



# LUXEMBOURG: A CHAMPION OF FINANCIAL LAW REFORM



The Financial Law Unit within the Legal Transition Programme (LTP) focuses on legal, regulatory and institutional reform that promotes access to finance, improved corporate governance and effective debt restructuring and bankruptcy, as well as related themes and projects. It also engages in capacity building work to help institutions enforce existing financial laws and regulations. In this way, the unit supports the development of a strong and efficient financial and corporate sector in the countries where the EBRD invests.

Luxembourg is a founding member of the EBRD and an important contributor to the Bank's work. In 2013-15 Luxembourg provided €1.14 million for TC assignments conducted by the LTP. In 2016, Luxembourg generously agreed to support projects of this kind for a further three years.

Pierre Gramegna is Luxembourg's Minister of Finance and from May 2016 to May 2017 was the Chair of the Board of Governors of the EBRD, the body that has overall authority over the Bank. Miguel Marques is Luxembourg's representative on the EBRD Board of Directors and Franc Cmok is a former Counsel within the Financial Law Unit. Together, they spoke about the collaboration between Luxembourg and the EBRD on developing a better legal environment for the financial system in the Bank's region.

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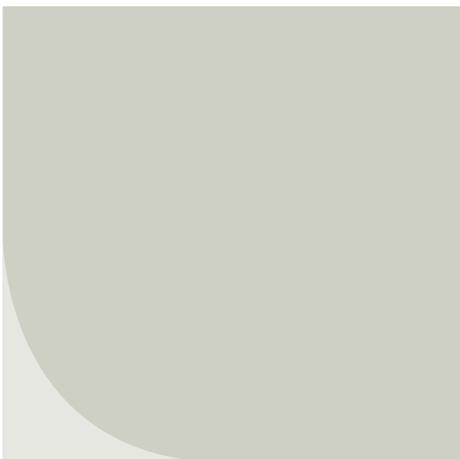
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## Minister, why did Luxembourg decide to provide support for this area of the Bank's legal reform work in particular?

**Pierre Gramegna:** Luxembourg is a member of a number of international financial institutions aside from the EBRD – such as the World Bank Group and its International Finance Corporation and the Asian Development Bank. Each institution brings its own added value and we take this into account when deciding how we allocate our funds for TC projects. The donor funds we provide represent around 1 per cent of our gross national income (GNI). This makes us one of the world's leading aid contributors when it comes to assistance as a percentage of GNI.

We are always looking for good projects that help us to leverage our funds. The EBRD's work on legal transition is crucial for the development of strong and stable market economies in the Bank's countries of operations. And the Financial Law Unit has unparalleled expertise on the legal and regulatory barriers that restrict access to finance and private sector growth and interfere with the business-enabling environment in the EBRD region.

The international community has recognised the importance of empowering the private sector so that more financing is available to meet the Sustainable Development Goals of ending poverty and protecting our planet. This branch of the Bank's legal reform work – aimed at creating a strong legal and institutional framework for financial transactions – therefore has a vital contribution to make to the wider international development agenda. That is why we were so keen to provide support for TC projects in this area – we believe that this is a smart way of doing a lot with a little.

## And why the focus on the Western Balkans?

**Pierre Gramegna:** The Western Balkans – and here we are talking about those countries<sup>1</sup> in that region that are not part of the EU – is a neighbouring area of the EU. Therefore its prosperity and stability matter a great deal to Luxembourg. The EBRD is the institution best placed to carry out work in the Western Balkans so it makes sense for us to encourage the Bank's work in this region. That said, our support for the Financial Law Unit has also funded projects outside the Western Balkans – for example in Tajikistan and Moldova. This means that the regional focus is not exclusive.

When we look at the Western Balkans and other countries, we think of our own experience in Luxembourg of transitioning from an economy based primarily on industry and agriculture to one that has a very developed service sector. We understand the importance of a strong financial sector for the development of the national economy as a whole. In order to offer a safe investment climate, it is important to have a strong legal and

supervisory framework that is perfectly compliant with European and international norms and standards.

I know that good corporate governance, efficient recovery mechanisms and more sophisticated financial products like factoring and leasing take time and effort to be put into place. But the results are worth it in the end. Luxembourg would like to help other countries to learn from our experience. I am convinced that they will see that there is a huge amount to be gained in the long term from these changes.

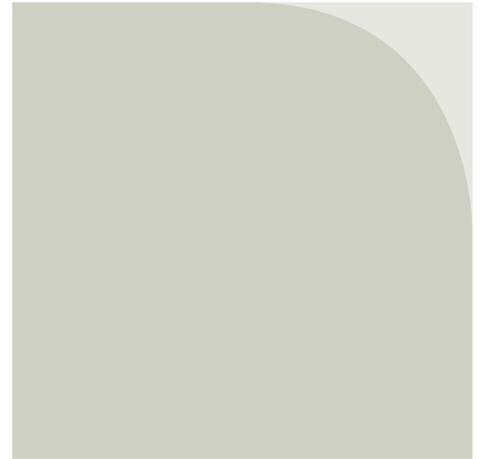
### **Miguel, how did the partnership between Luxembourg and the Financial Law Unit come about?**

