



## Review and Update of the World Bank's Safeguard Policies

### Public Institutions Consultation

### Feedback Summary

**Date:** March 21, 2013

**Location:** Bucharest, Romania

**Country/ies connected by video conference:** Romania, Moldova

#### Feedback from Stakeholders

##### 1. What has worked well in the current safeguard policies?

- **Applying social and environmental safeguard policies has contributed to identifying the needs of the population.** With respect to the project concerning the closing down of mines in Romania and the restoration of the environment, the general goal was to create opportunities for economic and environmental/ecological regeneration in the areas that have been affected by the closing down of the mines. Applying social and environmental safeguard policies has contributed to identifying the needs of the population and has opened up the opportunity to develop a response that adequately meets those needs.
- **The principles that are the foundation for safeguard policies are suitable and effective in practice.** Regarding projects supported through the Social Investment Fund in the Republic of Moldova, applying safeguard policies has led to effective communication with the communities in the districts ("raion") in which investment projects have been developed. Infrastructure project implementation has also shown that the principles that safeguard policies are built on are suitable and effective in practice. For example, where roads have been built, the population was made aware, and representatives of communities have participated in developing action plans for resettlement. Additionally, community representatives and local authorities have been able to be involved in the coordination and complaint resolution committees. Guidelines elaborated during safeguard policy implementation were made available to all stakeholders. The complaints of the population were solved within a month's time, which helped avoid serious cases of conflict. The correct application of the safeguard policies was also made possible by

the current legal framework in the Republic of Moldova, which facilitated the involvement of the communities, the partnership with the local public authorities, and the necessary legal approval of the local or district authorities, where applicable, depending on the classification of the roads. To conclude, the correct application of safeguard policies regarding resettlement and the appropriate briefing of the population allowed the latter to understand the ultimate importance of the future benefits created by the new roads both for each member of the community, and for the community as a whole.

- ***Campaigns to create public awareness among stakeholders and beneficiaries are vital in order to properly apply social and environmental safeguard policies. Organizing such campaigns must be a constant priority throughout the implementation stage, and the activities that must be included in such campaigns should be budgeted for accordingly for each project.*** In the case of medical infrastructure rehabilitation projects (hospitals, etc.) in Romania, the Bank's safeguard policies have proven their utility with respect to civil works contracts signed for the purpose of rehabilitating hospitals and other medical institutions. Such policies were reflected in the Environmental Management Plans. The principles and measures set forth in the environmental safeguard policies are in alignment with the measures contained in the national legal framework, as well as the EU legal framework, with which Romania has had to align itself. Secondly, another positive aspect is that the Environmental Management Plan has become integrated into the civil works contracts signed with all suppliers that have been awarded works contracts following public acquisitions procedures. As such, the Bank's social and environmental safeguard policies became applicable and mandatory for the suppliers, as well. Where the hospital rehabilitation program is concerned, the most relevant cases were those where the safeguard policies introduced the constructors' obligation to take concrete measures with respect to the management of construction and demolition waste, etc.
- The project of the Ministry for the Environment and Climate Change has entailed multiple investments and public awareness campaigns, including hundreds of meetings with over 90 communities, during which the scope of the project and the interventions made as part of the project were presented to the public. The public was also offered the opportunity to make an informed decision before the implementation stage. The awareness campaign is still being run. Experience shows that positive results can be ensured by a constant effort both in the implementation stage, and after the project goals have been completed.
- ***It is beneficial to draft the technical projects during the implementation of the investment project funded by the Bank, not before implementation, in order to allow for proper consideration of safeguard policies.*** In the case of the projects that were created by the Ministry for the Environment and Climate Change and which received funding from the Bank, the fact that all investments made as part of the project were developed during the implementation stage facilitated the incorporation of the Bank's safeguard policies. The pilot project<sup>1</sup> showed that the construction supplier had not included such objectives, expenses and costs in the technical proposal that won him the contract. As such, the provisions of the environmental safeguard policies (especially those that referred to managing waste during the construction work, avoiding water engorgement, protecting the waters from pollution, etc.) were included in the Terms of Reference for the large-scale implementation of the project. From a social perspective, there was no problem as the project was meant for the communities and the public domain and therefore, there was no negative social impact.
- ***The requirements of the Bank safeguard policies and the national legal framework were harmonized from the project preparation stage.*** In

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<sup>1</sup> In the county of Calarasi

the projects of the Romanian Ministry for the Environment and Climate Change, the Bank requirements were successfully harmonized with the applicable Romanian legal framework for the “Romanian Waters” National Administration and the National Agency for Environmental Protection, respectively, in 34 counties and 86 local councils, which was a great challenge at the outset.

