

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

**STRATEGY FOR AZERBAIJAN
REPORT ON THE INVITATION
TO THE PUBLIC TO COMMENT**

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 Azerbaijan 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 Azerbaijan was posted on the EBRD website in English and Azerbaijani for 45 calendar days from 11 February 2019. The public was invited to submit comments on the draft strategy no later than 28 April 2019. The previous strategy was also made available on the EBRD website at <http://www.ebrd.com/where-we-are/azerbaijan/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.

Seven sets of written comments on the draft strategy for Azerbaijan 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 21 November 2018 in Baku and on 16 January 2019 in London 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, senior political counsellors and economists. A summary of the meetings and list of participating organisations are provided in the Annex to this report.

2. PUBLIC COMMENTS AND STAFF RESPONSES

Summary of comments	EBRD Responses
Executive Summary and Country Strategy Priorities	
Some CSOs consider that challenges with regards to corruption and transparency (e.g. the Laundromat scandal) are not recognised in the strategy as being systemic and are not integrated appropriately in the strategy document. According to CSOs, the EBRD cannot ensure that its loans will be used in a transparent and accountable manner due to increased governance and transparency risks. Similarly, while CSOs overall support the emphasis on good governance, they consider that it should be a precondition for the Bank to invest in Azerbaijan, rather than part of an operational priority.	As a matter of principle, the Bank adheres to highest integrity standards and promotes good corporate governance and high ethical standards in all its operations; 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. Furthermore, there are enhanced procedures for assessing risks associated with politically exposed persons in the context of the Bank's anti-money laundering programme. In relation to each operation, the Bank conducts its own rigorous integrity due diligence internally, with expert advice from external integrity consultants where appropriate. Any integrity concern is also weighed against mitigating factors, controls on the use of the Bank's funds, and other characteristics of a project. In the case of the "Azerbaijani Laundromat" allegations, the Bank remains vigilant with respect to the possible risks and will continue to monitor these. The Economic Context (slides 8-9) as well as the Political Assessment (slides 21, 23, 25, and 26) acknowledge that serious transparency and corruption challenges remain and need to be tackled as a priority. An implementation risk indicator (slide 17) has been added to reflect 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".
With regards to the priority to support the Green Economy Transition in Azerbaijan, and specifically with regards to green utilities, a CSO comment noted that there are issues in terms of access to clean drinking water and water supply. The lack of independence of municipalities was noted as a concern. It was also suggested that the Bank could do more in the area of waste management (e.g. waste composition analysis, recycling, promotion of ecological safety).	Comments noted. Suggestions will be taken into account in the course of the development of investment operations.

Some CSOs are of the opinion that the Bank should explicitly exclude the possibility of financing projects in the oil and gas sector and in all hydrocarbon service related sectors. Some CSOs suggested that Bank lending to public institutions should be restricted.	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. While the Bank does not explicitly exclude any sectors of the economy when approached for bankable projects, for Azerbaijan support of the (non-oil) private sector and thereby economic diversification will be a key priority in the forthcoming strategy period. The Bank will equally continue its strong focus on prioritised policy engagement, supporting good governance, financial sector development and the country's Green Economy Transition. While overall, private sector development is a strategic priority for the Bank in Azerbaijan, EBRD will consider selective sovereign lending activities after careful evaluation of related transition impact potential as well as undertaking rigorous due diligence processes.
CSO concerns were raised about insufficient support by the Bank for the transition away from an oil and gas based economy. A CSO comment suggested that the Bank should focus on investments in the non-hydrocarbons energy sector and energy efficiency, thereby encouraging reforms in the political sphere, and also help increase share of non-fossil fuel related SMEs in the Bank's portfolio.	As noted above, promoting economic diversification is a top priority for the Bank in the forthcoming strategy period. EBRD intends to provide financing and advisory to SMEs with a focus on non-oil related sectors, namely agribusiness, manufacturing and services, property and tourism, Information and Communication Technologies (ICT), power and transport. Support for the Green Economy Transition is also a strategic priority, with the objectives to increase renewable energy capacity, contribute to a more diversified energy mix, achieve greater private sector participation in the energy sector and greater energy efficiency and resource efficiency.
CSO comments noted challenges in terms of developing the renewable energy sector in Azerbaijan and raised concerns about the authorities' commitment to global efforts in combatting climate change in this context. CSOs also raised concerns about closure of the State Agency for Alternative and Renewable Energy Sources.	While EBRD is not in a position to comment on the closure of the State Agency for Alternative and Renewable Energy Sources, the Bank understands that the closure is part of a reorganisation of responsibilities. Authorities continue to strongly engage with the Bank regarding the development of the renewable energy sector and the Bank is supporting Azerbaijan in this effort, including through a number of planned technical cooperation projects. Regulatory support for renewables is one of the reform areas agreed between the Bank and the Azerbaijani authorities for the forthcoming strategy period.
Key transition challenges	
Some CSO comments focused on inadequate management structures in environmental protection agencies and on the lack or insufficiency of environmental legislation in Azerbaijan, such as in the areas of pollution control and waste management. Some comments suggested the creation of registers/databases on biodiversity as well as on waste.	Comments noted. The Bank will explore opportunities for policy dialogue and technical cooperation with the Azerbaijani authorities in improving their environmental regulations and management systems.

