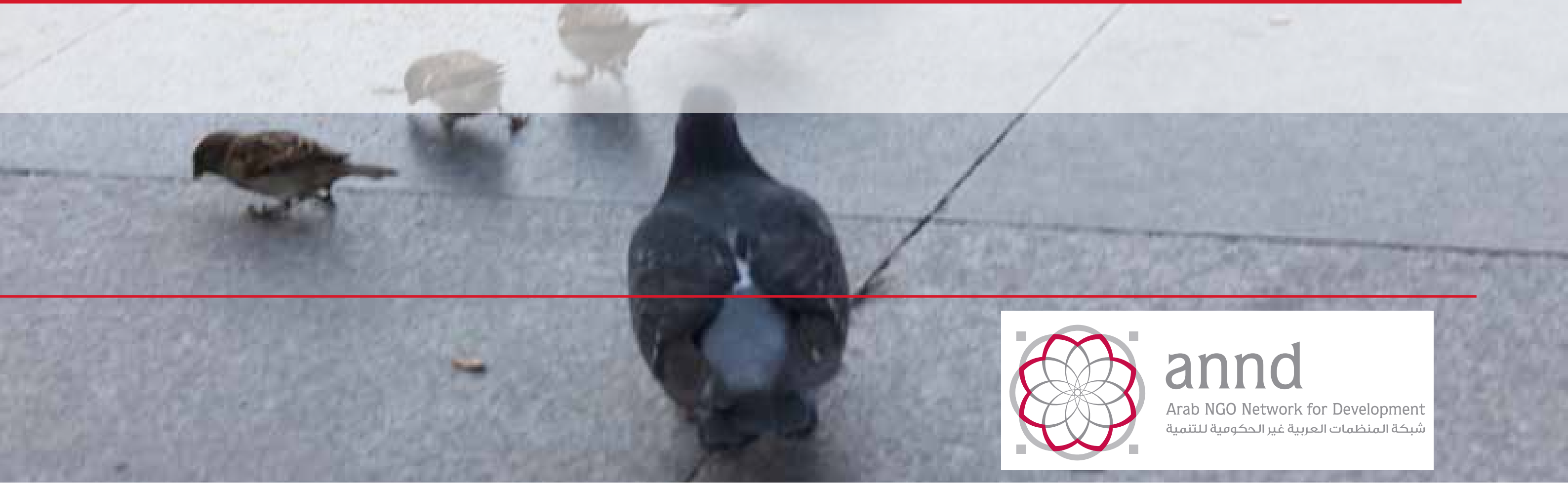
Fundamentals of the European Bank for Reconstruction and Development and its Role in Southern Mediterranean Arab Countries: introduction for civil society organizations



What is the EBRD and when was it founded?

The European Bank for Reconstruction and Development (EBRD) was established in 1991, in response to the major changes in the political and economic context in Central and Eastern European countries.[1]

Today it has 65 shareholders, of which 63 are countries, and the other two are the European Union and the European Investment bank.

The Bank provides project financing for banks, industries and businesses, both new ventures and investments in existing companies, mainly in private enterprises, as well as few publicly owned companies.

1 http://www.ebrd.com/pages/about/history.shtml

How does the EBRD describe its mission?

The main idea behind the creation of the EBRD was to promote transition to market economies in Eastern European countries. The EBRD's mission indicate that they aim to "promote market economies that function well – where businesses are competitive, innovation is encouraged, household incomes reflect rising employment and productivity, and environmental and social conditions reflect peoples' needs".[2]

How is the EBRD governed?

The EBRD is composed of:

The Board of Governors: each member appoints

2 http://www.ebrd.com/pages/about/what/mission.shtml

Article 1 of the Agreement Establishing the EBRD:
Unlike other development banks, the EBRD seeks to assist only those countries that are "*committed to and applying the principles of multi-party democracy [and] pluralism*" (Art. 1). This condition is used by civil society organizations to monitor whether the Bank finances projects in countries that do not satisfy this criteria, calling on the Bank to tighten its definition of obligations under this article.

The EBRD priorities in countries of the Southern and Eastern Mediterranean region include:

- Developing credit lines and direct assistance to SMEs.
- Enhancing the agribusiness value chains by boosting yields, logistics and resource efficiency.
- Building capacity for risk-taking and product innovation in the banking sector
- Supporting renewable energy and energy efficiency investments
- Developing non-sovereign solutions for infrastructure

http://www.ebrd.com/downloads/research/factsheets/semed.pdf a governor, generally the minister of finance.

