

PUBLIC

**DOCUMENT OF THE EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

STRATEGY FOR UKRAINE

**REPORT ON THE INVITATION
TO THE PUBLIC TO COMMENT**

PUBLIC

1. INTRODUCTION

The objective of this report is to summarise key comments received from stakeholders during the consultation period on the Bank's Strategy for Ukraine and provide the Bank's management responses. The comments received during the public consultation period were reviewed by the Bank's management and reflected in the Strategy as appropriate.

In accordance with the EBRD Public Information Policy (PIP), the draft Strategy for Ukraine was posted on the EBRD website in English and Ukrainian for 45 calendar days from 2 August 2018. The public was invited to submit comments on the draft Strategy no later than 10 September 2018. The EBRD's Reform Anchoring & Crisis Response Package, which is a strategic framework under which the Bank has been providing a comprehensive support package that assisted the stabilisation and anchoring of reforms, was also made available on the website at <http://www.ebrd.com/where-we-are/ukraine/overview.html>.

Information about the public consultation process was posted on the EBRD's dedicated webpage "Have your say", which highlights the latest opportunities for the public to comment on the Bank's policies and strategies under review. In addition, targeted notifications of the consultation process were sent to local and international civil society organisations (CSOs) that have expressed interest in the Bank's work in the country.

Two sets of written comments on the draft Strategy for Ukraine were received during the public consultation period.

In line with the Bank's increased efforts to involve civil society at an early stage of Country Strategy development, the EBRD organised a consultative meeting with civil society organisations on 12 June 2018 in Kyiv to gather civil society's feedback during the preparatory phase for developing the draft Strategy. The consultation provided a platform for dialogue between civil society representatives and EBRD staff and management involved in the Strategy preparation process. A summary of the meeting and the list of participating organisations are provided in the Annex to this report.

2. PUBLIC COMMENTS AND STAFF RESPONSES

Comment	EBRD Response
Implementation of the Crisis Response Package	
<p>A CSO comment states that civil society was not consulted on the implementation of the Crisis Response Package between 2015 and 2017.</p>	<p>The Reform Anchoring and Crisis Response Package in Ukraine was intended to be an interim document that would allow the Bank to respond to the crisis in a speedy, flexible and efficient manner. As such, the public consultation requirements as per the Bank's Public Information Policy do not apply to this approach. CSOs and Bank Management discussed the Crisis Response Package at several occasions, such as at EBRD Annual Meetings and a meeting hosted by the Resident Office in Kyiv in March 2016. A summary of the approach was made publicly available on the EBRD website in May 2016.</p>
<p>CSOs suggest that the Bank should address remaining challenges with the implementation of the decommissioning of the Chernobyl NPP and further engage with Ukrainian authorities about the next steps in decommissioning of the Chernobyl NPP unit 4. According to CSOs, EBRD projects in the Chernobyl exclusion zone are not yet fully completed, i.e. there is some uncertainty around the date for the Chernobyl New Safe Confinement to become operational and there are delays and uncertainty around completion date for nuclear fuel dry storage. Some of the preconditions for next steps in the decommissioning of the Chernobyl NPP unit 4 are not met, namely demolishing of the unstable structures of the old sarcophagus, and transportation and safe disposal of the debris.</p>	<p>It is important to distinguish between dismantling and waste management works at the Chernobyl NPP unit following completion of the New Safe Confinement (NSC) and decommissioning of units 1 to 3. The mandate of the Chernobyl Shelter Fund, a multilateral donor Fund managed by the Bank, ends with the handover of NSC to the Ukrainian authorities, which is envisaged for Q1 2019. The NSC has a design life of 100 years, which means that there is sufficient time to carefully plan future dismantling tasks and the possible recovery of radioactive inventory. The Bank may consider involvement in a future dismantling programme in a fund management capacity provided that Ukraine provides a strategic basis for a dismantling programme, the existence of donor interest, and support by the international community.</p> <p>The Bank has supported the decommissioning of Chernobyl NPP 1 to 3 by financing two crucially important infrastructure projects, through the Nuclear Safety Account, another multilateral donor Fund. The Liquid Radioactive Waste Treatment Plant is completed and operational. The Interim Storage Facility for spent fuel will start operations in 2019 and safely and securely</p>

