

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

PR2 – Labour and Working Conditions ESDD Guidance

Introduction

PR2 recognises that the workforce is a valuable asset and often one of the main sources of positive impacts, through the generation of employment opportunities and the provision of training. Projects should treat workers fairly, provide them with safe and healthy working conditions, address problems well before they result in grievances, and treat people equally in the workplace, irrespective of their gender, ethnicity and any other personal characteristics. In this guidance document the term 'workers' applies to both employees and suppliers of the Project.

As part of the supply chain assessment process required under PR1, the Client should have undertaken an assessment of the risk of child labour and forced labour being used in supply chain companies that are central to the core functions of the Project.

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).

The guidance on PR2 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:

- Details of the current and future workforce of the Project (to the extent that this can be estimated), broken down by:
 - Permanent, part-time, temporary, seasonal and migrant workers;
 - Number of companies currently involved in the supply chain;
 - Permanent, part-time, temporary, seasonal and migrant workers (by gender) in the supply chain;
 - Details of any accommodation being provided by the Project;
- Human Resources (HR) policies and procedures covering:
 - Policies on equal opportunity, anti-harassment in the workplace, modern slavery, and occupational health and safety;
 - A company handbook or company guidelines issued to workers covering their general working conditions;
 - Training policies and plans;
 - Performance appraisal and promotion policies and procedures;
 - Details of any collective agreements;
 - Details of the existing worker grievance mechanism and a summary of worker grievances that have been raised over the last 3 years, including their current resolution status, length of time taken to resolve the grievance, and the actions taken to resolve the grievance;
 - Worker code of conduct;
- Supply chain assessment (refer to the PR1 guidance document); and
- Example worker contract/employment agreement.

The Client's documentation should be compared against applicable national legislation and EBRD's requirements which are summarised using the table overleaf.

PR2 Requirement	Issues to consider
The Client will adopt and/or maintain written human resources policies and management systems or procedures appropriate to its size and workforce setting out its approach to managing the workforce in accordance with the requirements of this PR and national law.	Has the Client developed a clear set of policies and procedures? Do these reflect the content of national law as well as PR2?
These policies and procedures will be understandable, accessible, and communicated to workers, and in the main language(s) spoken by the workforce.	What steps has the Client taken to ensure that the policies and procedures are accessible to the workforce? Are the policies and procedures easy to understand, or full of legal and technical terms the workforce may not understand?
The Client will provide workers with written contracts at the beginning of the working relationship and when any material changes to terms or conditions of employment occur, describing the employment relationship with the Client.	Do the procedures describe how workers are to be provided with written contracts?
Projects will comply with relevant requirements on non-discrimination related to employment.	Do the policies and procedures include provisions relating to non-discrimination?
Projects will take measures to prevent and address any form of violence and harassment, bullying, intimidation, and/or exploitation, including any form of gender-based violence.	What steps has the Client taken to identify, prevent, address and report violence and bullying? Are these sufficient and culturally acceptable? Are employees protected from retributions? <i>NOTE: this could include training, awareness raising sessions, whistle-blowing policies, confidential hotlines, ombudsman facility, and other activities.</i>

PR2 Requirement	Issues to consider
The Client will inform workers that they have the right to elect workers' representatives, form or join workers' organisations of their choosing and engage in collective bargaining, in accordance with national law. The Client will engage with such workers' representatives or organisations in accordance with national law and provide them with information needed for meaningful negotiation in a timely manner.	What steps has the Client taken to inform workers of their rights? Has the Client engaged in collective bargaining with a workers representative organisation? If yes, has the Client provided all of the necessary information?
Wages, benefits and conditions of work offered (including hours of work) will, overall, be at least comparable to those offered by equivalent employers in the relevant country/region and sector concerned.	Has the Client compared salaries of the workers with other industry sectors in the country?
Overtime work will be voluntary and will be performed and compensated in accordance with national laws.	Do the Client's policies and procedures cover overtime which should be provided by staff on a voluntary basis? If overtime occurs frequently are there adequate provisions for rest time?
The Client will identify migrant workers and ensure that they are engaged on substantially equivalent terms and conditions to non-migrant workers carrying out the same work.	What steps has the Client taken to identify migrant workers? If migrant workers are present, are they engaged on similar terms than the rest of the workforce?
Where a Client provides accommodation for Project workers, the Client will put in place and implement policies governing the quality and management of the accommodation and provision of services.	Has the Client developed a set of policies and procedures associated with the provision of workforce accommodation? Are the policies commensurate with the actual accommodation needs of the workforce?
Prior to implementing any collective dismissals in connection with the Project, the Client will carry out an analysis of alternatives to the planned workforce reduction.	Is the Client planning any collective dismissals in the future? If yes, has an analysis of alternatives been undertaken?
The Client will provide an effective grievance mechanism for workers (and their organisations, where they exist) to raise workplace concerns.	The worker grievance mechanism should be reviewed using the list of items to check overleaf.
As part of the supply chain assessment process outlined in PR1, the Client will identify and assess the risk of child labour and forced labour being used in the operations of its primary suppliers.	Has the Client undertaken a risk assessment to identify the potential for child and forced labour within the supply chain?

