

EBRD COVID-19 Resilience Framework - Environmental and Social Assessment Training Programme

PR8 – Cultural Heritage – ESDD Guidance

Introduction

PR8 recognises the importance of protecting cultural heritage for present and future generations. Both tangible and intangible cultural heritage are important assets and are an integral part of the continuity of cultural identity and practices.

The content of PR8 is guided by applicable international conventions and other instruments. PR8 recognises the need for all parties, at the Project implementation level, to respect the laws, regulations, and obligations under relevant international treaties and agreements ratified by host countries. These laws and regulations may cover cultural heritage or antiquities, planning or building permits, conservation areas, protected areas, built heritage, or the protection of cultures of indigenous peoples (refer to the guidance on PR7).

It is important to note that the overall aim of any ESDD assignment, regardless of the specific characteristics of an individual Project, is to:

- identify and assess potentially significant, existing and future, adverse environmental and social impacts associated with the Client's current operations and the Project;
- assess compliance with applicable laws and EBRD's Environmental and Social Policy (2019);
- determine the measures needed to prevent or minimise and mitigate the adverse impacts; and
- identify potential environmental and social opportunities, including those that would improve the environmental and social sustainability of the Project and the current operations.

The ESDD process should be commensurate with, and proportional to, the scale and magnitude of the Project, and the associated environmental and social risks and impacts. The ESDD will cover, in an integrated way, all relevant direct and indirect environmental and social risks and impacts of the Client's operations, the Project and the relevant stages of the Project cycle (e.g. pre-construction, construction, operation, and decommissioning or closure and reinstatement).

EBRD uses the following definitions in PR8:

Tangible cultural heritage refers to movable or immovable objects, sites, groups of structures as well as cultural or sacred spaces associated therewith, and natural

features and landscapes that have archaeological, ethnological, paleontological, historical, architectural, religious, aesthetic or other cultural significance.

Intangible cultural heritage refers to practices, representations, expressions, knowledge and skills that communities, groups and, in some cases, individuals recognise as part of their cultural heritage and which are transmitted from generation to generation.

The guidance on PR8 is presented across each of the three ESDD tasks:

Task 1 – Review of existing documentation

The following documents should be requested from the Client for review:

- the Client's policy on environmental and social management (this may include details of their policy on cultural heritage);
- environmental and social impact assessment reports;
- maps of the planned Project locations, especially those involving any excavations, demolitions, ground clearance or relocation of existing facilities;
- archaeological/cultural heritage baseline survey reports;
- cultural heritage management plan; and
- chance finds procedure.

PR8 Requirement	Issues to consider
At an early stage of the environmental and social assessment, the Client will identify if any cultural heritage is likely to be adversely affected by the Project and assess the likelihood of any chance finds. In doing so, the Client will consult with relevant authorities, experts, local communities and other stakeholders as appropriate.	Has a screening study (or other type of assessment) been undertaken (if new land take, excavation, dredging, marine installations is required) either by an independent expert hired by the Client or through a government department? Did the screening take into account the potential presence of burial mounds and sites, war relics (including unexploded war ordnances), sunken ships; marine archaeology, etc.? Was the screening study desk-based or did it include a site visit? How recent is the screening study and does it need updating due to changes in legislation or the Project's location or design, or recent archaeological discoveries? Have both tangible and intangible cultural heritage been considered? Were stakeholders such as affected communities, consulted on the potential for impacts on locally-valued cultural heritage during the screening study? Did the screening study include all relevant stakeholders and affected people? <i>NOTE: this may include followers of global or local religions; minority ethnic groups whose traditions or languages are under threat, and others.</i> Was this completed at an early stage of the Project's design? Have any changes in Project location (changing the boundaries or layout of the Project site) or design been implemented due to the findings of the screening study? Is there a statement in the screening study that reflects the potential for the Project to encounter chance finds?

