



Review and Update of the World Bank's Safeguard Policies

Consultation with NGO Representatives

Feedback Summary

Date: March 22, 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.

- The European community *acquis* has been successfully integrated in the legal framework; however, the enforcement of the requirements of the *acquis* is inconsistent.

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

- ***There is a contradiction between the philosophy of safeguard policies and the Bank's economic interests.***¹ The problem is that banks seek profit and there are fields and cases where banks are not interested in applying safeguard policies. One example is the exploitation of shale gas – it has been estimated that 5% of the Romanian territory will be either lost or severely damaged as a consequence of applying and using

¹ During the meeting there was a discussion of the differences between a regular commercial bank's approaches to and interests in environmental issues and the specifics of the World Bank, which is a development bank that invests both upfront and on a continuous basis in the technical assistance which it provides to borrowers. The discussion also touched on the interest policy of the Bank, which offers more advantageous terms to borrowers in countries that are shareholders of the Bank.

exploitation mechanisms.

- **The Bank is unable to provide funding for or to become involved in the process of solving certain issues without a request letter from the Government of Romania.** In addition, the Bank is not involved in the efforts to solve the issue of air pollution in Bucharest. Furthermore, the Bank should cooperate closely with environmental NGOs.
- **There is a lack of institutional capacity.** The National Environmental Guard, for instance, does not have the institutional capacity needed to manage and control certain aspects that are tied to the enforcement of the current environmental protection regulations. Another government entity, the National Regulatory Agency for Monitoring Public Procurement, lacks the institutional capacity that would allow it to check whether each public procurement project is in compliance with the current environmental protection regulations.
- **Cross-sectoral issues are not clearly defined so that the safeguard policies may take effect on a horizontal level.** It is mandatory to include an Environmental Impact Analysis (EIA) in each project and such analyses reflect environmental safeguard policies. However, this is far from being enough, as it is necessary to also monitor the actual implementation of such safeguard policies.
- **There is no partnership between the public authorities and environmental NGOs.** The National Agency for Environmental Protection in Romania makes contradictory decisions and does not seek dialogue with Romanian civil society.
- **There is a high degree of generalization.** Safeguard policies are too general, and the country's implementation and enforcement norms are weak.
- **There is either a different outlook on safeguard policies or a lack of vision altogether on the part of the authorities.** The territorial authorities that are in charge of monitoring and enforcing the implementation of safeguard policies have a different outlook on the current state of affairs. They are also inconsistent in their outlook and their practice, which means that it is impossible to consider sustainability issues.
- **Integrating vs. translating the EU acquis.** The EU provides a legal framework, but it is the EU members' responsibility to identify adequate enforcement mechanisms.
- **There is no integrated approach.** There is no correlation between the biodiversity conservation strategy, the energy efficiency strategy, the promotion of mechanisms to produce energy based on renewable sources and the tourism promotion and development strategy, for instance..

3. Aspects of the environmental and social safeguards 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.

- **Introducing a certification mechanism for agents that perform EIA and identifying ways to ensure their neutrality.** At present, such agents cannot be neutral because they are paid by the project investors/owners/beneficiaries, etc. All investment projects are required to include an EIA but the quality and content of such analyses depend on their authors. According to the current legal framework, EIA requirements focus on hydroelectric plants and micro-hydroelectric plants, but there are no studies or analyses that focus on their cumulative impact on the environment.
- The promotion of green energy is often claimed to be of national interest, which intimidates the environmental authorities whenever authorization permits need to be issued for such projects and for the subsequent operation of green energy-producing facilities. The World Bank - and any commercial bank that acts as financier of such projects in general - should have a global perspective on these issues. There are

similar problems in other fields and cases, as well, such as when the negative impact of investments on the environment is being assessed (for example, in the Fagaras Mountains, in the area of Capra) or when a housing/residential condominium is being built within a protected natural area, etc.

- The legal framework in the Republic of Moldova does not contain sufficient restrictions regarding forest management and landscaping. In the beginning, the Republic of Moldova “borrowed” (as source of inspiration) legislative practices and public policies from Romania but such practices and policies are not always the right/adequate solution to certain issues. In addition, the Republic of Moldova did not adjust these practices and policies to the specifics of its own environment, so that the species that are endemic to its national territory have not been accounted for. There are no adequate investments to protect such species and to preserve indigenous tree species. Inadequate measures have a very strong and long-lasting multiplication effect.
- Research and engineering have differing approaches to environmental issues. Social issues are also worth taking into consideration.
- Safeguards referring to dams are not applicable in the Republic of Moldova as there is no hydrographic network.

