



Environmental and Social Requirement 2

# Labour and working conditions



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## Introduction

1. This Environmental and Social Requirement (ESR) recognises that for clients and their business activities, the workforce is a valuable asset, and that good human resources management, workforce diversity and a sound worker-management relationship based on respect for workers' rights, including freedom of association and the right to collective bargaining, as well as non-discrimination, are key ingredients of the sustainability of business activities.

## Objectives

2. The objectives of this ESR are to:
  - respect and protect the fundamental principles and rights<sup>26</sup> of all project workers (as defined in paragraph 4)
  - ensure fair treatment, non-discrimination, non-harassment and equal opportunities for all project workers<sup>27</sup>
  - establish, maintain and improve a sound worker-management relationship, based on social dialogue
  - ensure compliance with national labour and employment laws, social security laws and any collective agreements to which the client is a party
  - protect all project workers, including vulnerable project workers who might be at higher risk of discrimination, harassment or exploitation, such as women and gender-diverse workers, young workers, workers with disabilities, migrant workers and refugees, self-employed and contracted workers, as well as workers in the project's core supply chain
  - prevent the use of forced labour and child labour
  - ensure that accessible and effective means to raise and address workplace concerns are available to all project workers.

## Scope of application

3. This ESR applies to all projects financed by the EBRD as set out in the Environmental and Social Policy. The scope of application of this ESR will be established during the environmental and social assessment process and will depend on the type of contractual relationship between the client and the project workers.
4. This ESR establishes requirements for clients with respect to all project workers. Project workers are those workers who work on a project site or perform work directly related to the project, including full-time, part-

<sup>26</sup> As guided by the [International Labour Organization \(ILO\) Declaration on Fundamental Principles and Rights at Work](#) (1998, as amended in 2022) and:

[C087 on Freedom of Association and Protection of the Right to Organise](#) (1948)

[C098 on the Right to Organise and Collective Bargaining](#) (1949)

[C029 on Forced Labour](#) (1930) and its [supplementing protocol P029](#) (2014)

[C105 on the Abolition of Forced Labour](#) (1957)

[C100 on Equal Remuneration](#) (1951)

[C111 on Discrimination \(Employment and Occupation\)](#) (1958)

[C138 on Minimum Age](#) (1973)

[C182 on the Worst Forms of Child Labour](#) (1999)

[C155 on Occupational Safety and Health](#) (1981)

[C187 on Promotional Framework for Occupational Safety and Health](#) (2006).

<sup>27</sup> The EBRD's Equal Opportunities Strategy and the Strategy for the Promotion of Gender Equality define how the Bank promotes equal opportunities and gender equality beyond the scope of this ESR.

time, temporary, fixed-term, seasonal and migrant workers, as well as self-employed workers. The term “project worker” refers to:

- a. People employed or engaged directly by the client to perform work related to the project (direct project workers). Clients must implement paragraphs 7 to 21 and 23 to 39 of this ESR in relation to direct project workers.
  - b. People employed, engaged or managed through contractors or other intermediaries to perform work directly related to the project (contracted project workers). Clients must require contractors or other intermediaries to implement paragraphs 40 to 43 of this ESR in relation to contracted project workers.
  - c. People engaged on individual service contracts through self-employment or digital labour intermediation platforms to perform work related to the project (self-employed project workers). Clients must meet the requirements for self-employed project workers as set out in paragraph 22 of this ESR.
5. This ESR also sets out specific requirements with respect to people employed or engaged by suppliers and sub-suppliers who provide goods, equipment or materials essential to the project (supply-chain workers), including where these goods, equipment or materials are procured by contractors. Supply chain-related labour requirements are addressed in paragraphs 44 to 47.
  6. Occupational health, safety and security requirements based on the right to a safe and healthy working environment are set out in ESR 4.