Annex 1 – Political Assessment

Some CSOs consider that it is not sufficiently clear how the findings of the Political Assessment are impacting the Bank's operations. CSOs consider that the absence of a clear link between the Political Assessment and operational priorities may lead to an erosion of the Bank's Article 1 mandate.

CSOs would also like to have more clarity on how the "more-for-more" approach is operationalised.

Some CSOs consider that the Bank's financing should be linked to political reform and are suggesting that political benchmarks should be introduced to track progress and calibrate investments as a lever to support political and governance reform, thereby bringing Azerbaijan closer to Article 1 commitments. For instance, fundamental rights and freedoms could constitute benchmarks. Similarly, judicial independence and corruption should be integrated as risk factors with benchmarks for investment priorities, according to a CSO comment.

Some CSOs requested that the Bank states that Azerbaijan is not in compliance with the Bank's Article 1 principles, as the country has failed to demonstrate in practice a commitment to multiparty democracy and pluralism, according to the CSO comment.

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. It reflects conclusions consistent with relevant international documents and assessments by approved reference points, such as the UN and its specialised agencies, the OSCE, Council of Europe, the EU, etc.

Following the refining of the Bank's response to compliance challenges with the political principles in Article 1, as approved by the EBRD Board of Directors in July 2018, to strengthen the Bank's implementation of Article 1, a binary (and often too simplistic to be credible) statement of "compliance" has been 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.

In its operational approach to challenges with Article 1 political principles, the Bank relies on a three-pronged "more for more"/"less for less" approach available to respond in an agile fashion to important shifts in countries of operations' political situation. Namely, the Bank assesses and monitors the political situation of that country on a regular basis; engages with key stakeholders, including CSOs, and aligns and coordinates with key international partners; and considers adjustments to new investment activities and policy engagement as new trends materialise. 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 Bank engages in policy dialogue with the authorities related to its mandate, including its political aspects, and may raise areas of significant concern. However, it is 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 taken by organisations that are approved reference points for the Political Assessment.

On slide 17, an additional implementation risk indicator has been added to reflect the link between political risk and operations: "Insufficient political reform progress, transparency and governance challenges could negatively impact investment activities".

Some CSO comments have provided greater detail about the political situation in the country, in particular with regards to operating conditions for civil society and media, elections, rule of law and access to justice, and civil and political rights. CSOs have voiced strong concerns about developments in these areas.	The Bank acknowledges the concerns raised by CSOs and the Political Assessment reflects the existence of significant challenges related to the Article 1 political principles. In the process of the strategy development, the Bank consulted widely with national and international CSOs. Many specific points and recommendations made by CSOs were noted and taken into account. 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 greater detail. The Bank will continue to monitor the situation as related to the political principles in Article 1. The Bank will also continue to liaise with the government of Azerbaijan on these matters as appropriate.
A CSO comment suggested that challenges with regards to judicial independence and corruption should be highlighted more prominently in the Political Assessment.	The need for more determined and effective measures to strengthen the independence of the judiciary and to address corruption, which remains a serious challenge, is highlighted both in the introductory part (slide 20) and in the relevant part (slides 25-26) of the Political Assessment. The language used is drawn from the reports of relevant international bodies, such as the Council of Europe's GRECO, OECD, and the EU.
A CSO comment suggested that the strategy and the Political Assessment in particular should elaborate further on gender related challenges and opportunities to address these. Furthermore, it was suggested that the situation for women's rights organisations in the country should be treated in greater detail in the context of the overall operating conditions for civil society.	The Political Assessment follows the Bank's Political Methodology Directive and reports on 14 criteria, one of which is "Political inclusiveness for women, ethnic and other minorities" and draws on the sub-factor "equal rights for women enshrined in the Constitution and upheld in practice; and prevention of discrimination on the basis of gender". The situation with regards to gender equality is reflected accordingly in the Political Assessment. On the operational level, in line with the EBRD's Strategy for the Promotion of Gender Equality (SPGE) and its Economic Inclusion Strategy (EIS), EBRD promotes gender equality and equality of opportunities as an important contributor to well-functioning market economies and inclusive societies. In this context, it addresses gender challenges where the EBRD can best add value given its business model and mandate. The Bank's investments and policy dialogue focus on women's access to economic opportunities. In Azerbaijan and all countries where the Bank invests, EBRD identifies, designs, and assesses projects that promote equal opportunities based on a quantitative, and qualitative understanding of (1) the areas in which gender gaps are greatest, (2) what explains these gaps, i.e. what institutional, economic, social, or political characteristics of the economy they might depend on; (3) the channels through which EBRD projects might be able to influence the conditions affecting gender gaps; and finally, (4) how to find projects that might deliver gender-related systemic impact and measuring that impact. As part of the EU-EBRD investment climate assessment and action plan for the Eastern Partnership region, the Bank has recently researched, and consulted civil society, private sector

