

Management Comments in relation to loans to a real estate project in the former Soviet Union

Management considers that the report does not present a fair and accurate depiction of the objectives or implementation of the project in a number of areas.

The objective of causing changes to the institutional regime was not an objective of the investment project, but rather an objective of the subsequent, separate legal transition/TC project. The objectives of the investment project, to work with local authorities to find a practical solution to the current legal deadlock with respect to the creation and perfection of mortgages, and to engage in dialogue with the authorities, were successfully met by the issuance of a letter of comfort, registration and the subsequent formal request for the TC project to create the mortgage registry. Internal discussions show that registration of the mortgages in a newly created registry was not a condition of the project.

Internal documentation demonstrates that sound professional legal advice was provided to and understood by the Banking team and Management, as the issues surrounding the creation and perfection of mortgages in the country of operation were extensively discussed and documented. The security package was developed in close consultation with reputable international and local counsel, and the resulting arrangements satisfied core legal criteria by creating a valid security interest and establishing priority with respect to other creditors. The requirement for first ranking mortgages should be understood in the normal operational sense, i.e., that all reasonable and appropriate steps would be taken in accordance with local legal advice.

A proposed TC activity as part of a reform programme agreed between the World Bank and the government of the relevant country would be onerous and would make it difficult for the Bank to respond efficiently to the requests for legal technical assistance that it regularly receives from the region. Seeking a presidential decree or memorandum of understanding as a matter of course would complicate relationships with the ministries asking for assistance, possibly not result in any formal request materialising, and unduly delay reform efforts.

The President's Recommendation relating to the relevant country Strategy, which was accepted by the Board of Directors, stated that the country "is committed to the principles of Article 1 of the Agreement Establishing the Bank" and, consistent with that recommendation, there was no proposal relating to whether "access by a member to Bank resources should be suspended or otherwise modified". Management therefore rejects the recommendation that the Board of Directors should consider suspending or modifying a country's access to the Bank's resources in the context described in the report.