

No time to celebrate

A breakthrough for human rights is needed after 30 years of the EBRD

June 2021



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Acknowledgements

Civil society representatives from Egypt, Turkmenistan and Uzbekistan who contributed to the report, but cannot be named due to risks for their safety. Many thanks also to the Cotton Campaign, Counter Balance and the secretariat of the Coalition for Human Rights in Development.



This publication has been financed by the Swedish International Development Cooperation Agency, Sida. Responsibility for the content rests entirely with the creator. Sida does not necessarily share the expressed views and interpretations.

Introduction

Democracy and human rights have crept up on the global economic governance agenda. On the one hand, violations of human rights breach international law and can present significant legal, financial and reputational risks for investors. On the other, people increasingly demand to have a say in investment decisions that impact their lives. Therefore, civil society and some shareholders have urged multilateral development banks (MDBs) to reconcile macroeconomic priorities and corporate interests with the rights of individuals and communities affected by development projects.

The European Bank for Reconstruction and Development (EBRD) stands out among MDBs with the commitment of its shareholding countries to the fundamental principles of democracy and respect for human rights. The Bank's unique political mandate is enshrined in Article 1 of its establishing charter, which includes the provision that the EBRD may only carry out its purpose in countries of operations that are *'committed to and applying the principles of multiparty democracy, pluralism and market economics'*.¹

The EBRD is celebrating its 30th anniversary in 2021. It is a perfect moment to reflect on the Bank's track record, human rights policy framework and operational approach. Has the Bank taken the necessary steps to address the emerging challenges related to democratic transition and respect for human rights in its regions of operations? **What progress has been made in the last three decades and what gaps remain to be addressed for a robust system that prevents violations and promotes rights?**

The last decade saw significant expansion of the EBRD's geographical scope to the Southern and Eastern Mediterranean region. After years of discussions and assessments of the EBRD's role in the European Union's financial architecture, the Bank's shareholders are coming around to the idea of a gradual expansion into sub-Saharan Africa. The Bank is recognised for its ability to expand fast and for its 'boots on the ground' approach to building operations in new countries. Compliance with its political mandate has been a challenge, however, and the Bank has come under fire for failing to prevent human rights abuses in both its new and its old regions of operations.

The EBRD claims that focusing on the private sector in countries with democratic deficits is the way forward. However, the private sector is not immune to the systematic abuse of human rights. On the contrary, EBRD clients often benefit from weak rule of law, dysfunctional judicial systems and the perks of crony capitalism through fast-tracked permitting, sectoral monopolies, tax breaks², state grants³ and all sorts of other state interventions. Land confiscation⁴ organised by the state has left farmers destitute and exploited at the hands of new corporate players. Police are sent to quash protests⁵ against oligarchs, while dependent courts are used to intimidate critics⁶ through strategic lawsuits against public participation (SLAPPs⁷). Local authorities evict marginalised groups⁸ to clear the ground for projects; a mayor turns against public interest and actively supports a project as his family gets rich in land acquisition deals⁹ with a foreign investor. And how does the EBRD deal with these situations with private sector clients? Blame it all on third parties?

1 European Bank for Reconstruction and Development, [Multiparty democracy and pluralism](#), accessed 15 June 2021.

2 Vincent Kiezbrink, ['European tax havens help Ukrainian poultry giant to feather its nest'](#), *Somo*, 21 October 2020.

3 Ирина Дождева, ['Активисты требуют от главы ГФС Мельника вмешаться в дело о неуплате 2,5 млрд грн налогов собственником заправок ОККО'](#), *Vesti.Ua*, 12 April 2021.

4 Uzbek Forum for Human Rights, ['Cotton Clusters And The Despair Of Uzbek Farmers: Land Confiscations, Blank Contracts And Failed Payments'](#), 2 April 2021.

5 KievUkrainian, ['В Киеве во время разгрома АЭС на Ревуцкого ранен несовершеннолетний \(фото\)'](#), 5 October 2017.

6 David Hoffman and Fidanka Bacheva-McGrath ['SLAPPd: the Armenian activists fighting a mining multinational's lawsuits'](#), *CEE Bankwatch Network*, 22 June 2020.

7 Greenpeace, CEE Bankwatch Network, Reporters Without Borders, Amnesty International, Transparency International, the European Federation of Journalists (EFJ), et al., ['We don't want to be sued into silence'](#), Euractiv, 16 November 2020.

8 Nina Lesikhina, ['Left jobless after eviction from Vinca landfill, Roma begin negotiations with Belgrade after complaint to the EBRD'](#), *CEE Bankwatch Network*, 22 April 2021.

9 Armecofront, ['Who Privatized and Sold Gndevaz Land Areas \(Hetq.am\)'](#), 17 February 2021.

In some authoritarian countries, the share of public sector investments is unjustifiably high. In Uzbekistan,¹⁰ half of the EBRD's investments to date have been in the public sector. In addition, the EBRD is found lending to state-owned banks, such as a large loan for Uzbekistan's National Bank for Foreign Economic Activity¹¹ and a dozen loans to the National Bank of Egypt,¹² and calling all these 'private sector' transactions.