	and government representatives to understand obstacles to female labour force participation and female entrepreneurship. The Bank continues to maintain well-established dialogue mechanisms with civil society, including in the areas of gender equality and women's empowerment, and consults CSOs as part of its due diligence and monitoring processes, which inform the design, implementation and evaluation of our gender projects.
A CSO comment pointed out that the appointment of the first lady as the first vice-president should not in any way be interpreted in relation to progress on gender issues.	The appointment of the first lady as the first vice-president is listed as a factual development. The introduction of the unelected post of first vice-president, together with some other amendments in the constitution, were assessed negatively by the Venice Commission of the Council of Europe, as highlighted on slide 22.
A CSO comment raised concerns about the fact that the strategy acknowledges increased cooperation by Azerbaijan with relevant international organisations, despite its withdrawal from the Extractive Industries Transparency Initiative (EITI) and the risk of suspension from the Open Government Partnership (OGP). A CSO comment mentioned that the situation with regards to the OGP should be updated to take on board developments since December 2018 (development of a roadmap and adoption of an action plan).	The Political Assessment acknowledges both developments: It notes the increased cooperation of Azerbaijan with relevant international organisations, such as the UN, the Council of Europe, and the EU, including the agreement on the Partnership Priorities for 2018-2020 and the launch of negotiations on a new comprehensive agreement; at the same time, Azerbaijan's withdrawal from the EITI and the situation with regards to the OGP are explained on slide 23. While the situation of Azerbaijan with regards to the OGP continues to evolve, the country's inactive status has remained unchanged since it was designated by the OGP in May 2016.
General/ cross-cutting issues	
A CSO comment suggested that the Bank should make its Country Strategy Delivery Reviews and regular assessments/monitoring of the political situation in Azerbaijan publicly available to enable civil society to monitor adjustments made to the Bank's operational activities as a result of changes in compliance with the Bank's Article 1 principles.	The mentioned documents are internal management documents and not publicly available. The EBRD recognises civil society as a key stakeholder in achieving its mandate and engages extensively with national and international CSOs. The Bank is committed to maintaining dialogue with its stakeholders, and with civil society in particular, throughout the year and independently of the strategy review cycle.
The Bank should provide for opportunities for inclusive stakeholder engagement, including for critical voices, paying particular attention to the safety of human rights	In line with the EBRD Environmental and Social Policy (ESP; currently under review), the Bank provides for full and participatory stakeholder engagement and requires that its clients conduct stakeholder engagement on the basis of providing stakeholders with access to timely,