The Board of Directors: responsible for the EBRD's strategic direction, and composed of 23 members[3]. The directors' most important powers are to establish policies and take decisions concerning loans, guarantees, and investments in equity capital, borrowing by the Bank, the furnishing of technical assistance and other operations of the Bank.

The President: is the legal representative of the EBRD and is elected by the governors. The President manages the work of the Bank.

How and where is the EBRD involved in the Arab region?

After the peoples' revolutions and uprisings in the Arab region, the EBRD was given a new mandate to expand its work to cover Southern and Eastern Mediterranean countries (the EBRD refers to this region as SEMED), including Jordan, Tunisia, Egypt and Morocco. This necessitated ratification of statute changes by all its shareholders.

The EBRD launched its first investments in Jordan, Tunisia, and Morocco in September 2012, after these countries were granted the status of "potential recipient countries" (*see more information on country status below*).

According to the EBRD, its aim in the region is to improve financing of the private sector, including small and medium-sized enterprises (SMEs), via direct investments in loans and equities, while providing support and expertise through policy dialogue, capacity building and other forms of technical assistance.[4]

What are the instruments that are being used by the EBRD in the region?

The EBRD's engagement in Eastern and Southern Mediterranean countries includes three main phases:

1. **Technical Co-operation**, where the EBRD's engagement includes steps to address the broader policy and legislative frameworks (such as concession legislation, or other legislation related to privatization) or other steps to prepare for future projects.

It is worth noting that a call from concerned civil society organizations highlighted the importance that the indicative sectors of interest and items related to regulatory and legislative reform included under the technical cooperation phase be publicly listed on the EBRD website before the start of the consultations with the national authorities in countries of operation. For example, if the EBRD proposes to discuss certain reforms or specific legislative framework for public-private partnerships or competition related regulations in countries of operation, it is expected that this be made public and that the text of the proposed model for such legislative reform be publicly available before or at most during the discussions with national authorities. This will allow civil society groups who have concerns with the proposed reforms to raise their suggestions to the EBRD, or call for a public consultation on the issues (involving the EBRD and national authorities), or to engage their national representatives and authorities in regards to their concerns.[5]

2. **Special Fund**, which consist of EBRD loans for projects that are undertaken before the ratification of statute changes. These funds are secured from all shareholders. (*In May 2012, the EBRD's shareholders approved the creation of a €1 billion special fund for investments in the four countries*)[6].

3. **Normal operations**, including financing of various projects, which requires unanimous change of Article 1 of the EBRD's statutes by the bank shareholders[7].

3 Eleven of these are elected by twelve EU members, the EU itself, and the EIB. The remaining twelve are elected by the other governors. In other words, European Union members are highly privileged during the composition of the board of directors.

4 EBRD newsletter September 2012; The EBRD's activities in the Southern and Eastern Mediterranean Region, available at http://www.ebrd.com/downloads/research/factsheets/semed.pdf

5 ANND and BankWatch (April 2012); Proposed Model for Consultation between the EBRD and CSOs, available at: http://bankwatch.org/publications/proposed-model-consultations-between-ebrd-and-civil-society-organisations

6 http://www.ebrd.com/pages/news/features/ebrd-and-semed.shtml

7 http://www.ebrd.com/downloads/research/guides/basics.pdf

Transition to Transition (T2T) Initiative is a framework within which the EBRD seeks exchange of experiences between the Bank's current countries of operations and countries of the Southern and Eastern Mediterranean region[8].

What is the role of civil society in engagement with and monitoring the EBRD?

The EBRD's interventions at influencing legislative frameworks under the Technical Cooperation phase, as well as the project financing, phase carries significant influence on the national level including in market and policy processes as well as changes on the regulatory and legislative frameworks. The diagnosis by the EBRD of the economic context and challenges in the receiving Arab countries (see an example: the EBRD technical assessment reports for Egypt [9]) refers the shortcomings to "*pathologies linked to the implementation and focus of reforms, and their incompleteness, rather than limitations inherent in market-oriented economic systems*"[10]. Accordingly, this approach often limits the EBRD's capacity to identify the mismatch between several areas of policy liberalization and the levels of development in these countries, and limits the Banks' ability to propose and develop interventions that are more well entrenched with the development objectives at the national level.

Civil society organizations have a role in monitoring the interventions by the EBRD from a development and human rights perspective.