The EBRD has a well-developed and yet ineffective system for assessing political risks and safeguarding human rights. The Bank conducts political country-level assessments against fourteen criteria in four areas: Free Elections and Representative Government; Civil Society, Media and Participation; Rule of Law and Access to Justice; and Civil and Political Rights. The Bank also has a transition methodology that includes Good Governance and Economic Inclusion as key transition qualities of 'a well-functioning and sustainable market economy'.¹³ The EBRD's Environmental and Social Policy provides for a wide range of human rights safeguards in projects. The Bank's Office of the Chief Accountability Officer (OCCO) conducts integrity checks for prohibited practices, which should include coercive practices, and the Bank has declared that it will not tolerate reprisals against critics of its activities. Last but not least, the EBRD's Independent Project Accountability Mechanism (IPAM) is mandated to deliver accountability and redress for harm done by EBRD operations.

The above seems like a comprehensive system, but unfortunately, it is not well-implemented and the separate elements are not well-linked. The EBRD needs to close the loopholes to ensure a watertight operational approach that delivers effective protection and promotion of human rights. For example, if a political assessment shows weak democracy and rule of law and systematic rights abuses in a country, how will the application of the safeguards be supplemented? Or, if the IPAM receives an allegation of coercive practices used in projects by either the client or a third party (authorities), will this result in an OCCO investigation?

The experience of the civil society organisations that authored this report shows the gaps that the EBRD should fill for a robust operational approach to preventing and protecting rights. It should also adopt a differentiated approach to account for the specific contexts of each country, particularly countries that do not fully meet the standards envisaged in the Article 1 mandate. In such cases, the Bank has an obligation to fully assess the human rights risks and impacts of proposed projects and whether they can be effectively mitigated through independent monitoring and access to effective remedy, among other means. The Bank's approach in each case should be informed through robust engagement with civil society and other stakeholders.

The EBRD has taken steps to strengthen its approach to assessing the risk of labour rights violations, though still more can be done in this area, both for corporate clients practices and for supply chains. In other areas, like assessing the risk of gender-based violence and harassment, the EBRD must still develop and implement a robust approach on the level of countries, sectors and projects.

This report outlines the situation in six countries of operation and the practical challenges concerning human rights there. The selection attempts to present the problem in different regions of operations and link it to civil society's experiences with the EBRD's operations and policy dialogue. Based on these experiences, the report makes constructive recommendations on specific steps that the EBRD should take to improve its approach in order to ensure respect for human rights and support democratic decision-making for development in its countries of operation.

10 European Bank for Reconstruction and Development, [Uzbekistan Data](#), accessed 15 June 2021.

11 European Bank for Reconstruction and Development, [EIF – NBU SME Senior Loan](#), 26 September 2017.

12 European Bank for Reconstruction and Development, [Project Summary Documents – Egypt](#), accessed 15 June 2021.

13 European Bank for Reconstruction and Development, [How we assess transition impact](#), accessed 4 June 2021.



Minsk



9,349,645

Belarus

In its Freedom in the World report 2021, Freedom House ranked Belarus ‘not free’, with 11 of 100 points. It said that Belarus is an **authoritarian state** in which elections are openly orchestrated and civil liberties are tightly restricted.



Jana Shnipelson - Unsplash

In August last year, President Alexander Lukashenko’s regime forged the elections and refused to release its tight grip on power. The peaceful mass protests that followed were crushed with extreme brutality. Reportedly, more than 35,000 people have been arrested¹⁴ since last summer, many of them tortured and abused at the hands of the ‘forces of order’. Four hundred and seventy-six persons¹⁵ in Belarus are considered political prisoners.

Belarusian civil society has been in dialogue with foreign investors in the country, including with the EBRD’s Board of Directors. Some activists living in exile have suggested divestment¹⁶ and tighter sanctions on Belarus. Those who remain in the country, however, have requested that the EBRD provide economic and political support to the people of Belarus during the period of transition to a new, legitimately elected government. In view of the ongoing crisis, **they underlined their preconditions for foreign investments in the country**, namely: new fair elections, the release of all political prisoners, investigation of violence and torture, and bringing those responsible for violence and torture during to justice.

The activists asked the EBRD to declare zero tolerance to violence against civic activists, and the inadmissibility of restricting access to information and participation in decision-making through peaceful protests and strikes in Belarus. A continuation of the Bank’s activities as before, without voicing its conditions for investments and waiting for them to be met, would be an indirect legitimisation of the current government.

The activists also asked the EBRD to avoid providing funding that the government could use for continued repression. Integrity due diligence of potential clients for any affiliations with governmental bodies and political elites is now more necessary than ever to avoid support for the authoritarian regime of Lukashenko and corruption schemes. The EBRD should stop funding any companies, public or private, proven to be financing Lukashenko and his apparatus.