Review of the example worker contract/employment agreement

The example worker contract provided by the Client should be reviewed against the requirements from national legislation and PR2. Check that the contract contains the following:

- The title of the position and a brief description of the required qualifications and typical work duties;
- Obligations of the employer (e.g. in terms of the provision of safe working conditions, etc.)
- The usual place of work;
- The duration of the contract and a work start and end date;
- The wages including the frequency of pay and the payment method;
- The expected working hours, overtime arrangements and additional compensation for overtime, and public holiday entitlements; any hardship allowance due to conditions of work (e.g. work in extremely hot or cold climates; work in conflict zones; work in remote locations, etc.);
- The entitlement for leave due to illness, parental leave, or holiday;
- The procedures for termination of the employment contract, including notice requirements;
- A reference to the Client's human resources policies and procedures; and
- The ability to form, or join, an existing union, or discuss the formation of a collective agreement with the Client.

Review of the worker grievance mechanism

The Client's worker grievance mechanism should aim to address concerns promptly and effectively. The mechanism and worker grievance records covering the last 3 years (where available) should be checked for the following:

- There is a documented worker grievance mechanism or procedure in place clearly describing its objectives and purpose (e.g. receiving and addressing employees' concerns and suggestions related to unfair treatment, conditions of work, payment of wages, quality of accommodation; quality of food, provision of Personal Protective Equipment (PPE), etc.).
- The document includes:
 - specific positions (personnel) identified with defined responsibilities for receiving, investigating and responding to worker grievances; and
 - the timeframes for steps in the process e.g. acknowledging receipt; responding to complainants, etc.
- There is a grievance register or database available which includes:
 - the name and contact details of the complainant, if a grievance is not lodged anonymously;
 - the date and nature of the complaint;
 - the name of the technical staff charged with addressing the complaint, if appropriate;
 - any follow-up actions taken;
 - the proposed resolution of the complaint;

- how and when relevant Project decisions were communicated to the complainant; and
- the date of closure of the grievance and the complainant's response (satisfied/dissatisfied).

During the review of the Client's worker grievance mechanism, consider the following:

- Has the Client made sufficient efforts to ensure that the worker mechanism is culturally appropriate? *Check the languages being used to provide information about the procedure and Project contact details, considering local languages and the level of literacy amongst the workforce.*
- Have details of the worker grievance mechanism been adequately disclosed to workers? *Check when the details were disclosed, the methods used, how often this was undertaken, and if any additional actions are required to raise awareness.*
- Does raising a grievance block a worker's access to judicial or administrative remedies?
- Does the mechanism allow anonymous complaints to be raised and addressed?
- What type of grievances have been raised over the last 3 years? *Check the records to ensure that worker grievances are being accurately recorded, investigated and tracked until resolved.*
- Were the steps taken to resolve the grievance adequate in your view?
- Are there instances where the same sources of worker grievances are re-occurring and if there are, what steps has the Client taken to prevent the same types of problems from occurring again in the future?

A list of queries should be compiled following the review of all Client documentation received during Task 1. 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 discussion with Client representatives 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 Client representatives (these meetings should be organised in advance of your arrival):

- **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;
- **Project Manager** – to discuss the current status of the Project, workforce numbers and how this may change in the next 12 months, to gather details of worker accommodation (if provided), and to request their support in the random selection of workers for interview and review of accommodation facilities;
- **Human Resources Manager** and **Contractor Managers** – to interview them about the arrangements to manage the workforce; and
- **Individual workers** – to interview them about their general working conditions and job satisfaction.