PR8 Requirement	Issues to consider
The assessment process will characterise the baseline and the potential risks and impacts of the Project on cultural heritage.	Has the Client clearly defined national legislation and local laws that apply to cultural heritage? Have recognised experts and local communities been involved during the assessment of potential impacts, and the design of mitigation measures? Is there a mechanism for keeping sensitive data relating to cultural heritage confidential, if necessary?
The Client will develop and implement mitigation measures to address impacts on cultural heritage in accordance with the mitigation hierarchy and good international practice.	Did the Client change the Project's location or design, based upon the findings of the screening study or any other available information? Has the Client taken reasonable measures to avoid and minimise impacts on cultural heritage?
Where the assessment has identified that the Project may have material risks and impacts on cultural heritage, the Client will engage cultural heritage expert(s) to assist in the preparation of a cultural heritage management plan, as appropriate.	Does Client documentation include a cultural heritage management plan, with mitigation measures and outcome indicators? Does the Client have the necessary resources available for its implementation? Were cultural heritage experts involved in the preparation of the cultural heritage management plan?
The Client will ensure that provisions for managing chance finds, defined as tangible cultural heritage encountered unexpectedly during Project implementation, are in place and included into contracts, as appropriate.	Does the Client have a chance finds procedure in place and are contractors legally obliged to comply with the procedure? Does the procedure include the requirement to stop work and notify relevant authorities after a chance find has been discovered? Does the procedure state that the Client will not disturb any chance finds (including providing a security to prevent any unauthorised access) until an assessment by a designated and qualified specialist is made, and actions are identified through close collaboration with relevant stakeholders? What training has the Client provided on the implementation of the chance find procedure? <i>NOTE: request and check the training records the Client holds as these should be available if this action has been completed.</i>

PR8 Requirement	Issues to consider
Where the Project has the potential to have adverse impacts on the cultural heritage in an area that is protected through legal or other effective means, and/or is internationally recognised, or proposed for such status by national governments, the Client will seek to avoid such impacts.	Is the Project located in an area which is either protected: a) through legal or other effective means, and/or is internationally recognised; or b) may be protected in the future? If yes, was it possible to avoid disturbing cultural heritage? If avoidance was not possible, will the Project still comply with all necessary commitments? Have all relevant stakeholders of the recognised area been adequately consulted from an early stage in the Project's design? Has the Project explored opportunities to implement programmes that enhance the broader status of any protected areas?
Where a Project will entail the use of cultural resources, knowledge, innovations, or practices of local communities embodying traditional lifestyles for commercial purposes, the Client will inform these communities on a timely basis of: (i) their rights under national law; (ii) the scope and nature of the proposed commercial development; and (iii) the potential consequences of such development.	Does the Project involve the use of cultural resources and cultural attributes for commercial purposes? If yes, have relevant communities been informed of their rights, the scope of the proposed commercial development, and potential consequences of such development?
The Client will take measures to guard against theft and trafficking of movable cultural heritage items affected by the Project and will notify the relevant authorities of any such activity.	Is movable cultural heritage located, in or close, to the Project area? If yes, are measures to guard against theft and trafficking of movable cultural heritage items, affected by the Project, in place and communicated to Project personnel?

A list of queries should be compiled following the review of all documentation received during Task 1, including any gaps in the material provided. Use the 'Task 1 Key Findings' format presented in Module 1 of this training programme.

Task 2 – Site visit and discussions

The site visit and discussions should be used as an opportunity to discuss the list of queries compiled during Task 1. During Task 2, you may need to meet with the following (these meetings should be organised in advance):

- **Project Director** – for a brief introduction associated with the purpose and scope of your visit, to request the availability of other Client representatives that you need to meet, and to thank them for their general support; and
- **Project Manager, or the Environmental and Social Manager** – to discuss the cultural heritage screening study findings and the Client's general approach to the protection of cultural heritage.

NOTE: The questions below may need to be modified to reflect the current status of the Project.

Interview with the Project Manager, or Environmental and Social Manager

The Project Manager, or Environmental and Social Manager, should be interviewed to clarify the list of queries generated during Task 1. During this meeting, the following questions could be asked:

1. What surveys or investigations have been undertaken to identify cultural heritage in the Project area?
2. Who carried these out and were the activities field based or desk based?
3. What measures were put in place to avoid or mitigate any potential impacts on cultural heritage?
4. What training activities have been completed to inform employees and contractors about the potential for a chance find to be made, and the chance find procedure?
5. Have any chance finds been encountered to date? If yes, what were the finds?
6. Describe the actions taken following the discovery of the find?
7. Are there any important intangible cultural heritage resources that the Project has identified which may be affected by the Project? If yes, how are these being protected?
8. Have you had any engagement with, or complaints from, a government authority, or other entity, associated with potential impacts to cultural heritage?