	store the spent fuel from units 1 to 3 for up to 100 years. Similarly, for unit 4, Ukrainian authorities would need to develop a strategy for the complete decommissioning of the three shutdown units and approach donors for financing and implementation as such a programme is unlikely to be eligible for loan financing.
While CSOs suggest that there may have been limits to the Bank’s possible influence in the area of renewable energy reform, a comment suggests that EBRD may have a role to play in ensuring that the new support scheme for renewable energy facilitates the development of decentralised renewable energy sources, including provisions for feed-in-tariffs and simplified grid access for small businesses, cooperatives, and non-profit organisations.	Increased energy share generated by renewable facilities and diversification of energy sources through increase in renewable energy sources are included in the Country Strategy priorities and are thus among the envisaged activities for the Bank’s operations in Ukraine in the forthcoming strategy period. The Bank will take into account specific suggestions made by CSOs in the design of its renewable energy projects.
According to CSOs, there is not sufficient information available publicly about the Bank’s financially intermediated loans, preventing effective public scrutiny and monitoring of environmental and social benefits, in particular with regards to SME projects in the agribusiness sector.	Under the EBRD’s Performance Requirement 9 (PR9) for Financial Intermediaries (FIs) the responsibility for project appraisal and monitoring is delegated to partner FIs and national law is the benchmark standard. Similarly, for credit lines and EBRD’s direct investments under frameworks, facilities or by way of the Small Business Investment Committee, client disclosures and regulators’ enforcement of national and international obligations play a crucial role in project monitoring. At the same time, in line with the Bank’s continuous commitment to improving its environmental and social policies and procedures, the EBRD has strengthened its approaches in this area, provides technical assistance to FIs and encourages them to engage with civil society in a transparent way. CSO comments concerning FIs and the Bank’s disclosure on FI projects will be taken into account during the review of the Bank’s governance policies (namely the 2014 Environmental and Social Policy and the 2014 Public Information Policy) which is envisaged to be completed at the end of 2019.
Key messages from Civil Society to EBRD; Defining EBRD Ukraine Country Strategy Priorities	
CSOs encourage the Bank to adopt an “ecosystem approach” in its activities in a rigorous and comprehensive manner (for instance in the transport sector).	The Bank’s Environmental and Social Policy and Performance Requirement 6 (PR6) outline the way in which the Bank and its clients take an ecosystems approach.

<p>According to CSOs, the EBRD should actively propel convergence with EU standards through its operations, in particular with regards to environmental standards and namely the implementation of provisions governing Environmental Impact Assessments (EIA) and Strategic Impact Assessments/Strategic Environmental Assessments (SEA). In particular in the area of environmental legislation, implementation of national level provisions is lagging behind, according to CSOs. The Bank should therefore ensure that EU standards and best international practice are applied in its investments.</p>	<p>An addition has been made to the Strategy text on p. 11 to reflect this comment. The Bank welcomes the suggestion, notes that it is in line with its operational priorities identified for the forthcoming strategy period and will take the importance of this issue for civil society into account in the design of its operations.</p> <p>EBRD projects are structured to meet an EU standard of implementation and best international practice. Where EU environmental principles, standards and practices can be applied at the project level, the Bank is committed to their promotion, as stipulated within the Bank's Environmental and Social Policy and within the Performance Requirements.</p> <p>On the strategic level, through policy dialogue and capacity building, the Bank will support the implementation of EU directives as part of the 2017 Association Agreement and, among others, help ensure that EU EIA Directive is transposed and implemented, as noted on p. 20 of the draft Strategy.</p>
<p>CSOs would welcome the Bank's support in revising Ukraine's Nationally Determined Contributions (NDCs) under the Paris Agreement to develop more ambitious targets.</p>	<p>The EBRD will support Ukraine, and all of its countries of operations, to develop and achieve its NDCs through the Bank's Green Economy Transition approach. The Bank is also part of the NDC Partnership, a coalition which backs the delivery of the Paris Agreement global climate pledges.</p>
<p>The issue of water scarcity in eastern and southern Ukraine should be taken into consideration by the Bank and addressed for instance through investments in drip irrigation and vertical farming; at the same time flood protection systems should be improved.</p>	<p>The EBRD will consider investing in these areas to support private sector investment in more efficient technologies (such as drip irrigation); innovative farming techniques and providing support for climate change adaptation, in line with its mandate.</p>
<p>According to CSOs, the prevalence of agro-holdings in Ukraine that benefit from state subsidies jeopardises the long-term sustainability of the agribusiness sector and raises concerns about pollution, industrial animal farming practices, and the use of land/ land ownership. EBRD should therefore beware of tax evasion (tax havens), support the development of small and medium agricultural entrepreneurship, especially in rural areas, promote innovation, job creation and meaningful stakeholder engagement of communities.</p>	<p>The EBRD partners with different organisations and associations (such as the Food and Agriculture Organization of the United Nations (FAO)) to target a wider range of activities and beneficiaries in the agribusiness sector, including a focus on urban-rural linkages. The EBRD promotes access to jobs, economic opportunities and entrepreneurship in line with the EBRD's Economic Inclusion Strategy (EIS). In line with the EBRD Environmental and Social Policy, the Bank provides for full and participatory stakeholder engagement and requires that its clients conduct stakeholder engagement.</p>