## Requirements

### General

7. Projects are required to comply with whichever of the following provides the greater degree of protection: (i) national labour, employment and social security law,<sup>28</sup> (ii) the principles and standards embodied in the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work (1998 as amended in 2022) and (iii) this ESR.
8. The client will provide the EBRD with satisfactory evidence and information on its labour practices (and, when relevant, those of its contractors and suppliers) at the project appraisal stage and throughout the life of the project.
9. Where significant labour-associated risks have been identified in relation to the project, the client will commission an independent labour assessment or labour audit at the EBRD’s request. The EBRD may require this labour assessment or audit to be undertaken by a qualified labour specialist, following a credible and participatory approach. The results of the labour assessment or audit will be communicated to the EBRD.
10. Based on the results of the assessment or audit, a time-bound corrective action plan with appropriate mitigation and remediation measures, as well as monitoring requirements, will be put in place and implemented by the client and/or contractors, as relevant. The corrective action plan will be agreed in advance with the EBRD.
11. The client will follow up on the prompt and effective implementation of the corrective action plan and report to the EBRD in a timely manner.

## Management of worker relationships

### Human resources and labour management policies and procedures

12. The client will adopt and maintain written human resources policies and management systems or procedures appropriate to its size and workforce, which implement the requirements of this ESR and national law. For contracted project workers and self-employed project workers, the client will develop labour management procedures to implement the requirements of this ESR and applicable laws. These

<sup>28</sup> Project workers must be registered with relevant national authorities for the purposes of social security, in accordance with national law.

policies and procedures will be accessible, supportive of a diverse workforce and communicated to project workers, and in the main language(s) spoken by the workforce.

### **Working relationships**

13. The client will provide written contracts at the beginning of the working relationship, which will be amended when any changes to terms or conditions of employment occur. The contract will describe the type of employment, set out the worker's rights under national labour and employment law and any applicable collective agreements with respect to working conditions and terms of employment (including their entitlement to wages, hours of work and rest periods, overtime arrangements and overtime compensation), and any benefits (such as leave for illness, maternity/paternity or holiday). Any material changes will be documented and communicated to the project workers. This information will be understandable and accessible to all project workers and available in the main language(s) spoken by the workforce. The information will be conveyed with due consideration to vulnerable project workers, and the client will take steps to ensure that vulnerable project workers understand the information provided.
14. Labour management systems will ensure up-to-date employment records are kept and will respect the rights of project workers to privacy and data protection, in accordance with national law. Project workers' personal records will be kept confidential and not be disclosed to third parties without the individual's consent. Project workers will have the right to access their own employment records.
15. Communications will be managed to provide all project workers with: (i) adequate information on changes that might affect them, in particular, on anticipated changes associated with the project and (ii) the opportunity to provide comments as part of continuous improvement, including how to raise grievances, as detailed in paragraphs 38 and 39 of this ESR.

### **Wages, benefits and conditions of work**

16. Overall wages, benefits and conditions of work (including hours of work) will be at least comparable to those offered by equivalent employers in the relevant country/region and sector concerned. Overtime work will be voluntary and be performed and compensated in accordance with national law.
17. Wages will be paid regularly, on time and without any unlawful deductions. Project workers will be provided with full, itemised pay slips that clearly specify any deductions. Accurate and up-to-date records of working hours, including overtime hours, will be maintained for all project workers.
18. In case of termination of a working relationship, in accordance with national law and any binding collective agreement, all outstanding back pay, social security, pension contributions and benefits will be paid: (i) to the project workers on or before termination of the working relationship; (ii) to the relevant institutions, where applicable, for the benefit of the project workers; or (iii) in accordance with a timeline agreed through a collective agreement. Where payments are made for the benefit of project workers, project workers will be provided with evidence of such payments.
19. Where the client is party to a collective bargaining agreement or otherwise bound by it, that agreement will be respected. Where such agreements do not exist, or do not address working conditions and terms of employment, the client will provide reasonable working conditions and terms of employment that are consistent with national law.

### **Migrant workers**

20. The client will identify migrant project workers and address any vulnerabilities associated with their migrant status. Migrant workers are particularly vulnerable to forced labour.
21. Clients will ensure that the treatment of migrant project workers is as favourable as that of non-migrant project workers. This includes ensuring that they are engaged on substantially equivalent terms and conditions to non-migrant project workers carrying out the same work.

