European Bank
for Reconstruction and Development

Guidance note

EBRD Performance Requirement 2:

Labour and working conditions

March 2023

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1. Introduction and objectives

1.1. Purpose of the guidance note

The European Bank for Reconstruction and Development (EBRD) is committed to promoting environmentally sound and sustainable development in the full range of its activities, pursuant to the Agreement Establishing the Bank.[1] The Environmental and Social Policy (ESP) is one of the Bank's three good governance policies and a key document that guides this commitment to promoting "environmentally sound and sustainable development" in the full range of its investment and technical cooperation activities.[2] The EBRD's Board of Directors approved the 2019 Environmental and Social Policy and its 10 related Performance Requirements (PRs) on 25 April 2019. They apply to projects started after 1 January 2020.

EBRD Performance Requirement 2 (PR2) is based on a recognition that successful, sustainable businesses are underpinned by sound worker-management relationships and respect for workers' rights, including freedom of association and the right to collective bargaining.[3] Workforces are clients' most valuable assets and treating workers fairly, establishing constructive working relationships, and ensuring safe and healthy working conditions[4] are critical to the efficiency and productivity of their operations, as well as their broader reputation. Conversely, failure to adequately implement the requirements of PR2 has the potential to jeopardise worker-management relationships and undermine worker commitment and retention, in turn negatively affecting productivity, quality and efficiency.

This guidance note provides EBRD clients and others with practical guidance on implementing the requirements of PR2 and expands on the key principles underpinning it.

1 See EBRD (1990), Article 2.1(vii).

2 See EBRD (2019).

3 See EBRD (2019), p. 16.

4 This is covered in EBRD Performance Requirement 4: Health, safety and security. See EBRD (2019), p. 23.

1.2. Key changes from the 2014 PR2 to the 2019 PR2

The updated version of PR2 took effect on 1 January 2020. It aligns largely with the 2014 version of PR2, but includes some significant changes, primarily in the areas of:

- protecting vulnerable workers, including protection from gender-based violence (GBV)
- requirements to provide written contracts to workers
- strengthened requirements on forced labour, with the inclusion of a reference to ILO Protocol of 2014 to the 1930 Forced Labour Convention (P029) and emphasis on risks of "abusive and fraudulent recruitment practices"
- clarifying clients' role in relation to workers' freedom of association and collective bargaining rights
- worker accommodation requirements to develop management systems, applying principles of non-discrimination and implementing GBV safeguards in the provision of accommodation
- requirements to provide advance notice of planned collective dismissals to the EBRD and collective dismissals plans on request
- grievance mechanisms to provide safe and confidential channels for reporting GBV and other sensitive matters
- requirements to assess contractors' past labour and occupational health and safety performance and current capacity to implement the EBRD's PR2 and PR4 requirements
- clarification of supply-chain due diligence requirements.

1.3. Key objectives of PR2

PR2, paragraph 2 sets out its key objectives:

- respect and protect the fundamental principles and rights of workers
- ensure fair treatment, non-discrimination and equal opportunities of workers in accordance with the decent work agenda[5]
- establish, maintain and improve a sound worker-management relationship
- ensure compliance with national labour and employment laws and any collective agreements to which the client is a party
- protect women and men at work, including vulnerable workers such as young workers, persons with disabilities, migrant workers and refugees, workers engaged by third parties and workers in the client's supply chain
- prevent the use of forced labour and child labour (as defined by the International Labour Organisation (ILO))
- ensure that accessible and effective means to raise and address workplace concerns are available to workers.

EBRD clients will implement a systematic approach to labour and working conditions in their operations, based on identifying labour risks and impacts and engaging with workers (see definitions below) and, where they exist, the representatives of workers' organisations. This process will allow the client to design or update its human resources (HR), employment, contracting and purchasing policies and procedures in ways that enhance the long-term viability and success of the business, while safeguarding the rights of workers, including vulnerable workers. Vulnerable workers are those who are disproportionately impacted by labour risks and may include young workers, women, people with disabilities, migrant workers and refugees, workers engaged by third parties and workers in the client's supply chain.

PR2 is underpinned by the core conventions of the International Labour Organisation (ILO).[6] By applying PR2, the client will be able to operate its business in a manner consistent with these conventions. This includes ensuring non-discrimination and equal opportunities for all workers, preventing the use of forced and child labour, and establishing and maintaining sound worker-management relationships.

5 Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organise and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.