Additional Interviews

Depending upon the scale and magnitude of the Project, and the potential for significant impacts to cultural heritage to occur, it may be necessary to conduct a series of interview with:

- **Relevant government authorities responsible for cultural heritage** – to discuss the potential impacts to cultural heritage from the Project and explore the extent to which they have been involved and engaged during the Project's design and implementation;
- **Representative sample** of various groups representing, protecting, or benefiting from cultural heritage interests – to explore their views and opinions

towards the Project's impacts of cultural heritage, and to determine the extent they have been engaged; and

- **Members of local communities** - for details on locally valuable tangible or intangible cultural heritage to check this has been included in the assessment of impacts.

During these meetings, the following questions could be asked:

1. When were you initially contacted by the Client to discuss potential impacts to cultural heritage?
2. Were you involved in discussions to try and avoid impacts to cultural heritage from the Project, based upon your local knowledge and expertise?
3. Did the Client obtain your knowledge and expertise in the initial screening of impacts?
4. In your view are there any important cultural heritage sites within the Project area?
5. Are there any practices, representations, expressions, knowledge, and skills that are important to your community or individuals within the community and which are transmitted from generation to generation?
6. In your view, is the Project going to be compliant with national laws and regulations?
7. Have you contributed towards the design of Project mitigation and monitoring measures?
8. In your view, has the Client been transparent in providing relevant documentation for your review and comment?
9. Do you have any further comments you wish to make?

Inspection of Project land to be acquired and other Project area locations

During the site visit an inspection of land to be acquired and other locations relevant to the protection of cultural heritage should be undertaken. Depending upon the Project this may need to include areas where construction works are ongoing or are planned in the future, locations of known cultural heritage in the Project's area of influence, and associated facilities. A cultural heritage specialist may need to attend the site visit.

Particular attention should be given to understanding communities' use of cultural heritage, as access restrictions at these locations have the potential to affect a large number of people.

NOTE: Before leaving complete the checklist overleaf to ensure that the EBRD's key requirements under PR8 have been covered.

Task 3 – Analysis and reporting using the EBRD format

The findings of Task 1 and 2 need to be analysed and presented using with EBRD's Reporting Framework presented in Module 3 of this training programme.

During the analysis of the data collected consider the following:

- Has the Client made adequate efforts to identify cultural heritage and explore the way in which cultural heritage impacts can be avoided or minimised by alternative Project designs?
- Are contractors familiar with the potential for a chance find to be made, and the chance find procedure?
- Has the Client identified all potential sources of impacts on cultural heritage?
NOTE: this may include the generation of noise, ground vibration, use of artificial lighting, access restrictions such as fencing, flooding, fragmentation of ethnic communities, having specific intangible cultural heritage, that is already under threat, etc.
- Has stakeholder engagement activities been adequate? Should any additional government authorities, civil society groups or local communities have been involved?
- Does the Client have a robust set of monitoring activities in place to protect cultural heritage?
- What is the potential for the Project to be delayed in the future due to (real or perceived) impacts to cultural heritage?
- Are any additional studies required to ensure cultural heritage is adequately protected?

EBRD COVID-19 Resilience Framework - Local Environmental and Social Due Diligence Skills Capacity Building

PR8 – Cultural Heritage – ESDD Checklist

Please confirm all of the actions have been completed		Yes / No
<i>Existing documentation relevant to land acquisition</i>		
8.1	Copies of existing screening studies, baseline survey reports, assessment reports, the chance finds procedure and a cultural heritage management plan (if applicable) have been reviewed.	
<i>Avoiding and minimising impacts to cultural heritage</i>		
8.2	The efforts made by the Client to avoid and minimise impacts to cultural heritage has been discussed.	
<i>Assessment of impacts</i>		
8.3	The different sources of impacts on tangible and intangible cultural heritage, from the Project, have been checked and discussed with the Client.	
<i>Managing impacts</i>		
8.4	The cultural heritage management plan, if applicable, has been received and checked.	
8.5	The way in which contractors have been trained on the chance finds procedure has been discussed with the Client.	
8.6	The actions to be taken following the discovery of a chance find have been discussed with the Client.	