### **Self-employed workers**

22. The client will ensure that self-employed project workers, where they are not subject to national labour laws, are able to exercise their rights under the ILO Declaration on Fundamental Principles and Rights at



Work, which applies to all project workers regardless of employment status. Clients will ensure that self-employed project workers are appropriately qualified, equipped and competent to carry out their work and comply with occupational health, safety and security measures at the workplace in accordance with national law and any rules or procedures established by the client for the project site. Clients will also provide clear and transparent terms and conditions in relation to fee payment, performance evaluation and work allocation, appropriate working hours, and access to an effective grievance mechanism. The application of this paragraph will not create any presumption of an employment relationship between the client and self-employed project workers.

## Workers' organisations

23. The client will inform project 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 not discriminate or retaliate against project workers who act as representatives of, participate or seek to participate in such organisations or collective bargaining and will not interfere in the formation or functioning of workers' organisations. 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. The client should also, in accordance with national law and practices, provide for regular consultation on matters of mutual concern, including in relation to health and safety, as outlined in ESR 4.
24. Where national law substantially restricts the establishment or functioning of workers' organisations, the client will not restrict project workers from developing alternative mechanisms to represent their interests and protect their rights as regards working conditions and terms of employment, appropriate to company size and workforce. The client will neither seek to influence nor control these mechanisms. The client will engage with such mechanisms and provide them with the information needed for meaningful dialogue in a timely manner.
25. Where national law is silent, the client will not discourage project workers from electing worker representatives, forming or joining workers' organisations of their choosing or from bargaining collectively, and will not discriminate or retaliate against project workers who participate or seek to participate in such organisations and collective bargaining. The client will engage with such workers' representatives and workers' organisations and provide them with the information needed for meaningful negotiation in a timely manner.

## Forced labour

26. The client will ensure that the project does not use forced labour, which consists of work or service that is not performed voluntarily and which is exacted from an individual under threat of force or penalty, including through abusive and fraudulent recruitment practices.<sup>29</sup> Forced labour includes involuntary or compulsory labour, such as indentured labour, involuntary prison labour, bonded labour or similar labour-contracting arrangements, or trafficking in persons.<sup>30</sup>
27. The client will not unnecessarily restrict project workers' freedom of movement, including in relation to worker accommodation. Requirements on worker accommodation are set out in ESR 4.
28. The client will not engage in or tolerate any form of corporal punishment, mental or physical coercion, or abuse of project workers. The client will not interfere with project workers' free and complete access to their own identity documents, including passports, or charge recruitment fees or related costs to project workers or jobseekers. In addition, the client will ensure that recruitment fees and related costs are not collected from project workers or jobseekers by any recruiter, agency or other intermediary.
29. If a case of forced labour is identified on a project, the client must take immediate action to remove individuals from situations of forced labour, to safeguard the individuals involved and to provide

<sup>29</sup> Indicators of forced labour include: abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime. Further guidance on how to use the indicators in practice is provided by the [ILO](#).

<sup>30</sup> Trafficking in persons is defined as the recruitment, transportation, transfer, harbouring, or receipt of persons by threatening or using force or other forms of coercion, abduction, fraud, deception or abuse of power, by abusing a position of vulnerability, or by giving or receiving payments or benefits to achieve the consent of a person or have control over another person for the purpose of exploitation.

appropriate remediation. The client must also report any incidents of forced labour to the EBRD, as well as the corrective measures taken.

### Child labour

30. The client will ensure that the project does not use child labour as defined by ILO Conventions 138 and 182. The client will comply with all relevant national laws or international labour standards regarding the minimum age of employment and conditions of work for children below the age of 18, whichever provide a higher degree of protection for the child.
31. The client may only employ children over the minimum age and under the age of 18 in a manner that is not hazardous – in other words, that is not likely to interfere with the child's education or be harmful to the child's health or physical, mental, spiritual, moral or social development. The client will identify all persons below the age of 18 and ensure they are not employed in hazardous work. All work by persons under the age of 18 will be subject to an appropriate risk assessment prior to the work commencing and regular monitoring of health, working conditions and hours of work.
32. If a case of child labour is identified on a project, the client must take immediate action to remove children from situations of child labour, to safeguard the children involved and to provide appropriate remediation. The client must also report any incidents of child labour to the EBRD, along with the corrective measures taken.