Some channels that CSOs could follow and take an active role:

- **Monitoring Specific Project Financing:** Engaging in consultations undertaken around the projects through Projects Summary Documents and Environmental and Social Impacts Assessments (Interested organizations can register to receive email notifications through *Civil Society Dialogue Mailing List*[11]).
- **Revisions of EBRD country and sectoral strategies**: are reviewed periodically and the start of the review period is announced on the *Civil Society News and Events*[12] page and through email notifications. The draft strategies are open for comments for a period of 45 calendar days[13].
- **Consultations on EBRD Operational Policies:** CSOs can engage in consultations on EBRD operational policies and comment on draft policies[14].
- **Civil Society Engagement Unit:** organizes consultation workshops with CSOs[15] and facilitates contacts with staff of the Bank.
- **Annual meetings of the Bank:** these meetings usually involve participation by civil society organizations. *CSOs from Southern and Eastern Mediterranean countries should seek that this process be open, transparent, CSOs' participation not pre-determined by the EBRD staff, and that the process be linked to an open on-line registration facility for civil society participants.*
- **Regional EBRD offices[16]:** In regards to consultations at the regional and national levels, civil society organizations should demand that these offices play a central role in facilitating the consultations with civil

To enhance the engagement with civil society, it would be useful if the EBRD:

- Develop a clear agenda of consultations planned during the year or at least over six months, including the consultations planned on various stages of operation and on sectoral levels.
- Align the consultation processes with effective disclosure of information, especially in the planning phases as well as in regard to promoting specific regulatory and legislative changes.

8 For more information: http://www.ebrd.com/pages/news/features/t2t.shtml
9http://www.ebrd.com/downloads/country/technical_assessments/2012-02-13_Egypt_TA.pdf
10 EBRD; Egypt Technical Assessment Report; p. 20.

11 http://www.ebrd.com/pages/about/workwith/civil/working.shtml
12 http://www.ebrd.com/pages/about/workwith/civil/news.shtml
13 http://www.ebrd.com/pages/about/workwith/civil/working.shtml
14 In 2013 the EBRD will embark on the revision of its Public Information Policy, Environmental and Social Policy and Project Complaint Mechanism. A public consultation process is being planned as part of the policies' review.
15 http://www.ebrd.com/pages/about/workwith/civil/working.shtml
16 See the last section for contact details of the offices

society groups at the national and regional levels and access to information.

- **Board Consultation Meetings:** The Board of Directors hold regular visits to countries of operation and CSOs could call for meetings with them.
- **Project Complaints Mechanism (PCM)[17]:** the mechanism allows individuals, groups, and organizations that may be adversely affected by the project financed by the EBRD to make a complaint to the Bank.

Important EBRD documents that should be followed:

- **EBRD Public Information Policy[18]:** defines the transparency and accountability measures that the EBRD abides by and is periodically revised.
- **Technical assessment reports**: the initial report prepared by the EBRD to understand the situation in the country and to identify the initial set of priorities for action that could be financed with cooperation funds.
- **Environmental and Social Impact Assessments**[19]: documents that include assessments of environmentally sensitive projects.
- **Country strategy papers[20]:** includes the priorities of the Bank in the concerned country.
- **Sectoral Strategies**: defines the role EBRD will play in each sector (i.e. agriculture, transport, energy…)[21].

Why is it important to monitor the EBRD?

Some of the primary concerns about the role and financing of the EBRD in the Southern and Eastern Mediterranean countries include:

- **The economic model based on which the EBRD operates and designs its lending often fails to understand and respond to the development challenges of Arab countries:**

The kind of operations and interventions by the EBRD come to re-enforce and strengthen a certain model of economic and market liberalization and privatization operations that are not pro-development but -on the contrary- divert development-focused reform processes in this area. Yet, the EBRD cannot operate on the same model that it has experienced with in Eastern and Central European economies. The situation in the Arab countries of concern differs[22] from the transition situation of countries in Central and Eastern European countries, where the experience of the EBRD is mainly concentrated. Moreover, the structural weaknesses in the EBRD Eastern and Central European markets of operation, especially in light of the global crisis, revealed its inadequacy as a stable economic and development model.

Civil society organizations have a major role in stressing that the EBRD's support for the economy should be rooted in an economic model, where productive capacities, redistribution mechanisms, employment and wages take the forefront, thus promoting transition to a socially just, energy efficient, renewable-based economies.