<p>While EBRD has provided support in the drafting of the Single and Comprehensive Strategy for Agriculture and Rural Development 2015-2020 in Ukraine, the Bank should provide further support for its implementation and promote agricultural sector reform, emphasising rural development, according to CSOs.</p>	<p>The EBRD supports policy dialogue and sectoral reforms in its countries of operations, in line with its mandate. Ultimately, the EBRD can support policy dialogue initiatives and their implementation when requested by the relevant authority. The EBRD is extensively engaging with its partners and together with the private sector in promoting best international practices in the agribusiness sector in Ukraine.</p>
<p>CSOs suggest that the Bank should take into consideration climate change effects in the selection and design of its investments in the hydropower sector, and therefore recommend that the Bank should require SEA at river basin level and focus on rehabilitation only.</p>	<p>Climate change adaptation is one of the pillars of the Bank's Green Economy Transition approach. In line with this approach, the Bank systematically screens its pipeline of investments for projects that are climate sensitive and that may benefit from climate change adaptation measures.</p> <p>As the hydropower sector is particularly sensitive to the impacts of climate change, the Bank has integrated climate change adaptation considerations in numerous hydropower investments. The Bank is working with the International Hydropower Association on climate resilience guidelines for the hydropower sector. These guidelines will reflect industry-best practice approaches for managing the impacts of climate change in greenfield and rehabilitation projects. The Bank will pilot the guidelines with a view to apply them across future hydropower projects.</p> <p>In the large hydropower sector in Ukraine the Bank is currently implementing hydropower plant rehabilitation programmes only.</p>
<p>According to CSOs, to tackle waste issues in Ukraine the Bank should not support waste-to-energy schemes/technology on a priority basis as the waste separation and recycling system is not yet functioning sufficiently well in the country and, for instance, there is a risk that dangerous substances and re-usable resources enter the general waste stream.</p>	<p>The Bank takes note of the CSO concern and consequent recommendation. It recognises that outdated waste practices are among the transition challenges to be tackled in Ukraine and will attempt to support improvements in this area, such as in the regulatory framework. The Bank generally supports the principle of the waste management hierarchy – considering country specific circumstances and challenges.</p>
<p>CSOs request the Bank to support a revision of the General Concept for the decommissioning of operating nuclear power plants (NPPs), considering concerns about availability of state funding for the Ukrainian state decommissioning fund. The Bank should prepare, in the context of its Nuclear Power Plant Safety Upgrade Programme, the decommissioning of</p>	<p>In the context of the Nuclear Power Plant Safety Upgrade Programme the Bank monitors compliance with conditions in the loan and guarantee agreements and engages with Energoatom if deficiencies are identified. The Bank acknowledges that while funding for the decommissioning funds may not be entirely satisfactory, Ukraine has made progress in establishing a system that accounts for the operators' obligation to set aside funds for</p>