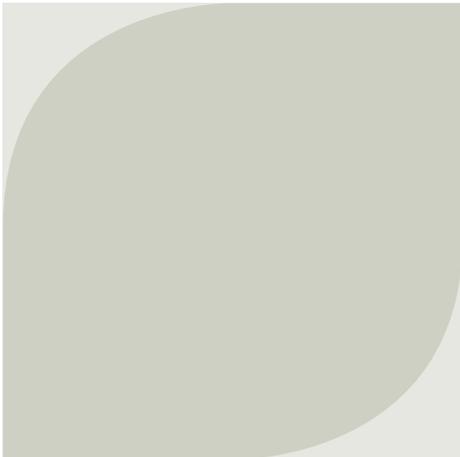
**Miguel Marques:** The partnership started in 2012 when Luxembourg and the LTP had a discussion about how they might work more closely together. One major issue that came up was the unpredictability of donor funding for LTP projects. EBRD lawyers might discuss a TC project with a government in the region, but would not know if they would get donor funding for the assignment, which made it difficult to have meaningful negotiations with government officials, especially regarding timelines. They were particularly keen to address this issue with regard to financial law projects and projects in the Western Balkans.

So we asked LTP to put together a pipeline of projects and then agreed to provide funding for these TC assignments over several years. By entering into a multi-year commitment, albeit an informal one at this stage, we gave the Financial Law Unit the certainty that funding would be available for their projects for the next three years. The arrangement also had the advantage of reducing some of the administrative burden associated with TC approvals, both for us and for the Bank. Of course, whether or not these assignments take place depends a lot on political factors in the countries in question, but we at least wanted to maximise the EBRD's ability to respond to those governments that are willing to engage with the LTP.

The system is now well established and works well for us. After agreeing to the Financial Law Unit's pipeline of projects, we ask for the budgets, terms of reference and descriptions of proposed individual assignments. I discuss these with my colleagues in Luxembourg and within a week we are able to say whether we are willing to fund the project.

Between 2013 and 2015, Luxembourg provided €1.14 million for TC assignments by LTP, including financial law reform projects in the Western Balkans and other countries. In 2016, we signed a replenishment of Luxembourg's TC fund at the Bank worth €6 million, to be disbursed in three instalments of €2 million per year, starting last year. Of this amount, about a third has been earmarked for the Financial Law Unit to ensure it has certainty about its TC funding for a further three years.





### **Franc, how important is it for the Financial Law Unit to have this kind of donor partnership in place?**

**Franc Cmok:** We are very grateful to Luxembourg for their long-standing and ongoing support for our work. This relationship gives us a huge degree of clarity and reliability and makes it much easier for us to plan ahead. As Miguel said, it is very important for our policy dialogue with governments because it means we know we have someone who is prepared to finance the projects under discussion. We can be much faster and more flexible in dealing with government officials.

For example, in 2016 we did an Assessment of Impediments to the Sale of Non-Performing Loans in Serbia. This was very important to the authorities in Belgrade, who needed the assessment to be done quickly as they faced strict timelines associated with the reform programme agreed with the International Monetary Fund (IMF) as a condition of the latter's assistance. Thanks to our excellent relationship with Luxembourg, we were able to do the project very quickly and it received widespread praise.

### **What other TC projects funded by Luxembourg stand out for you?**

**Franc Cmok:** There are many that deserve to be mentioned and it feels a bit unfair to select only a few. That said, one that stood out for me was the Revision of the Serbian Mortgage Legal Framework. It helped to introduce out-of-court enforcement of mortgage claims, in other words the sale of mortgages that had been given as loan collateral. This was very important for banks dealing with the very high non-performing loan (NPL) levels that still exist in Serbia. I have worked on NPL resolution and know how extremely difficult it is to sell collateral out of court in Serbia, so this project was badly needed.

Another notable assignment was on the Regulation of Leasing in Montenegro. The existing law hinders the development of the leasing market. Leasing is important for SMEs who often

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don't have enough assets to use as collateral for bank loans and this prevents them from investing in production equipment or other assets. Thanks to leasing, SMEs can obtain equipment and use it to create a cash flow with which they can pay the lessor, increase their income levels and grow their business. Montenegro, like many countries in the Western Balkans, relies heavily on SMEs for its economic vitality and has a lot to gain from legal reforms that can increase access to finance for small businesses.

As I said, we have carried out many other excellent projects with funding from Luxembourg and we have a rich pipeline of future projects for the next few years. There is a lot that still needs to be done in the Western Balkans, especially when it comes to resolving high NPL levels and widening access to finance, so we expect to remain very busy in this region!

**Miguel Marques:** I'd like to add that we have been very impressed by the innovative nature of the Financial Law Unit's projects – some of the financial instruments they are trying to introduce in the region are not very well known even in Luxembourg! We see that as part of the value of this partnership: we are able to help the EBRD try new things which, if they work, can be replicated in other markets. It is a very successful collaboration for both sides and we are committed to remaining in constant dialogue with the Financial Law Unit so that we can continue to respond to its needs.

<sup>1</sup> Albania, Bosnia and Herzegovina, FYR Macedonia, Kosovo, Montenegro and Serbia.