NOTE: the questions may need to be modified to reflect the current status of the

*Project.*Interview with the Human Resources Manager and Contractor Managers

The Human Resources Manager should be interviewed to clarify the list of queries generated during Task 1. The following questions could be asked:

- How are HR policies and procedures made freely available to workers especially those working at remote Project locations and housed in dormitories, temporary accommodation camps, etc.?
- In what languages are they being provided? How do you check that workers can read and understand these languages?
- Are there any arrangements, facilities, resources or tools (such as regular sessions/town hall meetings; employee question and answer sessions; frequently asked questions, etc.) in place to help employees to better understand relevant HR provisions and documents?
- How do you ensure the confidentiality of workforce records?
- How do you verify the ages of new workers to check for the presence of persons under the age of 18?
- Do you have any workers under the age of 18? If yes, do any of these workers undertake hazardous activities?
- How do you check that wages being paid are reasonable and comply with any applicable national minimum wage legislation?
- Have you informed the workforce of their right to form or join a worker's organisation and to bargain collectively?
- Does the Client have a collective agreement in place with a worker's organisation?
- Are you familiar with EBRD's requirements associated with collective dismissals?
- Are any collective dismissals planned for the next 12 months? If yes, do you have a plan or other type of document that describes the future steps to be taken?
- Have there been any challenges in the last 12 months in relation to the management of the workforce? This may include protests, stoppages, or multiple grievances about the same topic.
- Do you hold a register of companies that form your supply chain network of companies?
- How do you ensure that the above issues are adequately managed within your Project's supply chain?
- Have you recently inspected the worker accommodation provided by your supply chain companies?

Interviews with individual workers

During the site visit a random selection of workers, males and females, should be individually interviewed. The aim of the worker interviews is to gain an understanding of how satisfied workers are with their arrangements and to check that the Client's HR policies and procedures are being consistently applied.

The selection of workers should include those directly contracted to the Client, as well as workers within major supply chain companies, either on site or at remote facilities. You may need to travel to the sites where workers are present, which includes the locations where any construction activities are ongoing and office buildings. Alternatively, the interview could be conducted by telephone for workers at remote facilities. Conducting interviews with workers requires careful planning and sensitivity. The interviewer(s) should be selected to ensure cultural sensitivities are respected.

Before you interview a worker introduce yourself, explain the purpose of your visit, and inform them that you have a short set of questions to ask. Indicate that they have been selected at random during your short visit to the site. State that the interview should take approximately 10 minutes to complete, that no personal identity details shall be collected so that the interview is confidential, and check that they are happy to continue before asking the first question.

You may wish to ask the following questions:

1. Are they a permanent, part-time, temporary, seasonal or migrant worker?
2. Do they have a written contract stipulating conditions of employment; terms of payment; annual and medical leave allowances; medical insurance, social security benefits; etc.?
3. Were you charged an initial recruitment fee from a third-party agent to obtain this employment position?
4. Have you kept possession of your passport and other identity documents?
5. Are you free to leave the worksite when you are not at work?
6. Are you familiar with your terms and conditions of work?
7. Do you understand when your current contract is expected to end?
8. How many hours a week do you typically work?
9. Are you required to work overtime?
10. Are you, and your colleagues, satisfied with the working arrangements?
11. Are you being regularly paid on time and in full?
12. Do you understand the deductions made from your salary for tax and other purposes?
13. Do you understand the benefits you are entitled to which may include absence for illness, maternity/paternity pay, and others?
14. Are you able to discuss your working conditions with your supervisor without being afraid of action being taken against you?
15. Do you know how to raise a grievance?
16. Are you free to form, or join, a union or discuss a collective agreement?
17. Are you being provided with worker accommodation? If yes, then:
 - a) Do you have to pay for the accommodation?
 - b) Is the accommodation clean and sanitary?

- c) Is your accommodation cleaned regularly or you have to do your own cleaning?
 - d) How many people sleep inside the same room?
 - e) Do you find your sleeping arrangements to be acceptable, or is there overcrowding in the accommodation facility?
 - f) Are you provided with clean bedlinen and is it replaced regularly?
 - g) Are you provided with washing/laundry services free of charge?
 - h) Is there adequate heating/air conditioning, ventilation in the room?
 - i) Are there smoke detectors and sprinklers in the room or any fire extinguishers?
 - j) Have you been briefed on escape procedures and escape routes clearly marked, illuminated and left unlocked?
 - k) Are there sufficient shower and toilet facilities available indoors?
 - l) Are canteen and recreational facilities suitable?
 - m) Are worship facilities available for people of different faith?
 - n) Are the entrances and exits, including emergency exits and evacuation routes, clearly signposted and illuminated and clear of obstructions?
 - o) Is there an interrupted supply of electricity through connection to the grid and/or autonomous electricity generators?
 - p) Are you generally satisfied with the quality of accommodation provided?
18. Are you provided with free and regular transportation from your accommodation to the Project site?
19. Do you have any other concerns you wish to raise before the interview is over?