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

- The Bank can assist the national system in order to gain the capacity which is necessary to properly assess the impact of various investment projects on the environment. Although there is a certain capacity in place, it is neither specific, nor strong enough, especially when cross-sectoral issues are taken into account. As underlined above, the National Environmental Guard, for instance, does not have the institutional capacity needed to manage and control certain aspects tied to the enforcement of the current environmental protection regulations. Another government entity, the National Regulatory Authority for Monitoring Public Procurement, lacks the institutional capacity that would allow it to check whether each public procurement project complies with the current environmental protection regulations.
- The Bank can support borrowers by understanding and harmonizing requirements and regulations.

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 first law on environmental protection that was created in Romania drew on World Bank guidance, whereas the most recently revised version of the law has integrated the principles that are in effect in the European Union.
- Another example is law no. 304/2009, which has strict provisions regarding environmental aggression; however, these provisions are not enforced and breaches are not sanctioned. Under these circumstances, it is up to NGOs to create awareness about these issues on an international level but not even this initiative would help in the long run.
- **Safeguards should be included in the strategic framework.** Romania’s energy efficiency strategy (which is currently undergoing revision) in the energy production field should be subject to a thorough environmental impact analysis in the case of energy that is based on renewable sources –green energy.
- **Green energy seems innocent at first sight** and the projects welcome but it may have a significant negative effect on the environment (e.g., micro-hydroelectric plants and other sources).

- **There are contradictory reactions to environmental impact analyses and the request for environmental authorization.** At present, authorization depends on where the EIA has been carried out – If the analysis is submitted to the Ministry of the Economy, the authorization document is issued, whereas if the analysis is submitted to the Ministry of the Environment, the request for authorization is denied.
- **A change in approach is needed.** Principles of inclusion should be promoted by means of social safeguard policies. Safeguard policies regarding disabled people should focus on family and social integration, which implies a more diverse and widespread infrastructure and, of course, different costs than those entailed by an institutionalized infrastructure that has only led to the isolation of the disabled from their families, the community and society, in general.

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).

- Sustainability of safeguard policies should be followed up on once the project has been carried out and also during the public procurement process for works contracts, etc. due to the fact that sustainability is affected by the creation of new institutions or new management teams which may share a different vision or have no vision at all.
- The safeguard policy requirements should be matched with the indicators that are used to assess the performance achieved during safeguard implementation and also later, during the stages when operations and project results are monitored.
- With respect to introducing safeguard policies in the field of climate change, it must be known that this is obviously a horizontal theme that cuts across all existing safeguard policies.
- The Bank should maintain interest in ecological education and the training of shareholders and stakeholders regarding safeguard policies, as such policies are often known to stakeholders only on a rhetorical level or in a general sense and the interest that shareholders express with respect to such policies is often inauthentic.
- Resource exhaustion should be a new field that safeguard policies should be developed for, especially where the issue of waste is concerned.
- The Bank should constrain the government to educate the population that is “not interested”, i.e., ordinary citizens who damage the environment the most (cutting trees, domestic waste in rural areas, etc.).
- The sustainability of safeguard policies is jeopardized in cases of natural disasters, which makes it necessary to take appropriate measures in order to prevent such disasters.
- Safeguard policies should continue to be applied and enforced, and their results should be maintained. When management teams in public institutions and communities (local public authorities) change, continuity and sustainability come under question.
- The revised strategy for energy production should be subjected to a thorough EIA where energy based on renewable re/sources is concerned, as it may have a significant negative effect on the environment (e.g., micro-hydroelectric plants, wind farmers etc.).
- In-depth enforcement of safeguard policy principles is needed, through development of technical guidelines to achieve consistent practice.
- Safeguard policies referring to disabled people should be based on the principle of community and family integration, not on the principle of institutionalization for such social categories (disabled children, disabled students, disabled adults, disabled seniors, etc.).

- A participatory approach to development, implementation, monitoring and evaluation of social safeguard policies should be promoted.
- Safeguard policies in the field of occupational/labor safety and health should also take into consideration the issue of integrating disabled people into the labor market and the workplace. Such policies should promote best practices with respect to the professional integration of such social categories.