

PUBLIC

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

STRATEGY FOR TURKMENISTAN

**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 Turkmenistan and to 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 Turkmenistan was posted on the EBRD website in English and Turkmen for 45 calendar days from 7 May 2019. The public was invited to submit comments on the draft strategy no later than 21 June 2019. The previous strategy was also made available on the EBRD website at <http://www.ebrd.com/where-we-are/turkmenistan/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 national and international civil society organisations (CSOs) that have expressed interest in the Bank's work in the country.

Three sets of written comments on the draft strategy for Turkmenistan 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 several consultative meetings with civil society organisations on 7 November 2018 in London and on 29 November 2018 in Ashgabat 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 involved in the strategy preparation process, including senior management, the senior political counsellor and economists. A summary of the meetings and list of participating organisations are provided in the Annex to this report.

2. PUBLIC COMMENTS AND BANK RESPONSES

Summary of comments	EBRD Responses
Executive Summary and Country Strategy Priorities	
In view of the human rights situation in the country, and also from an environmental and climate change perspective, some CSOs are concerned that the Bank may consider investments in the hydrocarbon sector and in the public sector. According to CSOs, such investments would aggravate corruption and human rights issues and also lock the country into long-term fossil fuel dependency, foregoing the opportunity of lowering greenhouse gas emissions. Furthermore, such investments would directly benefit the executive power.	Comment noted. Any additional engagement beyond the current 100% private sector focus would have a strong reform conditional character and would undergo careful evaluation of related transition impact potential and rigorous due diligence. In all of its operations, the Bank adheres to highest integrity standards and promotes good corporate governance and high ethical standards; dedicated procedures are in place for monitoring and due diligence, and these standards are reflected in the terms of the Bank's legally binding financing agreements with all of its clients. As stated in the Activities and Results Framework (slide 13-14), the only activities that would be considered are quality FDI from the private oil and gas sector, activities to support petroleum gas flaring and fugitive emissions reduction as well as remediation services. Proceeds would be ring-fenced to ensure that no project revenues flow into the Turkmenistan Foreign Exchange Reserve Fund. Furthermore, any investments would need to be consistent with the Bank's Energy Strategy. Further points related to the energy sector are also addressed at the end of this section. Furthermore, the Political Assessment acknowledges challenges with regards to human rights and corruption (in particular slides 19; 24-26). The implementation risk indicator (slide 16) reflects the link between operations and political risk, including transparency, corruption and governance challenges: "Insufficient political reform progress, transparency and governance challenges could negatively impact investment activities".
Some CSOs are concerned that the Bank does not define (e.g. through indicators) the terms "traction", "tangible progress" or "meaningful reform commitment" that would be needed to justify "deeper engagement" in the country.	Comment noted. Please refer to the response regarding benchmarks below.

Some CSOs suggest that the EBRD should introduce concrete benchmarks (including political benchmarks, and not only economic ones as is currently the case) to measure the government's commitment to democracy and human rights reform as a condition to considering public sector support. Support should not be provided until there is measurable progress. CSOs believe that conditionality is the most effective approach to promoting democracy and human rights reforms and has thus the greatest potential to facilitate and support Turkmenistan's transition to a market-based economy. Some CSOs encourage the Bank to promote and apply the human rights benchmarks recently adopted by the European Parliament to measure progress in this area, emphasising that the Bank's level of engagement in the country, and any potential extension of its operations into the public sector, will be dependent on meeting these benchmarks.	The Bank's policy on assessing a country's commitment to and application of the principles of pluralism and multiparty democracy is set out in the Political Methodology. The Bank's response to compliance challenges with the political principles in Article 1 was refined, as approved by the EBRD Board of Directors in July 2018, and envisages "adjustments to new investments and policy engagement as new trends materialise". This approach is applied consistently to all of the Bank's countries of operations and has been followed in the case of Turkmenistan. It allows the Bank to respond in an agile fashion to important shifts in countries of operations' political situation, in accordance with a "more for more"/"less for less" rationale. Accordingly, possible levers for adjustment include: (1) modifying public/private sector share; (2) intensifying/prioritising policy engagement in the Bank's areas of expertise; (3) enhancing conditionality at project level; (4) narrowing investments on activities with positive cross-border externalities; and/or (5) managing overall business volume (increase or decrease). Furthermore, the implementation risk indicator (slide 17) reflects the link between political risk and operations: "Insufficient political reform progress, transparency and governance challenges could negatively impact investment activities". It is, however, outside of the remit of the Bank to prescribe specific priorities, actions, or indicators in the political sphere. At the same time, the Bank continuously monitors developments in the political sphere and will report on any such steps.
Some CSOs recommend that the Political Assessment and the messages from civil society are integrated in the strategy itself (and not presented as an Annex and a separate box) and that conclusions are translated into concrete benchmarks to steer the Bank's operations in the country. CSOs argue that this is important as issues covered in the Political Assessment have a direct impact on the strategy priorities. This approach would also ensure that the Bank continues to comply with its Article 1 mandate.	The Executive Summary at the beginning of the Country Strategy contains a summary of the main conclusions of the Political Assessment. The Political Assessment allows the Bank to evaluate a country's compliance with the political principles in Article 1 of the Agreement Establishing the Bank. The Bank's revised Political Methodology allows for a more robust Political Assessment, and also envisages tools to adjust the Bank's activities and provides for engagement with civil society (also cf. response above). The Bank has consulted widely with civil society stakeholders during the strategy review process. CSO inputs have been considered in the drafting of the strategy document and will continue to be taken into consideration in the development of Bank operations in the country throughout the strategy period.
Some CSOs urge the Bank to discontinue all of its operations in Turkmenistan for three years, while continuing to encourage political reform through other means (which the Bank should explore), until national laws	Comment noted. As a matter of principle, the Bank is a long-term partner and contributes to Turkmenistan's transition towards democracy, pluralism and markets economics by remaining engaged and focusing investments on the private sector, SMEs and entrepreneurship. Consistent with its mandate, the Bank assesses and monitors the political situation of the country on a