defenders and to the inclusion of marginalised groups. CSOs deplored attacks against civil society activists, journalists and transparency and accountability monitors, which are seen to be particularly acute in the extractive sector. More information about project activities should be made available online and overall more transparency was encouraged by CSOs. The Bank should also support the participation of civil society in decision-making processes and help with capacity building.	relevant, understandable and accessible information. Clients' information disclosure is governed by the Environmental and Social Policy (Performance Requirement 10) while the Bank's access to information and disclosure practices are set out in the Public Information Policy, which is also currently under review and is expected to be adopted as new Access to Information Policy and Directive on Access to Information in Q2 2019, alongside the revised ESP. Human rights related provisions have been strengthened further in the revised draft ESP. Furthermore, EBRD recognises the importance of participation, good governance and accountability, as well as the respect for human rights for sustainable and participatory development, and that every individual or group has the right to voice criticism without threats to their safety or a fear of retribution. EBRD has recently developed Staff Guidelines for Handling of Allegations of Retribution for Criticism and Complaints related to EBRD Projects – a step-by-step approach to situations when stakeholders who express criticism in relation to Bank activities, experience retribution (threats, reprisals, intimidation) from Bank counterparties or other stakeholders. These Guidelines apply when it may not be possible to verify a suspected coercive practice by a Bank counterparty in a direct manner, or when the alleged threat or harm is undertaken by another entity acting independently of the Bank counterparty, such as local or central government bodies. In terms of CSO capacity building, the Bank has in place a Civil Society Capacity Building Framework, that supports the transfer of skills and awareness raising among the local civil society sector in technical cooperation projects that are linked to specific EBRD-financed investments or policy engagement initiatives. The Bank will look for opportunities to conduct such CSO capacity building in Azerbaijan if and when applicable.
Some CSO comments suggested that the Bank should improve its due diligence tools, in view of the increased risk to Bank operations due to what CSOs perceive as increased governance and investment risk, the restrictive political environment and a lack of monitoring by independent civil society.	The Bank carries out detailed appraisal of all projects prior to their approval. All EBRD projects are structured to comply with the Bank's Environmental and Social Policy, which includes monitoring of projects' potential social and environmental impacts and corresponding mitigation measures. Where gaps are identified the Bank works with its clients to put in place remedial actions. The EBRD is furthermore fully committed to the principles of meaningful stakeholder participation processes, as mentioned above. Also in accordance with its ESP, the Bank recognises the responsibility of its clients' business activities to respect human rights and conducts corresponding monitoring. Human rights related provisions have been strengthened further in the revised draft ESP. 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, due

	diligence and transparency, and promotes high ethical standards promoting integrity in all its business operations. The Bank closely monitors all its projects to ensure their compliance with its policies and requirements. At the strategy level, implementation risks are noted alongside their environmental and social implications on slide. 17.
Some CSOs are critical of the Bank's position regarding the Extractive Industries Transparency Commission (EITC). Comments raised concerns about Azerbaijan's compliance with international norms and standards following the withdrawal from the Extractive Industries Transparency Initiative (EITI) and about the possibility (i.e. lack thereof) for independent CSOs to take part in a meaningful stakeholder dialogue in the framework of the EITC. Some CSO urged the Bank to support the work on beneficial ownership disclosure.	The Bank continues to support the principles enshrined in the EITI. The Bank welcomes Azerbaijan's efforts to adhere to revenue transparency in line with EITI standards and to remain committed to the principles of good governance, revenue transparency and accountability in extractive sectors. The Bank remains committed to ensuring that its operations meet EITI principles in all countries of operation regardless of their EITI status and engages in regular dialogue with the relevant national authorities to advance this objective. EBRD is an active observer of the EITC and encourages CSOs' participation in the related dialogue. Furthermore, EBRD is working with the EITC and other IFIs to identify opportunities to address data mainstreaming and beneficial ownership issues, as well as the adherence to the EITI principles in general. As such, the Bank is also following the implementation of Azerbaijan's Roadmap for Beneficial Ownership Disclosure, as supported by Asian Development Bank.
Some CSO comments included concerns about the Southern Gas Corridor and the Shah Deniz II projects.	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 21 November 2018 in Baku and on 16 January 2019 in London

As part of the public consultation process, the EBRD held a series of consultation meetings that were attended by 27 civil society representatives. On 21 November 2018 the Resident Office in Baku hosted two consultation meetings with national CSOs: one meeting was dedicated to the operating conditions for civil society and the political situation in the country; the other meeting focused on transparency, economic development, diversification, and inclusion issues. On 9 March 2018, a consultation roundtable was held in London with international CSOs to discuss Article 1 issues.

Strategic directions

CSOs broadly welcomed the strategic priorities for the forthcoming strategy period. In particular, CSOs endorsed the Bank's support for economic diversification and SME development. However, some CSOs expressed doubts about the Bank's ability to implement the strategic priority of supporting Good Governance since they see exacerbated governance risks in the country and consider the investment climate to be very risky. CSOs pointed to potential difficulties in ensuring projects' and clients' integrity and compliance with Bank standards in view of major governance and transparency challenges and suggested that the Bank should perform additional risk assessment and integrity checks for its investments, especially in the oil and gas sector. Some CSOs urged the Bank to refrain completely from investments in oil and gas projects and in all hydrocarbon service related sectors unless relevant political and human rights benchmarks are met. Few participants expressed the view that the Bank should suspend all its operations (even in the private and non-oil/gas sector) until there is clear progress in the area of anti-corruption and defamation is decriminalised. Others emphasised that it is important for the Bank to remain engaged in the country and to continue its reform dialogue with the authorities.