In 2021, Belarusian civil society has reported that the situation in the country has deteriorated drastically. In a shocking new low,¹⁷ on 27 May Belarusian authorities forcefully landed a Ryanair flight between Athens and Vilnius, two EU capitals, in order to detain activist Raman Pratasevich and his girlfriend, Sofia Sapega. The message that any form of dissent will be punished, that civil society can run but cannot hide, was loud and clear.

14 Euronews with AFP and AP, ‘Spoken after torture’: Belarus opposition slams journalist’s video confession’, 4 June 2021.

15 Viasna Human Rights Center, ‘As of June 14, 478 persons in Belarus are considered as political prisoners’, accessed 15 June 2021.

16 Ben Quinn, ‘UK companies face pressure over links to Belarus regime’, *The Guardian*, 30 May 2021.

17 Rachel Denber, ‘Belarus’s Shocking New Low in Crushing Dissent’, *Human Rights Watch*, 24 May 2021.

After the incident, EBRD shareholders raised concerns and **the Bank announced that it will review its projects in Belarus**, as reported by *Devex*.¹⁸ The upcoming review will cover the status of disbursements under the private and public sector operations, including the use of associated technical cooperation funding. The EBRD has an active portfolio of EUR 582 million in the country,¹⁹ with 63 per cent of its projects in the private sector. However, the EBRD recently announced that it is currently limiting new investments to selected private sector projects and is not considering new sovereign projects in the country.²⁰



Tashkent



34,588,900

Uzbekistan

The EBRD has invested over EUR 2.4 billion in 97 projects in Uzbekistan, mainly in energy, agribusiness and financial institutions. Despite sweeping economic reforms and some improvements on human rights, the country remains among the world's most authoritarian regimes. Freedom House's Nations in Transit 2020 report²¹ gave Uzbekistan a Democracy Percentage of 2 out of 100.



Uzbek Forum for Human Rights

The UN Human Rights Committee has confirmed²² **persistent inequality between men and women** in Uzbekistan. However, there are only two EBRD projects²³ that aim to support female entrepreneurs in Uzbekistan, with a total investment of USD 12 million, and only two²⁴ out of 92 projects in the portfolio have a gender assessment and action plan. These examples are a good if insufficient start that the Bank should build on. The EBRD should increase investments in projects that proactively support and protect women, and should require gender impact assessment and gender action plans for all its operations in Uzbekistan.

In addition, the EBRD requires its clients to ensure public participation in projects' decision-making processes. However, Uzbek civil **society is constrained** by numerous barriers that stifle its activities, and activities by non-registered groups are illegal.²⁵ Applications to register independent organisations are rejected time and again on spurious grounds and over 60 per cent²⁶ of registered civil society organisations in Uzbekistan are established by a governmental decree. Moreover, freedom of expression is limited, and human rights defenders and journalists continue to come under secret surveillance,²⁷ or are beaten²⁸ or detained.²⁹ In this context, the EBRD and its clients are unable to ensure meaningful public participation.

18 Vince Chadwick, 'EBRD reviews Belarus projects after plane hijacking', *Devex*, 27 May 2021.

19 European Bank for Reconstruction and Development, *Belarus Data*, accessed 15 June 2021.

20 European Bank for Reconstruction and Development, *Belarus Overview*, updated 8 April 2021.

21 Freedom House, *Nations in Transit*, 2020.

22 United Nations, *Human Rights Committee Concluding observations on the fifth periodic report of Uzbekistan*, 1 May 2020.

23 European Bank for Reconstruction and Development, FIF - CA WiB Programme-DAVR Bank, 18 March 2020; European Bank for Reconstruction and Development, FIF - CA WiB Programme - Ipoteka Bank, 5 October 2020.

24 Green Climate Fund and EBRD, *Gender Assessment - FP140: High Impact Programme for the Corporate Sector*, 7 October 2020; European Bank for Reconstruction and Development, Indorama Agro Working Capital Loan, 24 April 2020.

25 LexUz on-line, 'Кодекс Республики Узбекистан об административной ответственности РАЗДЕЛ ПЕРВЫЙ ОБЩИЕ ПОЛОЖЕНИЯ', 22 September 1994.

26 Irina Matvienko, 'Uzbekistan has 10,000 NGOs, but what do they do?', *OpenDemocracy*, 9 June 2021.

27 Association for Human Rights in Central Asia, 'New names for new times: updated lists of prisoners imprisoned on politically motivated grounds in Uzbekistan' 18 April 2018.

28 Justice for Journalists, 'Uzbekistan: authorities must end reprisals against blogger Miraziz Bazarov for exercising his right to freedom of expression', 28 April 2021.

29 Uzbek Forum for Human Right, 'The Shrinking Space for Freedom of Speech in Uzbekistan Puts Journalists and Activists at Risk', 13 May 2021.

In a rare case, however, impacted communities and workers have self-organised and demonstrated the depth of problems surrounding EBRD operations. Indorama Agro, an agro-chemical conglomerate, has enjoyed USD 70 million in support from the EBRD. Farmers and rural communities, with the help of Uzbek Forum for Human Rights and Bankwatch, have raised grave concerns³⁰ about land confiscation, ineffective livelihood restoration plans and environmental degradation that have exacerbated poverty and unemployment in the cotton sector, where Indorama Agro operates privatised clusters. Although Uzbek Forum monitors detected no forced labour on Indorama-operated clusters during the 2020 cotton harvest, employees have experienced poor working conditions, low wages, the use of short-term contracts that deny employees benefits and other protections, and retaliation for speaking up about problems.