- **Applying the Bank’s safeguard policies in the projects and/or the programs led to a positive behavior change in time.** In the context of budget constraints and the desire to channel funding in the direction of tangible results, there is the risk that the safeguard policies in the social and environmental realms might become of secondary importance or that concessions might be made when applying such safeguard policies. This would be a big mistake and a step backward, a risk that must be taken into consideration and which must be mitigated.
- **The sense of ownership of the project and of the investment objectives obtained as a consequence** of the project is a success factor which ensures sustainable results obtained following proper application of the Bank’s safeguard policies.

## 2. Issues and challenges encountered in the application of the safeguard policies.

- **The principle of reimbursement of expenses creates serious obstacles in the way of obtaining pre-financing for carrying out the safeguard policies by the line ministries in charge of management of Bank funded projects/programs.** The fact that the Bank has introduced, similar to the EU, the principle of reimbursable expenses when implementing programs and the projects that have received funding from the Bank was a less desirable experience. The implementation of social and environmental safeguard policies is made difficult by the lack of government funding (both the state and the local budget) caused especially by the economic and financial crisis, as well as by a lack of funds that should be specifically designated for the enforcement of such policies.
- **A certain degree of generalization.** On the other hand, the existing policies tend to generalize to a great extent, in the sense that they merely express a set of principles, as opposed to setting out mandatory norms.
- **The main outstanding challenge is raising awareness regarding the need to include in the project budgets the amount necessary for the application of social and environmental safeguard policies.** The financial crisis and the recession have affected contractors. Where budgets are limited, contractors are at a loss for determining the exact amount that should be allocated for the actual works and the amount that should be allocated for environmental protection measures and activities. On the other hand, construction contractors that participate in public acquisition procedures keep a tight eye on their budgets so that they remain competitive.
- If project budgets do not include a budget line for such expenses, it is very hard to cover the financial implications of implementing social and environmental safeguard policies while running the contracts allocated to the suppliers. Therefore, it may be concluded that, at least where the Romanian Ministry of Health’s projects are concerned, things seem normal at the level of policies, norms, activity plans and implementation framework, but there is a persistent challenge to raise public awareness in the absence of dedicated budget lines and also to effectively translate theory into practice.
- **The occurrence of new associated risks during the implementation of investment projects.** This is the case for the project implemented by the Ministry of Justice concerning the rehabilitation of courthouses, etc. Although it is an investment project, the largest part of the funding (up to 60-70%) is allocated to the rehabilitation of the judiciary infrastructure. Many of the judiciary buildings are old (historical or architectural monuments) and are part of the national historical and cultural heritage. The rehabilitation of such buildings entails high costs but also additional concerns regarding other investment objectives. The change in status for such a building, from *an ordinary building to a heritage*

*building*, often occurs after the implementation of the project has begun, which implies changes in the procedures for obtaining the necessary authorizations and a different timeline for submitting the documents and receiving the construction work authorization documents. This often leads to significant delays and it always leads to high unexpected costs.

### 3. Aspects of the environmental and social safeguard policies that the Bank can improve to ensure that these policies continue to be an effective and efficient tool to achieve sustainable development and results on the ground.

- **Ensuring that the experience and the best practices acquired by beneficiaries may be transferred to new projects that receive funding from other sources.** Once they have become aware of and accustomed to the principles and the implementation of social and environmental safeguard policies, public institutions tend to incorporate them and to impose them in the Terms of Reference pertaining to subsequent activities. They also tend to extend them to projects that are funded either from their own budget or with help from other donors, which contributes to the dissemination and the achievement of a consistent practice regarding the enforcement of social and environmental safeguard policies. The Bank's role in this process is that of a catalyst and a leader.
- **The multiplication effect.** In addition, public institutions transfer the lessons they have learned in the Environmental Management Plans, as part of their attempt to use the same tools piloted and experienced in the Bank supported projects/programs.

### 4. How can the Bank better support borrowers in their efforts to strengthen their systems and institutions with respect to environmental and social safeguards practices in order to yield more sustainable results on the ground?

- **Including provisions and measures pertaining to safeguard policies from an early stage of the program/project preparation.** To this end, it is necessary to take into consideration a comparative analysis of the principles, regulations and norms of the Bank's safeguard policies and the national legal framework. Subsequent alterations or adjustments of provisions in order to ensure full harmonization will entail additional time and resources. Where the national legal framework is stricter than the Bank's policies, the Bank should adapt its requirements accordingly. Where provisions are not fully harmonized, there is a great delay in project implementation and there may also be potentially unforeseen consequences. Romania, which became an EU member on January 1, 2007, had to incorporate EU regulations into its national legislation. However, there may be some issues in areas where the process of bringing regulations into compliance with the EU *acquis* has not taken place yet. On the other hand, even when EU regulations have been integrated into the national legal framework, there may still be serious concern regarding their enforcement, as we have shown.
- **Providing ongoing technical assistance and support to shareholders and clients.** Bank-funded projects have been successful because they have gone through all necessary stages and countries have benefited from technical assistance throughout all legislative/regulatory stages, such as the social or environmental analysis or the ecological analysis, followed by the actual investment stage.
- **Improving/increasing the funding flow for the Republic of Moldova.**
- **Providing support and guidance in order to achieve consistency in implementation at the level of tertiary regulation.** In order to better reinforce the requirements of safeguard policies even after they have been incorporated into or harmonized with the EU legislation and/or the national legislation, there remains a pervasive need for support at the level of secondary legislation, but especially at the level of tertiary regulation, which has to do with technical prescriptions and enforcement norms. Such prescriptions and norms often fall under the mandate of national or regional regulating authorities, which usually don't take part in the development of the project/program but whose decisions affect