6 The ILO governing body has identified eight core conventions, covering subjects that are considered fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; the elimination of discrimination in respect of employment and occupation; and the enjoyment of a safe and healthy working environment. See ILO (1998).

2. Scope of application

PR2 applies to all projects financed by the EBRD, including intermediated finance. EBRD Performance Requirement 9 for Financial Intermediaries (FIs) requires that all FI clients "maintain human resources policies, management systems and practices in accordance with PR 2".[7]

The scope of application of PR2 depends on the type of contractual relationship between the client and the project workers and should be established during the environmental and social assessment process. As part of this process, clients should identify (i) project workers directly engaged by the client, (ii) project workers engaged by a third party (non-employee workers) and (iii) supply-chain workers.

This reflects the fact that clients have differing degrees of influence, control and leverage over terms of employment and working conditions, depending on the type of contractual relationship that exists. Labour risks are often greater where clients do not have direct control. However, clients have a responsibility for using their leverage to align labour standards and working conditions in their labour contracting chains with PR2 requirements.

2.1. Project workers

The requirements contained in PR2 relate to "all project workers, including full-time, part-time, temporary, fixed-term, seasonal and migrant workers, whether engaged directly by the client or by a third party".[8] Project workers are those who work on a project site or perform work directly related to the core functions of a project.

2.1.1. Project workers directly engaged by the client

Project workers directly engaged by the client are all those employed by the client, including full-time, part-time, temporary, fixed-term, seasonal and migrant workers. Project workers may also be directly engaged by the client through a different type of contractual relationship, for example, a commercial contract or provision of services agreement.

EBRD clients should refrain from entering into disguised employment. Disguised employment relationships include (i) contractual arrangements that hide the true legal status of the employment relationship and/or (ii) contractual arrangements that have the effect of depriving workers of the protection they are due. It commonly involves obfuscating the identity of the employer by hiring the workers through a third party, or by engaging the worker on a commercial contract (for example, self-employment-based) instead of an employment contract and, at the same time, directing and monitoring the working activity in a way that is incompatible with genuine self-employment.

Across the economies in which the EBRD operates, national labour legislation and social security frameworks are, to a large extent, predicated on the existence of a standard employment relationship, and disguised employment can be a significant driver of non-compliance in relation to a range of PR2 issues. It can have a particularly detrimental impact on vulnerable workers.

National law may contain specific regulatory requirements that help establish (i) the existence of an employment relationship and (ii) the identity of the employer. Where this is not defined in national law, ILO Recommendation No. 198 provides indicators to determine the existence of an employment relationship. According to Recommendation No. 198, determining the existence of an employment relationship should be guided primarily by facts relating to (i) the performance of work and (ii) the remuneration of the worker, rather than by the type of contractual relationship. Potential indicators under these headings are:

(i) Indicators relating to the performance of work – that is, work:

- is carried out according to the instructions and under the control of another party
- involves the integration of the worker in the organisation of the enterprise
- is performed solely or mainly for the benefit of another person
- must be carried out personally by the worker
- is carried out within specific working hours or at a workplace specified or agreed by the party requesting the work
- is of a particular duration and has a certain continuity, and
- requires the worker's availability or involves the provision of tools, materials and machinery by the party requesting the work.

(ii) Indicators relating to the periodic payment of remuneration to the worker include:

- the fact that such remuneration constitutes the worker's sole or principal source of income
- provision of payment in kind, such as food, lodgings or transport
- recognition of entitlements, such as weekly rest and annual holidays
- payment by the party requesting the work for travel undertaken by the worker in order to carry out the work, or
- absence of financial risk for the worker.

7 See EBRD (2019), PR9.9, p. 44.

8 See EBRD (2019), p. 16.

2.1.2. Project workers engaged by a third party (non-employee workers)

Non-employee workers are project workers (that is, performing work or providing services directly related to core functions of the project) who are not directly employed by the client, but rather engaged through third parties such as contractors, agents, brokers or other intermediaries. This might include construction workers or auxiliary staff, such as cleaners, caterers, drivers and security workers engaged through labour agencies, as well as workers engaged by sub-contractors, for example, during the construction phase of a project. This definition also includes workers who perform services directly related to the core functions of the project, but who are not based on the project site (such as drivers or workers who provide back-office services remotely).

Even in jurisdictions in which the client may have limited legal requirements with regard to these workers, PR2 requires the client to implement policies and procedures to ensure that non-employee workers are managed in a way that complies with the requirements of PR2. All contractual arrangements should clearly establish responsibilities for providing adequate labour and working conditions to all non-employee workers.