The EBRD's close involvement in the Indorama project ensured that **its client recognised³¹ Uzbekistan's first independent trade union**, which was set up by Indorama workers, and agreed to an external revision of the project's grievance mechanism by an independent third party. It shows a way forward for EBRD monitoring and cooperation with clients in protecting labour rights in its projects in challenging contexts like Uzbekistan.



Ashgabat



6,031,187

Turkmenistan

Turkmenistan is one of the world's most opaque and closed countries, with an authoritarian regime that stifles all opposition and has had only two heads of state in its thirty years of independence. Turkmenistan was ranked as one of the 'worst of the worst' by Freedom House in its 2021 report.



Joel Heard – Unsplash

Amnesty International's 2020 report called the country 'deeply authoritarian'. The country has no independent media, the executive branch of the government controls virtually all aspects of decision-making, there is no political opposition or legitimate legal system, and independent civil society is nonexistent.³² Torture is commonplace in the country's prison system, and political prisoners are forcibly disappeared in violation of international human rights law. Forced labour, including among children, is used to gather the country's cotton harvest every year. The government of Turkmenistan officially denies the existence of COVID-19 in the country, but it has instituted restrictions on freedom of movement, including banning international travel, regardless.

With its current policies, **the EBRD is rehabilitating and legitimising one of the world's most totalitarian regimes**. How the EBRD can claim Turkmenistan meets the Article 1 requirements for countries to be eligible for EBRD financing, especially after 30 years, is hard to fathom. The EBRD has invested EUR 292 million in 85 projects in Turkmenistan. The current portfolio includes 35 projects for a total of EUR 54 million. All of these investments, except for one project financed in 1997, are in the private sector. The EBRD has refused investments in the production and export of oil and gas if revenues flow into the highly non-transparent Foreign Exchange Reserve Fund, as stated in the Bank's strategy for Turkmenistan.

30 Nina Lesikhina, 'Pulling the 'cotton' over Uzbek eyes at latest EBRD investment', *CEE Bankwatch Network*, 26 January 2021.

31 Indorama, 'EBRD & IFC helps Indorama introduce advanced cotton farming technologies in Uzbekistan', accessed 15 June 2021.

32 Reporters Without Borders ranked Turkmenistan 178 out of 180 countries in its World Press Freedom Index, with only Eritrea and North Korea ranking lower. Reporters Without Borders, Turkmenistan, accessed June 8, 2021.

Although the EBRD's current country strategy calls for investments in green technology, only one of the current projects – in the hydrocarbon sector – involves environmental remediation. The company that obtained the loan, Mawy Kenar, has an agreement with the State Oil Company Turkmennebit, approved by a decree from Turkmenistan's president Gurbanguly Berdymukhamedov. This endorsement by the state seems to call into question the free-market nature of the transaction.

The cotton industry is a **state-orchestrated system of forced labour** in Turkmenistan, where tens of thousands of public sector workers are forced to pick cotton (or pay money to hire replacement workers) under the threat of job termination. Because of the forced labour problem, in 2018 the US Customs and Border Protection halted imports of cotton and cotton goods from Turkmenistan. One hundred and thirty-five world apparel brands signed the Turkmen Cotton Pledge³³ committing not to source cotton or textiles from Turkmenistan.

In 2020, the EBRD approved a USD 1.4 million loan to a Turkmen logistics company Bir Dunya.³⁴ While the goal of the loan is to support the expansion of the existing production, this company is extensively involved in cotton handling. In fact, the company states that the 'transportation of cotton and other fibrous goods is considered one of our main transportation businesses'.³⁵ Thus, through financial support to Bir Dunya, the EBRD is effectively **supporting the trade in cotton produced using forced labour in Turkmenistan**, raising questions about the supply chain due diligence conducted by the Bank. This is in addition to the concern that based on the requirements for countries in Article 1 of the EBRD's charter, the Bank should not permit any of its own investments in the country. Given the extreme repression inside the country, the Bank has a serious obligation to meaningfully consult Turkmen civil society and other key stakeholders outside the country to determine how the Bank's should engage.



Ankara



83,614,362

Turkey

Turkey regularly tops the list of EBRD investments. In 2020, the Bank's investments in the country reached EUR 1.7 billion, nearly double the EUR 1 billion in investments made in 2019. However, this strong investment focus and portfolio growth in Turkey is at odds with the EBRD's political mandate and the 'more for more, less for less' principle that ties investments to political and economic reforms.



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Since 2009, the Bank has invested more than EUR 13 billion in the country through 339 projects, and 93 per cent of the portfolio is in the private sector.