### Non-discrimination and equal opportunity

33. Projects will take effective measures to implement requirements on non-discrimination related to employment. In particular, with reference to the project, the client will take measures to ensure that it:
  - does not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements, including, but not limited to, gender, pregnancy, sexual orientation, gender identity, gender expression and/or sex characteristics, race, nationality, political opinion, affiliation to a union, ethnic, social or indigenous origin, religion or belief, marital or family status, disability or age
  - bases the employment relationship on the principle of equal opportunity and fair treatment and will not discriminate directly or indirectly with respect to any aspect of the employment relationship, including recruitment and hiring, job assignment, compensation (including wages and benefits), working conditions and terms of employment, including reasonable adaptation of the workplace to account for disability or other factors, including pregnancy and nursing, access to training, promotion, termination of employment or retirement, and discipline
  - prevents and address any form of violence and harassment,<sup>31</sup> bullying, intimidation and/or exploitation, including any form of gender-based violence and harassment (GBVH), including in relation to worker accommodation, in accordance with ESR 4.
34. The client will take specific measures to prevent and address GBVH, ensure adequate expertise to address these issues fully and safely and provide relevant, regular and ongoing communication and training for project workers and managers. This will include codes of conduct related to GBVH and child sexual abuse and exploitation.
35. Provided they are made in accordance with national law, the following measures will not be considered discrimination: special measures of protection or assistance to remedy past discriminatory actions; promotion of local employment opportunities; or selection for a particular job based on the inherent requirements of the job.

### Collective dismissals

36. Prior to implementing any collective dismissals<sup>32</sup> of direct project workers, the client will carry out an analysis of alternatives to the planned workforce reduction, which will include efforts to reassign affected works when possible. If the analysis does not identify viable alternatives, the client will develop and

<sup>31</sup> As guided by International Labour Organisation (ILO) [Convention 190 on Violence and Harassment](#) (2019).

<sup>32</sup> Collective dismissals cover all multiple dismissals for economic, technical or organisational reasons, or for other non-performance-related or personal reasons.

implement a collective dismissals plan to assess, reduce and mitigate the adverse impacts of the workforce reduction on direct project workers, in accordance with national law and good international practice (GIP)<sup>33</sup> and based on the principles of non-discrimination and consultation. The selection process will be transparent, based on fair, objective, consistently applied criteria and subject to an effective grievance mechanism. The client will comply with all legal and collectively agreed requirements relating to collective dismissal, including the notification of public authorities and the provision of information to and consultation with direct project workers and their organisations. The final collective dismissals plan will reflect the outcomes of those consultations. The client will provide advance notification to the EBRD of the planned workforce reduction and, where requested by the EBRD, a copy of the proposed plan for collective dismissals.

37. All outstanding back pay and social security benefits and pension contributions and benefits will be paid to dismissed workers in accordance with paragraph 18.

## Grievance mechanism

38. The client will provide an effective and proportionate grievance mechanism<sup>34</sup> for all project workers (and their organisations, where they exist) to raise workplace concerns. The client will inform all project workers of the grievance mechanism at the time of hiring and make it easily accessible to them. The mechanism will involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retaliation. The mechanism will not prevent access to other judicial or administrative remedies that might be available under law or through existing arbitration or mediation procedures, nor will it substitute for grievance mechanisms provided through workers' organisations or collective agreements. The mechanism will ensure project workers have the right to be present and to participate directly in the proceedings and to be represented by a trade union or person of their choosing.
39. The mechanism will include provisions for complaints requiring special protection measures, such as reports of GBVH. In relation to GBVH, these will take a "survivor-centred" approach that includes systems for ensuring the immediate and ongoing safety of survivors and witnesses (including from further harm and retaliation), for protecting and guaranteeing the confidentiality and the identity of survivors and witnesses at all times, for offering options of support for survivors, and for including clear protocols for responding to reports in a non-judgmental and non-discriminatory manner. Project workers will have the option to put forward anonymous reports if they do not wish to be identified.