2.2. Supply-chain workers

PR2 provisions on supply-chain workers refer to the operations of **primary suppliers**, as defined in PR1.[9] The reference to "operations" of primary suppliers implies that all workers in the operations of primary suppliers – including outsourced or self-employed workers (such as smallholders), not just direct employees – are covered by PR2 supply-chain provisions. Specific requirements relating to supply-chain workers relate to child labour, forced labour and the risk of harm and are addressed in PR2.25 to PR2.27.

The definition of "primary suppliers" in PR1 is intended to provide a clear, consistent and practical basis for clients to assume responsibility for the sustainability of their sourcing practices, while recognising constraints on their influence over long and complex supply chains. PR1 defines primary suppliers as "those suppliers who, on an ongoing basis, directly provide goods or materials essential for the core operational functions of the project".[10]

- "On an ongoing basis" means that the trading relationship between the client and supplier is continuous throughout the course of the project or investment. This means that one-off and "spot" purchasing are excluded, though where commodities are regularly purchased at auction, this may sometimes constitute "ongoing" supply.
- "Directly provide" means primary suppliers are those that have a direct contractual relationship with the client – that is, first-tier suppliers. However, where first-tier suppliers are agents, auctions, brokers or wholesalers without any material labour input, due diligence should extend to the next tier of the supply chain. Equally, where significant risks are reported in the lower tiers of the supply chain, PR2 requires further due diligence.
- "Goods or materials" means the purchase of materials, components, goods or products for use in ongoing operations. A supply chain of goods may include suppliers of raw material and suppliers of pieces or components for assembly and production. There are also labour risks in construction materials supply chains that clients should assess as part of their project appraisal, in line with PR1.
- "Core operational functions" means suppliers of goods or materials to production and/or service processes that are essential to a specific project activity and without which the project cannot continue.

9 See EBRD (2019), p. 13.

10 Ibid.

3. Requirements

3.1. General

PR2 is guided by the core conventions of the International Labour Organisation (ILO),[11] most of which have been ratified by the economies in which the EBRD operates[12] and all of which apply to all workers regardless of their employment status. In addition to the areas covered by the Fundamental Conventions of the ILO, PR2 addresses other areas, such as working conditions and terms of employment, retrenchment, grievance mechanisms and worker accommodation. Some of the requirements refer to applicable national law. Where national law is silent on an issue or establishes standards that are less stringent than those of PR2, clients must meet the requirements of PR2. Clients must also ensure compliance with any collective agreements to which they are party.

3.2. Management of worker relationships

3.2.1. HR policies

This provision applies to all project workers. Clients must implement these requirements in relation to their own workforce and to non-employee workers, and require contractors or other intermediaries to apply them.

To adopt a consistent approach to managing employees and demonstrate compliance with national laws, clients are required to have written policies and procedures that guide and describe their approach to HR management. These policies and procedures should cover all categories of worker, including project workers, non-employee workers and supply-chain workers.

PR2 requires HR policies to be in written form, as this enables managers and supervisors to apply policies more fairly and transparently. Clients should adopt HR policies that are appropriate to the sector and legislative context in which they operate, as well as to the size and nature of the client's workforce. It is likely that a client's policy will often go beyond the scope of the requirements of PR2 but, at a minimum, they should be consistent with the requirements of national labour and employment law and PR2. See Annex 1 for typical contents of a HR policy.

HR policies may be documented in company handbooks, collective agreements or dedicated policies on specific issues, such as non-discrimination or grievance management. HR policies must be written in clear language and made available in the main language(s) spoken by the workforce and should be readily available to all workers either in paper or electronic form.

HR policies and procedures need to be kept up to date and integrated into the client's overall management system to ensure consistency and ongoing monitoring.

For further guidance on practical implementation in EBRD client workplaces, see the PR2 guidance note on human resources policies and employee documentation.[13]

3.2.2. Working relationships

This provision applies to all project workers. Clients must implement these requirements in relation to their own workforce and non-employee workers, and require contractors or other intermediaries to apply them.

Under PR2, working conditions and terms of employment for all project workers must be documented in written contracts. This is a legal requirement in most economies where the EBRD operates. Written employment contracts give clarity to both parties regarding the terms and conditions of employment. Any important changes to the contract must also be in line with national law, agreed upon with the employee in question and signed in writing by both parties.