Human Rights Watch describes the situation in Turkey as 'a deepening human rights crisis'³⁶ with a **dramatic erosion of its rule of law and democracy framework**. According to Freedom House,³⁷ the Turkish government has demonstrated a growing contempt for political rights and civil liberties. Its authoritarian

33 Responsible Sourcing Network, [The Problem with Turkmen Cotton](#), accessed 15 June 2021.

34 European Bank for Reconstruction and Development, [DEF - Bir Dunya](#), accessed 15 June 2021.

35 Bir Dunya, [Agriculture Products Transportation](#), accessed 15 June 2021.

36 Human Rights Watch, [Turkey - Country page](#), accessed 15 June 2021.

37 Freedom House, [Freedom in the World 2020 - Turkey](#), 2020.

nature has been fully consolidated in the dramatic crackdown on civil society since the 2016 attempted coup and the 2017 constitutional changes that helped concentrate power in the hands of the president. In March of this year, Turkey withdrew from the Council of Europe’s Convention on Preventing and Combating Violence Against Women and Domestic Violence – a blow to the women’s rights movement in Turkey.

In this context, **it is inconceivable that democracy and human rights were not on the agenda** of the EBRD president’s virtual visit to Turkey in May. During her visit, President Renaud-Basso was critical of political interference in Turkey’s banking sector, as the central bank shake-up³⁸ has raised financial instability concerns. Beyond that, however, the President praised the resilience³⁹ of Turkey’s economy amid the crisis and promised the same record levels of investments in 2021 as in 2020, with not a word about the democratic deficit in the country.

Although the Bank has not used its leverage to encourage political reforms, it has made small steps in **opening up space for civil society and has consistently worked to promote women in business**. For example, in March the Bank launched the pilot Digital Civil Society Programme⁴⁰ in an attempt to enhance the protection of the space for civil society in Turkey and, subsequently, of human rights in response to the COVID-19 crisis. The EBRD has also funded the development of a roadmap to promote greater representation of women in corporate boards. The initiative was done in partnership with Turkey’s Ministry of Family and Social Services, the International Finance Corporation (IFC), business associations and professional women’s networks. In 2020, the EBRD commissioned a gender baseline assessment⁴¹ of agribusiness supply chains in Turkey and Uzbekistan, an initiative that should be replicated more widely by the Bank for other sectors and countries of operations.



Cairo



101,576,517

Egypt

Ten years after the 2011 uprising, Egyptians are living in the midst of a **human rights crisis** under the harsh authoritarian grip of President Abdel Fattah al-Sisi’s government. Both quantitative and qualitative rights reports show Egypt’s situation continuously worsening.



Florian Olivo – Unsplash

The country ranks among the worst countries in the world on the Freedom House Democracy index (dropping from 26 to 18 between 2017 and 2021⁴²); on Reporters Without Borders’ World Press Freedom index,⁴³ Egypt has been ranked amongst the worst 15 to 20 countries⁴⁴ out of 180 in recent years.

38 Matthias Williams and Karin Strohecker, ‘EBRD President: Turkey central bank shakeup raises financial stability concerns’, *Reuters*, 7 April 2021.

39 *Churriyet Daily News*, ‘Turkish economy resilient, dynamic: EBRD head’, 4 May 2021.

40 Euromed Rights, ‘The EBRD and digital freedoms in Turkey’, 31 March 2021.

41 European Bank for Reconstruction and Development, ‘Gender in agribusiness supply chains in Uzbekistan and Turkey’, 15 July 2020.

42 Freedom House, *Freedom in the World 2021 – Egypt*, 2021.

43 Reporters Without Borders, ‘Egypt’, accessed 15 June 2021.

44 Reporters Without Borders, *2021 World Press Freedom Index – Map*, accessed 15 June 2021.

Unfree and unfair electoral processes have crystallised the **rollback of democracy and of the separation of powers** in Egypt. In 2019 the authorities forced through constitutional amendments⁴⁵ drafted in secrecy by the pro-Sisi Parliament⁴⁶ to extend Al-Sisi's time in power, constitutionalise the executive's authority to appoint judicial leadership,⁴⁷ and grant the military custodianship over elected institutions. The 2020 legislative elections proceeded in an extremely closed environment; the result – another strongly pro-Sisi parliament – was known in advance, according to *The Economist*.⁴⁸

The public sphere has been harshly closed, and the freedoms of expression, association and peaceful assembly rolled back by law and in practice. Egyptians no longer have legal and safe means to peacefully push for rotation of power or policy change, nor to express grievances. In response to the September 2019 peaceful protests over government corruption and mismanagement, over 4,300 civilians were arrested or forcibly disappeared⁴⁹ in a matter of days. The 2021 publication of the implementing regulation (by-law) for Egypt's 2019 non-governmental organisation law⁵⁰ reconfirmed the draconian nature of the legal framework.⁵¹ Thus, fear of repression and reprisals among rights defenders, journalists,⁵² civil society organisations and members of the business community affects the EBRD's ability to consult with them to collect accurate data on the situation.