Inspection of working areas

During the site visit an inspection of working areas should be completed. Digital photographs should be taken where this does not invade a person's privacy. Depending upon the Project and its current status, the inspection may need to include construction works, worker welfare areas (canteen, recreational and resting areas), worker accommodation (inspect a number of rooms/dormitories, toilet facilities and showers) and temporary storage locations. During the inspection pay particular attention to the following:

- The cleanliness and general quality of worker welfare areas. For example, are there areas where construction workers can store dirty overalls before they arrive into their accommodation rooms?
- How workers are being transported to/from accommodation to Project locations and are they being charged for this service;
- The general availability of clean water and safe food; and
- Whether there are notice boards raising awareness about safety, the worker grievance mechanism, worker code of conduct, and other relevant issues.

NOTE: Before leaving the location of the Project, complete the checklist overleaf to ensure that the EBRD's key requirements under PR2 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 EBRD's Reporting Framework presented in Module 3 of this training programme.

During the analysis of the data collected consider the following:

- Is there a clear system of labour management in place across the Project?
- Are worker personnel records being kept accurately, confidentially and up-to-date?
- Based on your review of employment records, visual observations and worker interviews, do the employment records actually correspond to the number and nationalities of people present onsite?
- Is there a potential that illegal and/or migrant workers are hired using fake IDs or employment documents?
- Were the workers interviewed generally satisfied with their conditions? If not, do you agree with their concerns (these could be about the quality of accommodation, salaries, restrictions on their movement, etc.)?
- Do Client representatives have a clear understanding of the supply chain companies involved in the Project? Is there a register of companies involved and a summary of their current workforce and accommodation arrangements?
- Have workforce accommodation facilities of supply chain companies involved been recently inspected?
- Does the Client need to conduct additional audits on their supply chain network?
- Are worker grievances being taken seriously by the Client?
- What is the risk that the Project experiences worker protests, stoppages or other types of problems in the future? Are all necessary steps being taken to avoid this?

Additional guidance, tools and reference documents

Additional EBRD guidance on the implementation of PR2 is provided here:

- Human Resources Policies and Employee Documentation:
<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395268982703&d=&page name=EBRD%2FContent%2FDownloadDocument>
- Children, Young People and Work:
<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395268982823&d=&page name=EBRD%2FContent%2FDownloadDocument>
- Forced Labour:
<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395268982876&d=&page name=EBRD%2FContent%2FDownloadDocument>
- Managing Risks associated with Modern Slavery:
<https://www.ebrd.com/news/publications/guides/managing-risks-associated-with-modern-slavery.html>
- Non-Discrimination and Equal Opportunity:
<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395256997429&d=&page name=EBRD%2FContent%2FDownloadDocument>
- Wages and Working Hours:
<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395256997513&d=&page name=EBRD%2FContent%2FDownloadDocument>
- Workers' Accommodation:
<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395270483804&d=&page name=EBRD%2FContent%2FDownloadDocument>
- Workforce Retrenchment:
<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395256997290&d=&page name=EBRD%2FContent%2FDownloadDocument>
- Employee Grievance Mechanism:
<https://www.ebrd.com/cs/Satellite?c=Content&cid=1395268983074&d=&page name=EBRD%2FContent%2FDownloadDocument>

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

PR2 – Labour and Working Conditions – ESDD Checklist

Please confirm all of the actions have been completed		Yes / No
<i>Human resources and employee documentation, and forced labour</i>		
2.1	HR policies and procedures have been checked against applicable national legislation and EBRD requirements.	
2.2	An example worker contract has been reviewed and checked against applicable national legislation and EBRD requirements.	
2.3	The HR Manager has been asked how workers records are stored in a confidential manner.	
2.4	A random selection of workers (males and females) have been interviewed privately.	
<i>Children, young people and work</i>		
2.5	The HR Manager has been asked how they verify the ages of new workers to check for persons under the age of 18.	
2.6	The HR Manager has been specifically asked if there are any workers under the age of 18.	
2.7	The HR Manager has been asked if any under-18s undertake hazardous activities.	
<i>Wages and working hours</i>		
2.8	The HR Manager has been asked if the wages being paid are reasonable and comply with minimum wage legislation and/or a collective agreement (where relevant).	
2.9	The HR Manager has been asked if they are familiar with EBRD's requirements associated with collective dismissals and thresholds under EU Directive 98/59.	
<i>Supply chain assessment</i>		
2.10	Client representatives have been asked if a supply chain risk assessment for child and forced labour has been undertaken. A copy of the assessment has been requested if this has been completed.	
<i>Inspection of working areas and accommodation</i>		
2.11	An inspection of selected worker welfare areas has been undertaken including construction works (if present), worker accommodation, and worker welfare facilities.	
<i>Review of the worker grievance mechanism</i>		
2.12	The worker grievance mechanism and associated records has been reviewed.	