The length and detail of written contracts may reflect the length and nature of the employment relationship, but must include, at a minimum, their rights under national labour and employment law and any applicable collective agreements with respect to working conditions and terms of employment. National legislation may set out further requirements for the contents of individual employment contracts. See Annex 2 for typical contents of an employment contract.

Written contracts should be accessible to workers. This means that they should be available in the main language(s) spoken by the workforce and that, in situations where workers have low literacy levels, contractual terms and conditions should be explained verbally and verification of understanding sought before contracts are signed. Where a collective agreement applies to project workers, this information must be communicated to workers. Documentation on such communication and explanation should be retained, for example, through records of meetings held or notices placed on a workplace bulletin board.

Clients need to inform workers about the type of information that will be kept about them and how this information will be used. Countries have different legal requirements for employment record keeping. Clients will follow these requirements and inform workers to ensure that information is accurate, relevant and safe from improper disclosure. Clients should also keep personnel files that reflect the

11 See ILO {1998).

12 With the exception of Kosovo and the West Bank and Gaza, which are not ILO members.

13 See EBRD (2023a).

process and outcomes of performance reviews, disciplinary procedures and/or any complaints brought against the company or individual employees. Clients should keep all final memoranda and correspondence reflecting performance reviews and actions taken by or against personnel in the employee's personnel file.

In all circumstances, clients should follow national legal requirements relating to employment record retention and data protection. HR policy and associated procedures must set out provisions relating to workers' right to privacy and data protection. This should include (i) notification to workers on the data collection process and the type of data collected; (ii) the purpose of collecting the data; (iii) that data should not be disclosed without the worker's consent; (iv) that data should be kept secure and confidential; (v) that workers should be informed as to who is collecting and accessing their data; (vi) that workers should be allowed to access their data and make corrections to any inaccurate data; and (vii) that workers should have a method available to them to hold data collectors accountable for following the above principles. Where clients carry out health testing or collect health information from workers, this information should only be held where strictly necessary, for example, in relation to health and safety requirements. Additional controls should be implemented to ensure that these data can only be accessed when strictly necessary.

3.2.3. Child labour

This provision applies to all project workers and to the workers of primary suppliers. Clients must implement these provisions in relation to their own workforce and to non-employee workers, and require contractors or other intermediaries to apply them. As far as the workers of primary suppliers are concerned, the client will identify risks and take appropriate steps to remedy them.

International standards on child labour are set out in two ILO conventions: Convention No. 138 (Minimum Age for Admission to Employment and Work)[14] and Convention No. 182 (Worst Forms of Child Labour).[15] These ILO standards represent the minimum requirements that must be followed by EBRD clients, regardless of the content of national law. While almost all of the economies in which the EBRD operates have ratified both of these conventions,[16] there may still be instances where national law is not fully aligned with ILO standards – for instance, in terms of coverage of workers or activities, or designation of hazardous work occupations prohibited for under-18 year olds.

Any person below the age of 18 is a child. Child labour includes all forms of children's work that is prohibited by the ILO conventions or, if it contains more stringent provisions, national law. Under the ILO Conventions, the definition of child labour is based on two variables: (i) age and (ii) nature of the activity.

Table 1. Permissible forms of labour, by age bracket

Age	Permissible activities
0-12 years	None
13-14 years	"Light work" only – up to 2 hours of economic activity per day, for up to 12 hours per week. Must be non-hazardous and must not interfere with schooling.
15 (14 in some least developed countries)-17 years	All work except "hazardous work"
18 years and over	All work

Source: ILO, Convention 138.

Clients must set a minimum work age that complies with national law and is not lower than the minimum age specified in the country's ratification of ILO Convention 138 – this is typically 15 – and establish procedures for verifying age during hiring processes. Children below this age may be engaged in "light work" if permitted by national law.

If the client engages any children below the age of 18, this work shall be subject to an appropriate risk assessment and regular monitoring of health, working conditions and hours of work to ensure that the child is not engaged in any hazardous activities. In many EBRD countries, hazardous work will be defined in national legislation and is likely to include most tasks in construction and agriculture. The client should also review and retain copies of verifiable documentation concerning the age and work activities of all under-18 year olds. Children who are below the national school-leaving age must only work outside of school hours.