The EBRD began operations in Egypt almost 10 years ago, when there were high hopes for democratic reforms in the country. The Bank has invested over EUR 7 billion⁵³ in 130 projects, with 41 per cent of its portfolio in the public sector. In a decade the Bank's activity has expanded to the extent that Egypt has been either the largest or second-largest country of operations of the EBRD for the past three years, according to Bank data. Yet the severity of Egypt's human rights crisis prompted 32 states, including most of the biggest shareholders in the EBRD and most of Egypt's western allies, to issue a rare public joint statement⁵⁴ on Egypt's human rights situation at the UN Human Rights Council on 12 March this year.

In April 2021, 27 civil society organisations asserted that Egypt's 'worsening rule of law and human rights abuses represent non-compliance with the political aspects of the EBRD's mandate and constitute a major problem for the Bank that should be addressed urgently and seriously.' As the EBRD finalises its country strategy for Egypt in 2021, **to protect its EUR 7 billion⁵⁵ in investments in Egypt to date**, it must take stock through a thorough and independent assessment, and address the acute deterioration of democratic governance and human rights in the country.

The latter requires the Bank to invest political capital to urge the Egyptian authorities to show clear and measurable commitments – in the fields of democracy, human rights, access to justice and the rule of law – toward ending the implicit and explicit violation of the Bank's reform benchmarks. This would be consistent with the core message and policy options within the EBRD's Procedures to Implement the Political Aspects of the Mandate⁵⁶ (updated 2013) and the 2018 Addendum⁵⁷, in which two key Bank objectives are listed as 'Demonstrating a firm commitment to the Bank's political character' and 'Maximising its impact and leverage'.

45 Cairo Institute for Human Rights Studies, 'Egypt: Proposed amendments threaten stability and sanction lifelong presidency', 12 February 2019.

46 The Tahrir Institute for Middle East Policy, *Egypt Parliament Watch – Session Four Report*, 13 December 2019.

47 Cairo Institute for Human Rights Studies, 'Egypt: Unconstitutional Draft Law on Judicial Authorities Imperils Judicial Independence', 3 April 2017.

48 The Economist, 'Another sham election highlights Egypt's problems', *The Economist*, 22 October 2020.

49 Amnesty International, 'Egypt: Largest wave of mass arrests since President Abdel Fattah al-Sisi came to power', 2 October 2019.

50 Cairo Institute for Human Rights Studies, 'Egypt: Draft NGO law before parliament is simply rebranded repression, must be rejected', 11 July 2019.

51 Cairo Institute for Human Rights Studies, 'Egypt: Legal Commentary on Regulations of NGO Law n. 149 for 2019 on Civic Associations', 25 February 2021.

52 Human Rights Watch, 'Egypt: Escalating Reprisals, Arrests of Critics' Families – End Hostage-Like Arrests', 19 February 2021.

53 European Bank for Reconstruction and Development, 'Egypt data', accessed 15 June 2021.

54 Permanent Mission of Finland, Geneva, 'Finland together with a group of countries express their concern over the trajectory of human rights in Egypt during the item 4 General Debate at the Human Rights Council 46th Session', 12 March 2021.

55 European Bank for Reconstruction and Development, 'Egypt data'.

56 European Bank for Reconstruction and Development, 'Political aspects of the mandate of the EBRD', 5 March 2013.

57 European Bank for Reconstruction and Development, 'The Bank's response to Compliance Challenges with the Political Principles in Article 1 in Countries of Operations', accessed 15 June 2021.



Kyiv



41,487,960

Ukraine

The EBRD's investments in Ukraine amount to almost EUR 15 billion, with nearly 500 active projects in infrastructure, industry, commerce and agribusiness. Only five⁵⁸ of them envisage gender elements.



CEE Bankwatch Network

According to Freedom House, Ukraine's democracy score fell from 4.64 in 2018 to 3.36 in 2020.⁵⁹ Freedom House calls Ukraine a hybrid regime where corruption remains endemic and the judicial system weak, and there are frequent attacks against journalists, civil society activists and minority groups. Ukraine is 74th out of 156 countries in the Global Gender Gap Index 2021 rankings.⁶⁰

Indeed, the human rights situation in Ukraine is far better than in the other countries mentioned in this report. Civil society is able to monitor and participate in development projects. This allows for closer examination of the EBRD's role in improving corporate governance and promoting transparency and stakeholder engagement through its operations in the private sector. Nonetheless, reprisals against critics of EBRD clients are commonplace. The **weak rule of law** in the country allows long-standing Bank's clients to use loopholes in legislation and to implement dodgy schemes when developing their businesses.

A notorious EBRD client in Ukraine is the public joint stock company Concern Galnaftogaz (GNG), an independent distributor of transportation fuels through its OKKO network of filling stations. The EBRD's investments, including an equity share⁶¹ in the company, aimed to improve GNG's corporate governance. However, the company **has been accused of malpractice** in many of its activities. For example, GNG's sexist advertisements⁶² have drawn criticism, and the compliance authority, the National Council of Ukraine for TV and Radio Broadcasting, has withdrawn⁶³ an OKKO ad from television and advertising boards.