Article 1 issues and Political Assessment

CSOs deplored the situation with regards to Article 1 political principles in Azerbaijan and expressed concerns about the restrictive political system overall. CSOs are strongly concerned about the respect for fundamental rights and freedoms and about the significant challenges independent CSOs and media outlets face in terms of severely restricted freedoms of expression, assembly, and association, preventing them from operating freely in the country. Also registration and access to (foreign) grant funding remain major obstacles, which led several CSOs to scale down or suspend their work. CSOs reported about closure of bank accounts, searching of offices, detention of property and assets, and CSO staff being expelled and/or prosecuted. CSOs also consider that the work of national and international human rights groups is obstructed in the country, including through restrictions for/rejection of international groups to enter the country. Some CSOs pointed out that the fabric of civil society and the use of media are changing, with emerging social entrepreneurship potential and the prioritised use of social media, specifically among the youth.

Furthermore, CSOs expressed concerns about a lack of judicial independence, citizens' lack of access to legal representation/aid, and were concerned about abuses in the criminal justice system as well as about the disbarment of lawyers and suspensions from the Bar Association of Azerbaijan. CSOs called for the release of all remaining individuals recognised as political prisoners/prisoners of conscience by civil society and the international community. CSOs also raised strong concerns about opaque public procurement practices and about systemic corruption and transparency challenges in Azerbaijan, especially in the extractive sector. Few CSOs mentioned positive steps taken in the area of public service delivery (customs system/ ASAN service centres). Some CSOs do not consider the national Extractive Industries Transparency Commission (EITC) to be a suitable or effective substitute for the country's previous membership of the international Extractive Industries

Transparency Initiative. In particular, CSOs consider that there are no suitable mechanisms for meaningful dialogue with independent civil society. Some CSOs requested the Bank's support in terms of facilitating meaningful dialogue between civil society and the government (e.g. in the context of the EITC) and with the private sector.

CSOs consider that the findings of the Political Assessment should be linked more directly to operational decisions that may limit or increase the Bank's engagement in the country. At the same time, CSOs have expressed support for the Bank's revised Political Methodology, which allows for a more nuanced and candid compliance statements, and support the concept of a "more-for-more"/"less-for-less approach". Some CSOs advocated for the use of benchmarks to track reform progress/regress and condition Bank investment, making it contingent upon reform in the areas of human rights, governance, anti-corruption, and rule of law.

Protection of human rights defenders and obstacles to stakeholder engagement

CSOs consider the protection of civil society activists and human rights defenders to be a major challenge and deplore the lack of safe stakeholder engagement opportunities at the project level due to the restrictive civic space, which makes it nearly impossible for national/local CSOs to monitor IFI financed projects or public spending. CSOs therefore suggested that the Bank should conduct enhanced due diligence and put in place additional stakeholder engagement opportunities and environmental and social safeguards for its investments. Some CSOs expressed concerns about labour and working conditions at businesses in the extractive sector. The Bank should ensure that stakeholders who may want to express concerns about the Bank's projects can safely access the Bank's accountability mechanisms.

List of CSO represented at the consultation meetings

Baku

- Azerbaijan National Committee of Helsinki Citizens' Assembly
- Baku Journalism School
- Center for Economic and Social Development
- Eastern Partnership Civil Society Forum
- Economic Research Center
- Election Monitoring and Democracy Studies Centre (EMDS)
- Entrepreneurship Development Foundation
- Eurasia Extractive Industries Knowledge Hub
- Eurasia Partnership Foundation Azerbaijan
- Human Rights Club
- Institute of Peace and Democracy and Women Crisis Centre
- Transparency Azerbaijan
- Turan Information Agency
- Yuva Humanitarian Centre

London

- Amnesty International
- Business & Human Rights Resource Centre
- CEE Bankwatch Network
- Crude Accountability
- Forum 18 News Service
- Human Rights Watch
- Institute for Reporters' Freedom and Safety
- International Partnership for Human Rights
- Meydan TV (in writing)
- Open Society Foundation
- Public Association for Assistance to Free Economy (PAAFE)
- Reporters Without Borders (RSF)
- Transparency International