and policies (and in particular the Constitution and the Law on the Halk Maslahaty) are consistent with the Bank's mandate. CSOs also consider that the draft strategy is missing an opportunity to encourage Turkmenistan to transform its current socioeconomic model. From the point of view of some CSOs, the strategy deviates from the Bank's original mission to serve as an effective mechanism for promoting, assisting and encouraging transition and modernisation. Some CSOs suggest that the Bank's strategy is not sufficiently "principal-driven" (as is the case for other international organisations too) and could therefore be taken advantage of by the Turkmen authorities.	regular basis; engages with key stakeholders, including CSOs, and aligns and coordinates with key international partners to support reform where feasible. Furthermore, the Bank engages in policy dialogue with the authorities related to its mandate, including its political aspects, and may raise areas of significant concern. The Bank's ability to engage with the authorities on these issues would be significantly restricted if it was not conducting operations in the country.
CSOs welcome EBRD's commitment in the draft strategy to support renewables, as well as the focus on nurturing the weak private sector. In terms of the energy sector, CSOs encourage the Bank to diversify away from hydrocarbons (extraction, development, processing, upgrading, or transportation infrastructure) and invest only in clean renewable energy projects in Turkmenistan, including wind and solar, with solar having a particularly strong potential. Some CSOs point out that they do not consider natural gas to be a suitable source of sustainable energy. It would lock the country in fossil fuel dependency. CSOs are particularly concerned about fugitive methane emissions due to lacking application of international standards and consequently a lack of access to accurate data. Civil society involvement in line with EITI principles would not be possible in Turkmenistan.	The Bank's lending activities in the energy sector are guided by its Energy Sector Strategy, which applies to all of the Bank's countries of operations. The Energy Sector Strategy acknowledges the potential role for natural gas for a transition period, as one of a number of options, in switching away from more polluting fuels - depending on country and regional circumstances and in line with certain criteria ensuring that gas sector investments will not displace less carbon-intensive sources, or lead to carbon lock-in or stranded assets. In Turkmenistan, the Bank envisages policy engagement to promote climate change mitigation and adaptation measures, and will promote the development of renewable energy, in particular wind and solar, including support for an appropriate legislative framework. The Bank continues to support the principles of good governance, revenue transparency and accountability in extractive sectors enshrined in the Extractive Industries Transparency Initiative (EITI).
Key transition challenges	
CSOs point out that Turkmenistan lacks a Ministry of Environment and that the State Agency for Hydrocarbons has been abolished, leaving the monitoring of hydrocarbon	Comment noted. All Bank projects have to comply with EBRD standards and notably with the requirements of the Bank's Environmental and Social Policy, including appropriate monitoring arrangements for that purpose. The Bank will also consider opportunities for policy dialogue