While constructing and running OKKO filling stations, GNG's affiliated companies have allegedly violated the laws of Ukraine, including building codes and environmental regulations. By creating proxy companies, GNG can 'outsource' dodgy activities and avoid being held responsible for legal violations. In several of their decisions, Ukrainian courts stated⁶⁴ that third parties linked to GNG unlawfully obtained land plots by claiming they would be used for socially useful purposes (e.g. the construction of a medical and physical rehabilitation centre for people with disabilities in the town of Mykolaiv), but constructed filling stations instead. One of the stations in Mykolaiv is already built and operates with OKKO branding. GNG's affiliated companies did not conduct an environmental impact assessment and held no public consultations, even though these are prescribed by the law of Ukraine.

Furthermore, GNG is linked to human rights abuses committed during the construction of an OKKO filling station on Revutskoho street in Kyiv.⁶⁵ Local activists who opposed the construction of the station near their

58 European Bank for Reconstruction and Development, [Project Summary Documents – Ukraine – Gender](#), accessed 15 June 2021.

59 Freedom House, [Countries and Territories](#), accessed 15 June 2021.

60 World Economic Forum, [Global Gender Gap Report 2021](#), March 2021.

61 YouControl, [Акціонерне Товариство Консерн Галнафтогаз](#), updated 14 June 2021.

62 Youtube Channel Відеореєстрація, ['Реклама заправка ОККО. Люблю, коли вона заводиться'](#) YouTube, 2 December 2017.

63 World Federation of Ukrainian Women Organizations et al., [Beijing +25 Years On – Parallel Report Ukraine 2014-2019](#), 2020.

64 Ukrainian Ministry of Justice, [Справи зі спорів з приводу забезпечення сталого розвитку населених пунктів та землекористування](#), 10 May 2018.

65 Compliance Advisor Ombudsman, [Ukraine / Galnaftogaz-01/Kiev](#), 8 August 2018.

homes were attacked by masked men,⁶⁶ severely beaten, and prosecuted through court action.⁶⁷ Some activists had their cars smashed and apartments searched.

Another EBRD corporate client in Ukraine is Kronospan. The company is heavily associated⁶⁸ with **retaliation, environmental pollution and corruption** at numerous Bank-supported projects in a number of countries. In 2020, activists from the environmental non-governmental organisation Ecoclub from Rivne faced defamation charges after they raised warnings about Kronospan's planned wood processing facility near the city. Recently, the court ruled that spreading information to the public was not defamation. While this was a happy end for Ecoclub-Rivne, another case⁶⁹ is still in court, draining time and limited resources from activists. SLAPPs are a real threat to civil society that the EBRD should effectively prevent through its engagement with corporate clients.

Last but not least, several communities in Ukraine have complained to the EBRD and IFC's accountability mechanisms about the harm caused by agribusiness projects co-financed by the two lenders in the Ivano-Frankivsk⁷⁰ and Vinnytsia⁷¹ regions. Unfortunately, dispute resolution processes facilitated by the mechanisms have not yet resulted in redress.

Conclusion and recommendations

The experience from the six countries described above brings several recommendations on how the EBRD can strengthen its approach to democracy and human rights in its countries of operations, in line with its political mandate, integrity requirements and safeguards policy. These examples clearly indicate that a change of course is needed by the EBRD with regard to democracy and human rights. The Bank should publicly reaffirm its commitment to its political mandate and follow this up with policy dialogue with authoritarian regimes. This commitment needs to be demonstrated during the country visits of the EBRD's president and vice presidents, as well as in the annual Transition Report published by the Bank.

- 1) The Bank and the governments of countries of operation should agree on **clear benchmarks for political reform and on the application of the 'more for more, less for less' principle**. The Bank should invest political capital and urge national authorities to make clear and measurable commitments toward ending the implicit and explicit violation of these reform benchmarks.
- 2) **Policy dialogue** with national authorities should reinforce the need for an enabling environment for civil society, including lifting barriers to non-governmental organisation registration, freedom of the media, and preventing retaliation against human rights defenders.
- 3) The Bank's **country strategies should provide a framework for human rights, transparency and rule of law conditions** to be attached to the approval of future EBRD projects and to the disbursement of funds, which the EBRD's management and Board need to oversee in an ongoing process. Specific limits, risks and conditions for public or private sector investments should be explicitly stated in the country strategy.
- 4) On the project level, **integrity due diligence** should ensure that projects do not benefit politically exposed persons and companies, and that clients in receipt of EBRD loans do not raise red flags for corporate governance or present corruption and coercion risks. Private sector operations still have to go through strict due diligence, acknowledging that in many regimes the frontier between the public and private sectors can sometimes be blurred.

66 Youtube Channel: 'Сергей Новиков, "ВІДКРИТТЯ" НОВОЇ АВТОЗАПРАВКИ ОККО НА РЕВУЦЬКОГО 8 В КИЄВІ 4.10.2017', YouTube, 5 October 2017.

67 Ukrainian Ministry of Justice, [Позовне провадження: Спори про недоговірні зобов'язання; Спори про відшкодування шкоди](#), 28 September 2017.

