on the protection of human rights defenders, led by the Fundamental Rights Agency (FRA) and the OSCE Office for Democratic Institutions and Human Rights (ODIHR). In particular, we are discussing digital security, civic space and donor coordination to enhance the resilience of the civil society sector. We are all in a steep learning process to adapt to these unprecedented circumstances and we remain open to any practical suggestion on how the Bank can ensure inclusive and safe stakeholder engagement at times of Covid-19.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alistair Clark', is positioned below the text 'Yours sincerely'.

Alistair Clark
Managing Director
Environment and Sustainability Department