implementation. Usually, such public entities are territorially decentralized and don't have consistent practice with the legislation that governs the framework for applying safeguard policies. In addition to this lack of consistency in monitoring the enforcement of the relevant legislation, there is either a lack of communication or a poor communication between the various public entities that should act in a coordinated manner.

**5. Examples of environmental and social assessment and risk management approaches (used by either public or private institutions) that the review should take into consideration.**

- ***The policies, regulations and principles have been harmonized but their enforcement remains a challenge.*** The reality of project implementation experience shows that immediately after an accident that has damaged the environment or communities, things are done properly but a few weeks later, things revert to their previous state. Therefore, severe provisions have to be introduced so that the aspects related to the protection of the environment no longer depend on the degree of awareness; instead, they should become mandatory. The same applies to future policies pertaining to labor/occupational safety.
- ***The long waiting time to obtain authorization from national regulatory and controlling agencies, as well as the strained relationship with environmental NGOs can lead to delays in the implementation and to unforeseen costs.*** The stance taken by control authorities with respect to environmental issues shows that one must make sure to obtain the necessary authorization documents ahead of time because such procedures can take a very long time. The same applies to organizing public hearings related to obtaining the necessary authorization documents. The relationship with environmental NGOs is strained.

**6. Recommendations with respect to any of the emerging areas described in the paper (i.e., disabilities; labor and occupational health and safety; human rights, land tenure and natural resources; free, prior and informed consent of Indigenous Peoples; gender; and climate change).**

- Monitoring and evaluation of the Risk Management Plan with an eye to identifying further emerging risks associated with the implementation of projects, as well as monitoring and evaluation aimed at safeguarding proper implementation of the risk mitigation measures.
- Safeguard policies in new fields such as the protection of disabled people should be included in all the projects that have an investment component related to social, economic or environmental infrastructure right from the preparation stage, so that current issues may be avoided (e.g., in rehabilitation projects for schools). Such issues refer to the situation where, once the investments had been completed, it became obvious that such investments did not correspond to principles of social inclusion and to the educational requirements of disabled children. Taking such requirements into account right from the program/project preparation stage will lead to lower expenses than those incurred when schools that have already undergone rehabilitation need to be included in further supplementary projects in order to have the infrastructure adapted to the requirements and needs of disabled students
- There should be additional flexibility with respect to risks that are unforeseen in the preparation stage but which may occur during the implementation stage (e.g., investments in buildings/sites that are included in the historical and cultural heritage of the beneficiary). At the same time, it would be beneficial to grant certain facilities the option of supplementing contracts in cases where risks that were impossible to foresee in the project preparation stage do occur.

- Ongoing focus on educating the various stakeholder groups with respect to social and environmental safeguard policies and their enforcement, so that all stakeholders may have the same understanding of the scope and application of such policies throughout the implementation of investment projects. Project budgets should reflect a real and concrete interest in educating stakeholders, as opposed to the current state, where such an interest is only verbal and optional. If project budgets adequately include such activities, public awareness will cease to be of secondary importance in such projects.
- Safeguard policies should remain a priority in spite of the costs associated with their application, because the very fact that they are being implemented is a form of transferring best practices. In addition, such policies have an intrinsic value by contributing to multiplying relevant effects where strengthening administrative and institutional capacity is concerned. Therefore, it would be advisable that the Bank improves construction-related practices and prepares technical guides/prescriptions that allow for more consistent practices of shareholders.
- The set of indicators that measure the impact/success of projects/programs should also include indicators that are specifically relevant for the implementation of social and environmental safeguard policies, both in current and emerging fields. There should also be an implementation plan, reporting requirements, as well as requirements concerning the timeline and the costs associated with the implementation of safeguard policies.

## 12. Any additional comments or suggestions.

### Final comments and concluding remarks made during the meeting:

- **Safeguard policy implementation driven by controlling authorities vs. by community awareness.** Where the implementation of the Bank's safeguard policies is concerned, even when such policies and the national legal framework are in harmony, control authorities cannot be relied on to monitor the proper implementation of such policies. On the other hand, where there is an upfront investment in public awareness and education activities, control of the implementation can be driven by community awareness.
- **Active approach in safeguarding policy implementation.** Last but not least, when implementing safeguard policies, it is necessary to introduce an active/proactive, anticipative approach.