## Contracted workers

40. For project workers engaged through contractors or other intermediaries, the client will require the contractor or other intermediary to apply the requirements stated in paragraphs 7 to 35, 38 to 39 and 41 to 47 of this ESR and the relevant paragraphs of ESR 4.
41. The client will use reasonable efforts prior to contracting to: (i) assess the past performance of these contractors or intermediaries with regard to employment and occupational health and safety, to establish their current capacity to implement the requirements of this ESR and ESR 4; and (ii) contractually require the contractor or other intermediary to apply relevant requirements of this ESR and ESR 4.
42. The client will identify risks associated with the recruitment, engagement and demobilisation of contracted project workers and establish commensurate policies and procedures for managing and monitoring the performance of contractors and other intermediaries in relation to the project and requirements of this ESR. In addition, incorporating these requirements in contractual agreements with contractors and other intermediaries, the client will develop and implement relevant labour management plans and procedures. Where project workers are engaged by subcontracting, the client will use reasonable efforts to cause contractors and other intermediaries to include equivalent requirements in their contractual agreements with their subcontractors.

<sup>33</sup> As outlined in the relevant guidance notes.

<sup>34</sup> As outlined by the criteria in Principle 31 of the [United Nations Guiding Principles on Business and Human Rights](#).

43. The client will ensure that contracted project workers have access to an effective grievance mechanism that meets the requirements of this ESR. In cases where the contractors or other intermediaries are not able to provide a grievance mechanism, the client will provide an effective grievance mechanism for contracted project workers.

## Supply-chain workers

44. As part of the supply-chain assessment process outlined in paragraph 21 of ESR 1, the client will identify significant labour risks and impacts associated with the project's core supply chains in relation to child labour, forced labour, and occupational health and safety (including GBVH). The client will monitor its core supply chains on an ongoing basis to identify any relevant changes and to identify new significant risks or impacts associated with these changes.
45. Where the initial risk assessment or ongoing monitoring of core suppliers identifies significant risks, the client will cause the supplier to take appropriate measures to adequately prevent and mitigate such risks. If an initial risk assessment identifies significant risks and core suppliers have not been identified, the client will conduct due diligence on potential suppliers and make reasonable efforts to select lower-risk suppliers. Where the client has a direct contractual agreement with the supplier, the client will use reasonable efforts to incorporate the relevant labour requirements into contractual agreements with the supplier. Where the client does not have a direct contractual relationship with a sub-supplier, the client will use reasonable efforts to build and exercise all available forms of leverage<sup>35</sup> to prevent and mitigate the risks identified.
46. If the initial risk assessment or ongoing monitoring identifies actual incidences of child labour, forced labour or harm to workers (including GBVH), the client will use or seek leverage to work with the suppliers or sub-suppliers in question to prevent recurrence and provide remediation to those supply-chain workers affected. Where such adverse impacts are identified, the client will only continue to procure such goods or materials from these suppliers after having received satisfactory undertakings or evidence that the suppliers are committed to implementing measures to prevent such impacts within a reasonable timeframe and to provide remediation as appropriate. The client will notify the EBRD of any such incidences of child labour, forced labour or harm to works and will report to the EBRD on progress on the implementation of prevention and remediation measures on a regular basis.
47. As a last resort, after failed attempts to prevent or mitigate significant risks or adverse impacts, and/or when there is no reasonable prospect of compliance with paragraphs 44 to 46 of this ESR, the client will develop and implement a responsible disengagement plan in relation to the relevant supplier(s) or sub-supplier(s).

35 Leverage refers to the ability of a business entity to effect change in the practices of another party that is causing or contributing to adverse human rights impacts.