units that received licences to extend operations.	decommissioning, as required by best international practice. If requested, the Bank will consider further support for financing decommissioning of NPP units, in line with the provisions of the Bank’s Energy Sector Strategy, and may engage in policy dialogue in this area in the context of its projects.
General remarks	
<p>CSOs suggest that EBRD projects should require robust social impact assessments and human rights due diligence. As an integral part of social due diligence, human rights due diligence can safeguard the financial and social sustainability of EBRD investments by identifying and managing potential financial, legal and reputational risks. Stakeholders must be able to voice criticism about projects that may affect them, without fear of retributions. Finally, women, minorities, vulnerable, and marginalised groups should be given special consideration.</p>	<p>The Bank carries out detailed appraisal of all projects under consideration prior to their approval. All EBRD projects are structured to comply with the Bank’s Environmental and Social Policy (ESP). The Bank requires all clients to assess and manage environmental and social issues and risks, including human rights, and recognises that it is the responsibility of businesses to respect human rights. Where gaps are identified the Bank works with its clients to put in place remedial actions.</p> <p>The EBRD is fully committed to the principles of meaningful stakeholder participation processes. In accordance with Performance Requirement 10, clients should “conduct stakeholder engagement on the basis of providing local communities that are directly affected by the project and other relevant stakeholders with access to timely, relevant, understandable and accessible information, in a culturally appropriate manner, and free of manipulation, interference, coercion and intimidation.” The Bank systematically requires its clients to develop stakeholder engagement plans that includes a grievance mechanism and is accompanied by a number of due diligence and monitoring tools to ensure meaningful consultation with stakeholders. Grievance mechanism processes or procedures should address concerns promptly and effectively, in a transparent manner that is culturally appropriate and readily accessible to all segments of the affected communities, at no cost and without retribution.</p> <p>The EBRD recognises that every individual or group has the right to voice criticism or file complaints related to EBRD projects without threats to their safety or a fear of retribution. The Bank has internal procedures in place on handling allegations of retribution for criticism and complaints related to EBRD projects.</p> <p>Furthermore, the Bank is committed to promoting inclusive growth and</p>

	<p>gender equality across its operations, in line with the EBRD's Economic Inclusion Strategy and its Strategy for Promotion of Gender Equality, which aim to deliver the benefits of economic growth to all segments of society. As part of its Economic Inclusion Strategy, the Bank supports the economic inclusion of women, young adults and people living in economically less-developed regions. As part of its Strategy for Promotion of Gender Equality, the EBRD supports women's economic inclusion.</p>
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Summary of EBRD meetings with civil society on 12 June in Kyiv

As part of the public consultation process, the EBRD held a consultation meeting on 12 June hosted by the Resident Office in Kyiv that was attended by representatives of eleven local civil society organisations. The consultation provided an opportunity to discuss the Bank's suggested strategic priority areas for the forthcoming strategy period 2019-2022, which were broadly endorsed by civil society participants.

Strategic directions and envisaged activities

Overall, EBRD should support Ukrainian civil society to continue to actively help advance reform processes. CSOs emphasised that the EBRD has an important role to play in supporting convergence with EU standards by Ukraine's private sector, including in the environmental and social spheres.

In relation to the area of good governance, CSOs pointed out that the Ukrainian government, with contribution from civil society and with help from international actors including EBRD, has taken significant steps forward in combatting corruption through decentralisation, the use of digital tools and trainings of officials. Noteworthy areas of progress, according to CSOs, include public procurement, VAT returns and cross border control. As an example, CSOs emphasised that the use of modern technology, such as digitalisation of tax returns, have drastically reduced corruption. At the same time, challenges remain in the governance of law enforcement agencies, especially security and intelligence, regulation of alcohol and tobacco industries, and lack of high level convictions for corruption, which undermines public trust and seems to confirm the perception that corruption is not tackled at the highest levels. CSOs also raised concerns about a lack of transparency at the municipal level.

The topic of competitiveness in the Ukrainian private and state sectors was discussed, particularly in the energy and financial sectors and among micro and small and medium enterprises. CSOs pointed out that there has been progress in these areas, but that the grey economy, tax evasion and illicit trade remain problematic. CSOs also mentioned shortcomings in terms of the investment climate in Ukraine and challenges with respect to inadequate laws that export and import companies face and that may discourage potential foreign investors from entering Ukraine.

CSOs expressed specific suggestions about the Bank's operations in a number of areas: In the area of waste management investments, grants by EBRD and donors' are welcome to improve solid waste management, as successfully demonstrated in Lviv. This approach should also extend to other cities considering that waste management is a long term problem in many municipalities. In addition to its investments in energy efficiency, according to CSOs, EBRD should do more to support the renewable energy sector where many challenges remain, such as the use of land for energy, transparency of tariffs and connection to the grid. CSOs pointed out that small and medium size businesses in the rural economy suffer from underinvestment and should receive greater support than large companies; CSOs also recommended that the Bank should support rural economic development.

List of CSO represented at the consultation meeting in Kyiv

- The Anti-Corruption Action Centre (AntAC)
- Centre of Policy and Legal Reform (CPLR)
- Ecoaction
- European Business Association (EBA)
- Innovative Farming and Cooperation NGO

- International Renaissance Foundation (IRF)
- Kyiv School of Economics (KSE)
- National Association of Agricultural Advisory Services of Ukraine
- Reanimation Package of Reforms (RPR)
- Transparency International Ukraine
- UARE (Ukrainian Association of Renewable Energy)