projects in the remit of companies that manage the industry.	and technical cooperation with the Turkmen authorities that could include issues related to improving environmental regulations and/or institutional capacity in this field.
Implementation Risks and Environmental & Social Implications	
CSOs draw the Bank's attention to the practice of forced evictions and expropriations without provision of compensation, for example as a result of public infrastructure projects in Ashgabat. CSOs urge the Bank to ensure that no such practices occur in its projects and that forcibly evicted residents and homeowners receive adequate compensation/remedy and access to effective judicial mechanisms.	All EBRD projects are structured to comply with the Bank's Environmental and Social Policy, including Performance Requirement 5, which addresses impacts of project-related land acquisition that may cause physical displacement and/or economic displacement, and is applied consistent with the universal respect for, and observance of, human rights and freedoms.
CSOs critique that there is no clarity about how risks identified (e.g. state interference in the economy, non-commercial practices in the banking sector, transparency and governance, and data availability and quality – all of which are classified as “high”) influence the assessment of investments or how these risks could be managed.	The Bank has stringent policies and performance requirements in place to ensure that projects financed are designed and carried out in line with the principles of good governance and transparency, and promotes high ethical standards and integrity in all its business operations. The Bank conducts its own rigorous due diligence internally in relation to each operation, with expert advice from external consultants where appropriate, and closely monitors all its projects to ensure their compliance with its policies and requirements. By their very nature, risks to strategy implementation cannot be <i>ex ante</i> eliminated, but the Bank will keep these in mind in assessing potential projects in the future.
Annex 1 – Political Assessment	
CSOs suggest that the Strategy should not only acknowledge the lack of progress on human rights since 2014, but point out the deterioration of the situation more explicitly, such as travel bans and recent measures that further limit opportunities of free expression for civil society activists and journalists including, according to CSOs, detention and imprisonment on politically motivated grounds.	The concerns expressed by CSOs about serious challenges with regards to human rights and independence/ ability to operate for civil society are noted and reflected in the Political Assessment in accordance with the Political Methodology. The Political Assessment reflects conclusions consistent with relevant international documents and assessments by the UN and its specialised agencies, the OSCE, Council of Europe, the EU, etc. The Bank will continue to monitor the situation as related to the political principles in Article 1 and may liaise with the Turkmen authorities on these matters as appropriate.
CSOs recommend that the Bank should not refer to any “positive steps” taken by the Turkmen authorities that may	The references to “positive steps” in the Political Assessment are balanced by references to lack of implementation.

have contributed to bringing Turkmenistan's institutions and legislation in line with international standards as, according to CSOs, any such steps were a formality and have not contributed to any concrete improvements.	
Some CSOs believe that the Political Assessment is not sufficiently critical. One area that should have been noted according to CSOs is the violation of national and international law (Ramsar Convention) associated with the construction of the seaport in Turkmenbashi.	The Political Assessment reflects the existence of significant challenges related to the Article 1 political principles. Following the 2018 review of the Bank's response to compliance challenges with the political principles in Article 1, the previously binary (and often too simplistic to be credible) statement of "compliance" was replaced with an enhanced approach to compliance statements. The new statement includes a succinct assessment of a country's current position and progress or reversals over the previous country strategy period. The political assessments continue to be prepared in accordance with the Bank's Political Methodology based on 14 criteria, and allow for a robust, objective, nuanced and frank analysis. The Bank does not report on the legal compliance of specific projects or national initiatives, regardless of whether they are supported by EBRD or not, in the Political Assessment. However, the Bank structures its projects to comply with national and international law as well as environmental and social standards as set out in the EBRD Environmental and Social Policy.
CSOs call for monitoring of any changes occurring in Turkmenistan based not only on data coming from Turkmenistan's official sources and the Bank's representative office in the country but also on reports from nongovernmental organizations and civil society activists and experts living in Turkmenistan or exiled.	The Bank acknowledges the concerns raised by civil society, including activists and exiled CSO representatives. In the process of the strategy development, the Bank consulted widely with national, exiled and international CSOs and several specific points and recommendations made by CSOs were noted and taken into account in the development of the strategy document. While the Political Assessment cannot reflect each and every detail, it assesses progress/regress made as set out by the Bank's Political Methodology, and it includes multiple references to relevant international texts which provide more information.
While CSOs appreciate the reference to enforced disappearances in the strategy document, they suggest the Bank should emphasise that the Turkmen authorities should end these practices and release information about the fate of the disappeared granting them prompt access to lawyers and family.	The Political Assessment contains analysis and some conclusions but does not encompass advocacy.
While welcoming the establishment of the office of the	The Political Assessment notes (slide 8) that the Ombudsman has "not secured accreditation