- **The methodology of assessment of transition and success achieved through the EBRD projects (i.e. the EBRD Transition Assessment Methods) is weak on considering development:**

The bank does not take poverty and employment as a focus in developing its country operations. The UK Department for International Development's Multilateral Aid Review noted that "*the link between the impact of EBRD's programmes on transition, and their impact on people's lives is not always well articulated*"[23] (March 2011).

17 www.ebrd.com/pcm

18 http://www.ebrd.com/pages/about/policies/pip.shtml

19 http://www.ebrd.com/pages/project/eia.shtml

20 http://www.ebrd.com/pages/about/policies.shtml

21 http://www.ebrd.com/pages/about/policies.shtml

22 Unlike economic and market conditions in Eastern European countries at the time of transition, the Arab countries have extensively adopted liberalization of trade and finance, privatization, elimination of subsidies and focus on attraction of foreign direct investment during the previous decades. However, these steps were detached from the development levels achieved and the development objectives of the country.

23 DFID: Multilateral Aid Review summary - European Bank for Reconstruction and Development (EBRD), March 2011, http://www.dfid.gov.uk/What-we-do/Who-we-work-with/Multilateral-agencies/Multilateral-Aid-Review-summary---European-Bank-for-Reconstruction-and-Development-EBRD/

Challenging Private Equity Financing by the EBRD

It is worth noting that the first investments decided upon by the EBRD in the Arab countries was a EUR 20 million equity investment in Maghreb Private Equity Fund III (agreed in 2012), which is based in Mauritius- a renowned tax haven. The EBRD signed off other private equity deals in Jordan. The assumption of such "intermediated finance" is that the selected funds will be more successful than the EBRD in passing on loans to final beneficiaries among small and medium enterprises. The reality is that channeling development funds through private equity does not allow for monitoring and evaluation of development outcomes, or guarantee the nature of the end beneficiaries.

For more information, see: "Trust us, we're euphoric - Private equity and a tax haven part of the EBRD's first post-Arab Spring swoop", by: Greig Aitken, BankWatch (September 2012).

Civil society organizations should seek to ensure that the EBRD establishes measurable human development and environmental goals (as transition indicators) in country and sectoral strategies. The EBRD needs to increase as well its capacity to carry out human rights assessments of its projects and policies.

Civil society organizations should advocate that the EBRD institutionalize the process of assessing development and rights-based outcomes of the interventions it undertakes, in terms of level of support to productive capacities, decent employment generation, redressing inequalities between various regions of the countries being supported, and access of communities to basic services in areas where the Bank finances basic services, as water and health. Such assessments need to be undertaken in the planning phase, including during the process of developing the technical assessments, as well as after the implementation of the intervention.

In regards to financial intermediaries, civil society organizations should demand the EBRD to set necessary rigorous safeguards to guarantee finances are not channeled to support speculative practices. The EBRD should be asked to set effective monitoring mechanisms of development, environmental, and social outcomes of the projects, and exclude intermediaries that make use of tax havens is ensured. Effective mechanisms should be set in place to ensure that the EBRD prioritizes commercial banks that have stringent standards across their operations for the environmental and social sustainability of the projects they finance and that have a proven track record of using EBRD financing to support SMEs rather than strengthening their balance sheets.

- **Transparency and effective access to information at all stages of the EBRD's intervention is still weak:**

While the EBRD have a declared Public Information Policy, it is not transparent about all stages of its intervention in receiving economies. For example, there is a need for more information and transparency regarding the process of dialogue that the EBRD undertakes with national authorities around regulatory and legislative reform[24].

- **The EBRD environmental and social policies are still weak:**

The EBRD has an explicit environmental mandate in its Charter, which states that the Bank is to "promote in the full range of its activities environmentally sound and sustainable development." The EBRD is a signatory to the European Principles of Environment. Yet, often the environmental assessments undertake by the Bank are critiqued by civil society organizations as not enough, or not adequate. Bank Watch noted "*various EBRD practices show the EBRD is not well enough equipped to avoid and mitigate many associated negative implications to the environment and biodiversity*"[25].

24 These reforms lie at the heart of designing the functioning of the market for development purposes and at the heart of interaction between private sector actors and development processes.

25 See: EBRD (2012), "The EBRD new Mining Operations Policy; critical assessment of consultation process and content"

Civil society organizations should advocate that disclosure include the kind of proposals/ models of regulatory reforms that the EBRD promotes with governments.