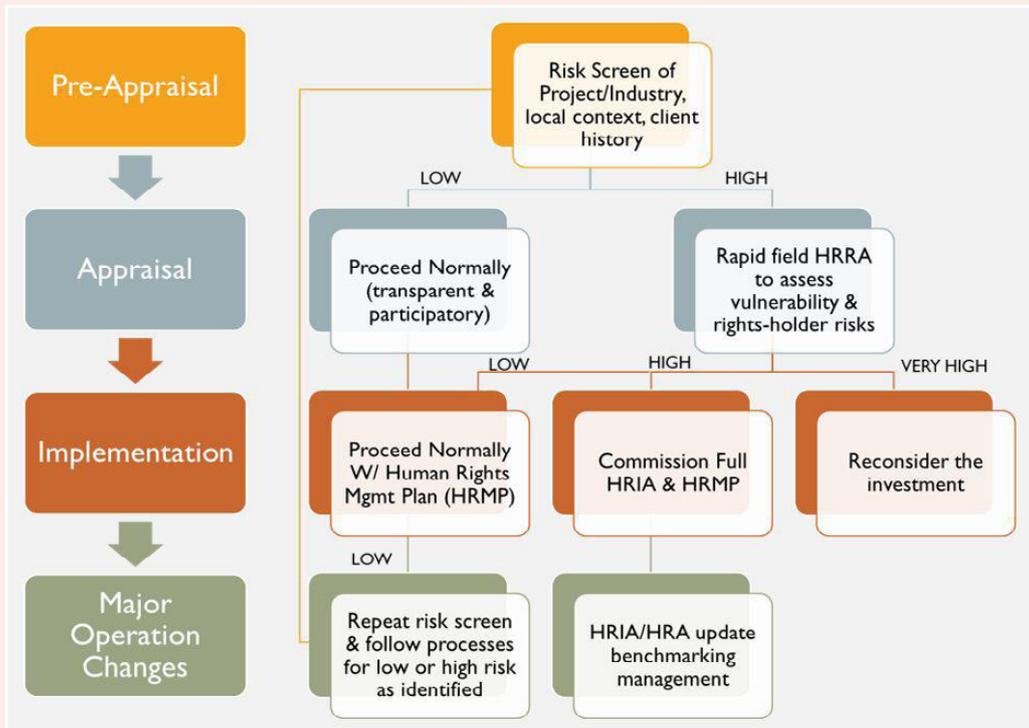
68 Nina Lesikhina, ['Ukrainian activists taken to court by longstanding EBRD client after sounding the alarm on impacts of planned wood processing factory'](#), CEE Bankwatch Network, 7 April 2020.

69 Ecoclub, ['For criticizing the potential damage from the plant, Kronospan sues a local activist'](#), 9 April 2021.

70 Compliance Advisor Ombudsman, [Ukraine / Axzon-01/Halych and Kalush](#), 3 February 2014.

71 European Bank for Reconstruction and Development, [PCM Registry](#), accessed 15 June 2021.

- 5) **Human rights risk assessment and due diligence by the EBRD on the project level**, especially in authoritarian countries, should be strengthened. It should cover supply chains and sectors when there are high risks for forced labour or other violations of fundamental rights, for example. Country strategies should also spell out how the application of project-level safeguards will be strengthened in view of the political context and human rights risks identified for the country.
- 6) With respect to **activists and human rights defenders** on the ground, the Bank should recognise the key role of these actors in alerting the Bank to potential problems around the projects it finances. As part of the contextual risk assessments it will be carrying out for its projects, the Bank should include a thorough investigation of risks to defenders and develop mitigation measures that include leverage points to address any risks it identifies.
- 7) If the EBRD identifies significant human rights risks during country-level political assessments and project level due diligence, it should require its **clients to conduct Human Rights Impact Assessments** (HRIA⁷²). HRIsAs should also be required for supply chains where there are high risks of forced labour or other violations of fundamental rights.



This chart provides an example of how a proper human rights due diligence system can be applied at the EBRD. This proposal is based on previous work from the US organisation Nomogaia.⁷³

- 8) **Project monitoring** should include additional measures, in view of the higher risks. For example, ensuring an effective project level grievance redress mechanism requires verification of information provided by the client through audits by independent third parties and civil society input. The Bank must adapt channels of communication with civil society and other exposed stakeholders to try to mitigate the risks of reprisal against them for monitoring Bank projects or for taking part in consultations on country strategies or following up on their implementation.
- 9) The EBRD should ensure **effective remedy** if the above steps fail to prevent harm caused by its operations on communities, workers and civil society. Project-affected people, including workers, should have agency in determining appropriate remediation for violations and a role in monitoring effective implementation.

72 The Danish Institute for Human Rights, [Human rights impact assessment guidance and toolbox](#), 25 August 2020.

73 Nomogaia [Human Rights Impact Assessment \(HRIA\)](#), accessed 17 June 2021.

The EBRD has an obligation to fully assess the human rights risks and impacts of proposed projects and whether they can be effectively mitigated through independent monitoring and access to effective remedy.

For an updated list of organisations that have endorsed this report, please [click here](#)