Human Rights Ombudsperson, CSOs are concerned about its effectiveness and point out that Turkmen authorities have not ensured institutional independence of this office in accordance with the Paris Principles.	from the Global Alliance of National Human Rights Institutions” which assesses such institutions according to the Paris Principles.
CSOs draw the Bank’s attention to the fact the implementation of the recommendations of UN bodies is lacking (e.g. recommendation of the 2018 Universal Periodic Review) and encourage the Bank to state this more explicitly in the Strategy.	The Bank takes note of these concerns.
CSOs deplore that mandate holders of UN special mechanisms (e.g. the Special Rapporteur in the field of cultural rights) have not been able to visit the country.	The Bank takes note of these concerns.
General/ cross-cutting issues	
Some CSO comments raised concerns with regards to EBRD investments’ compliance with the Bank’s requirements, namely the loan to Dragon Oil.	Comment noted and brought to the attention of project specialists. As per usual practice, project level issues will not be covered in detail in this report, but will be addressed in a different format as appropriate.

Summary of EBRD's consultation meetings with civil society on 7 November 2018 in London and on 29 November 2018 in Ashgabat

As part of the public consultation process, the EBRD held a series of consultation meetings that were attended by 16 civil society representatives. On 7 November 2018, a consultation roundtable was held in London with international CSOs to discuss Article 1 issues, the political situation in the country and other transition challenges. On 29 November 2018 the Resident Office in Ashgabat hosted a consultation meeting with national CSOs to gather their views on the Bank's planned operational priorities for the forthcoming strategy period and discuss economic development, environmental questions and inclusion issues.

Strategic directions

Most CSOs, with the exception of groups of local activists, consider it important for the Bank to remain engaged in the country and to use its leverage (together with other international actors) to advocate for political/governance reform. Some CSOs expressed general support for the two strategic priorities presented in the strategy, especially plans to support the nascent private sector, while others urged the Bank to define specific benchmarks, including on political criteria, which would need to be met before the Bank would consider any expansion of operations in the public sector. Some organisations urged EBRD to altogether exclude any investments in the public sector, in sovereign and oil and gas sector or in private natural gas infrastructure. According to CSOs, investments in oil and gas would not only lock the country into fossil fuel dependency for the long term, jeopardise climate goals, and evoke environmental concerns, but also be counterproductive in terms of the governance and corruption challenges that Turkmenistan faces. A number of CSOs advocated for 'calibration' or a comparable approach that ties engagement to reform progress, and a group of civil society actors urged the Bank to suspend its operations for a period of at least three years and only resume engagement once the country meets previously defined benchmarks reflecting the Bank's Article 1 mandate.

Article 1 issues and Political Assessment

CSOs have expressed strong concerns about, first and foremost, the human rights situation in the country. Violations of civil and political rights are considered to be systematic. Furthermore, areas that are seen as most alarming by CSOs are prisoners allegedly held for political reasons and conditions of detention, "enforced disappearances"; travel bans/ restricted freedom of movement; forced labour in the cotton sector; and no improvement with regards to the lack of freedoms of speech and assembly. CSOs are concerned about the operating conditions for civil society, such as compulsory state registration of associations, administrative penalties for unregistered associations, provisions granting wide monitoring powers to the authorities over the activities and finances of associations and arbitrary closure of CSO offices, restrictions on freedom of assembly, and persecution of independent journalists and activists. These conditions result in a practically non-existent genuine local civil society, according to international groups and some local activists. CSOs furthermore described a general deterioration of democracy, an absence of separation of powers and rule of law (e.g. due to constitutional changes in 2016 and 2017 that strengthened the powers of the presidency), systemic corruption, and gender equality issues.

At the same time, CSOs recognise that the operational environment in the country is challenging and appreciate the more candid Political Assessment that resulted from the revision of the Bank's Political Methodology. Many CSOs recommend that the Bank integrate the Political Assessment more closely in the strategy document and define how the conclusions of the Political Assessment and civil society input impact the Bank's operations in the country.

List of CSO represented at the consultation meetings

Ashgabat

- Bosphorus
- Keyik Okara
- Nature Protection Society
- Union of Accountants
- Yenme

London

- Amnesty International
- Anti-Slavery International
- Alternative Turkmenistan
- Turkmen civil society activists
- Chatham House
- Crude Accountability
- Gundogar website
- Human Rights Watch
- International Partnership for Human Rights
- Open Society Foundation