Moreover, civil society organizations should notice and act upon the following:

- *The need for more access to information and influence by local communities to projects that affect them and their livelihoods;*
- *The implications of increased lending by the EBRD through private equity, which does not allow proper tracking of the financing outcomes;*
- *The need for improving disclosure on EBRD's financial intermediary (FI) operations, to ensure that the Bank routinely discloses the proportion of the intermediated loans that have been disbursed, the average loan size, the sectors supported, and the size of the companies supported;*
- *The importance that the EBRD and its shareholder countries disclose, at least on demand, the voting record of each Executive Director at the Bank;*
- *The importance that qualitative, independent evaluations are disclosed routinely to increase accountability and properly assess the extent to which the EBRD is achieving its stated goals with such loans;*
- *The importance that the EBRD start reporting annually to the EU on how it is contributing to the EU's goals for external action, particularly on development and poverty eradication.*

Civil society organizations should call for stricter environmental and social sustainability criteria for considering the costs of the EBRD investments, including full transparency and inclusion of local impacted communities in the process. Civil society organizations are called to closely scrutinize the assessments undertaken by the Bank for various projects.

- **The EBRD's increasing focus on Public-Private Partnerships hold multiple challenges:**

The EBRD's assessments of the SEMED countries and the proposed policies demonstrate its intention to maintain their focus on public-private partnerships (PPPs)[26]. This is worrying because PPPs have had considerable negative effects in a number of countries where they have been resorted to, especially in the absence of a legislative framework that is designed to guarantee public interest and labor and social rights in such projects. According to BankWatch "*too often larger, longer-term PPPs in public services such as water supply concessions and motorway construction and operation are proving problematic*"[27] (Check website dedicated to challenges with PPPs: http://bankwatch.org/public-private-partnerships).

One of the chief misconceptions about public-private partnerships is that they somehow mobilize extra financial resources for projects that would otherwise have to wait several years to be implemented. This claim encourages decision-makers to carry out projects that may not be affordable. It is usually several years before anyone realizes the resulting damages, including burdens on public budgets, increase in public debts, and burdens on service users.

26 PPPs involve commercial contracts between public authorities (state or local) and private businesses in the design, construction, financing and operation of public infrastructure and services that have traditionally been delivered by the public sector, such as motorways, hospitals or schools.

27 "EBRD approach to PPPs continues to perplex" (May 2012) http://bankwatch.org/bwmail/52/ebrd-approach-ppps-continues-perplex

Civil society organizations should take an active role in tracking PPP projects, stressing on full transparency of discussions and plans for PPP projects, and review the legislative framework that guarantees transparency as well public interest, social, and labor rights.

For more information, review positions by civil society groups at:

CEE Bankwatch Network

http://bankwatch.org/

http://bankwatch.org/our-work/who-we-monitor/ebrd#projects

http://bankwatch.org/public-private-partnerships

Arab NGO Network for Development

www.annd.org

http://www.csr-dar.org/

Egyptian Initiative for Personal Rights

http://www.eipr.org http://www.eipr.org/sites/default/files/pressreleases/pdf/ebrd_note_comment_eng-sa.pdf

http://www.eipr.org/sites/default/files/pressreleases/pdf/ebrd_concept_note_commentary-sa.pdf

Bank Information Center

http://www.bicusa.org/en/Index.aspx

http://www.bicusa.org/menaprimer

http://www.bicusa.org/en/Institution.3.asp

For more information and direct advocacy, you can contact resident offices of the EBRD in Arab region

In Egypt:

Regus New Cairo 47 Office Building
Section 1, Street 90-North
New Cairo, Cairo, Egypt

Tel: + 202 2503 2800

Fax: + 202 2503 0801

In Jordan:

Regus Financial District Al Husari Street

Shmeisani, P.O.Box 940584

Amman 11194 Jordan

Tel: +962 6 5007373

Fax: +962 6 500 7300

In Morocco:

Regus Twin Center, Tour Ouest, 16e étg.
Angle Boulevards Zerktouni et Al Massira
20100 Casablanca Morocco

Tel: +212 (0) 5 22 95 80 21

Fax: +212 (0) 5 22 95 80 23

In Tunisia:

Regus Tunis Carthage

Rue du Lac de Constance

Les Berges du Lac

1053 Tunis, Tunisia

Tel: +216 71 965 000

Fax: +216 71 965 100