If a client identifies the presence of child labour, the client should seek professional advice on how to address this issue in such a way that the victims' rights are protected and victims are safeguarded from any future harm. Where a child is found to be engaged in the worst forms of child labour, including hazardous and dangerous work, immediate steps should be taken to remove that child from such activities. Where possible, children who are above the minimum age for employment should be moved to non-hazardous, age-appropriate tasks in line with national legal requirements. In relation to other forms of child labour, the

14 See ILO (1973).

15 See ILO (1999).

16 With the exception of Kosovo and the West Bank and Gaza, which are not ILO members.

focus should be on progressive remediation, taking into consideration that removing children from work straight away is likely to worsen their immediate situation and does not address the root causes. In all cases, the aim should be to eliminate the use of child labour within a reasonable time frame and to ensure that no additional children are engaged in child labour.

For further guidance on practical implementation in EBRD client workplaces, refer to the guidance note on children, young people and work.[17]

3.2.4. Forced labour

This provision applies to all project workers and to the workers of primary suppliers. Clients must implement these provisions in relation to their own workforce and to non-employee workers, and require contractors or other intermediaries to apply them. In relation to workers of primary suppliers, the client will identify risks and take appropriate steps to remedy them.

Forced labour refers to situations in which people are not working voluntarily and are coerced to work through the use of violence or intimidation, or by subtler means, such as accumulated debt, retention of identity papers or threats of dismissal or denunciation to immigration authorities. Forced labour practices are commonly referred to under the broad heading of "modern slavery".[18] Forced labour covers a wide range of coercive labour practices, including indentured labour, bonded labour and involuntary prison labour, as well as trafficking in persons:

- Indentured labour refers to work carried out within a system of unfree labour, whereby a worker is forced to work without pay for a set period of time.
- Involuntary prison labour refers to situations in which a prisoner's work for or on behalf of a private company is not carried out on a voluntary basis. There are two main indicators of volition: (i) formal consent, whereby workers provide explicit consent, are not subject to any pressure, retaliation or loss of privileges, and are able to withdraw their consent at any time, and (ii) wages and conditions that are similar to those of workers in a free employment relationship.
- Bonded labour refers to labour that is required in order to pay off a debt, often under terms that make it very difficult to pay off the debt. Migrant workers are particularly vulnerable to bonded labour.
- Trafficking in persons refers to the recruitment, transportation, transfer, harbouring or receipt of people by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Women and children are particularly vulnerable to trafficking practices.

ILO Convention 29 on Forced Labour,[19] which provides the basis for the above definitions, has been ratified by almost all of the economies in which the EBRD operates.[20]

In accordance with the Protocol to ILO Convention 29, clients must not use or benefit from abusive and fraudulent recruitment practices and must reflect this in contracting arrangements with labour intermediaries and brokers. This includes (i) deceptive recruitment practices, such as significant and deliberate failures to deliver on the terms and conditions of employment promised to the worker and (ii) the imposition of worker-paid recruitment fees.

Where workers are recruited through a labour intermediary or broker, the client should exercise due diligence to ensure that workers have not been charged pre-employment or recruitment fees and, where this is found to be the case, refund any fees charged to workers. Clients must ensure that workers are not compelled to work on a non-voluntary basis, must not use any type of physical or psychological coercion towards workers and must not create unnecessary restrictions on workers' movement. Security personnel employed by the client may not be used to force or exact work from workers.

Clients must not impose any penalties on workers who wish to leave their employment and must ensure that any workers who wish to leave are able to do so freely. For example, clients must not retain workers' identity documents or other personal items and must not withhold any wages or other benefits.

17 See EBRD (2023b).

18 See Ergon Associates and Ethical Trading Initiative (2018).

19 See ILO (1930).

20 With the exception of Kosovo and the West Bank and Gaza, which are not ILO members.

If a client identifies the presence of forced labour – either within their own operations, in the operations of a contractor or in the operations of primary suppliers – it is essential to seek professional advice on how to address this issue immediately in a way that the victims' rights are protected and victims are safeguarded from any future harm. Where the presence of forced labour is linked to a supplier, EBRD clients must obtain evidence that immediate steps have been taken to remedy the situation and prevent further abuses. In the absence of such evidence, the client must cease to procure goods or materials from that supplier.

For further guidance on practical implementation in EBRD client workplaces, see the PR2 thematic guidance note on forced labour.[21]

3.2.5. Non-discrimination and equal opportunity

This provision applies to all project workers. Clients must implement these provisions in relation to their own workforce and to non-employee workers, and require contractors or other intermediaries to apply them.

Equal opportunity refers to the principle of basing all employment decisions, including on hiring, promotion and dismissal, on the ability of a person to perform the job in question, without regard for personal characteristics that are unrelated to the inherent job requirements. Discrimination in employment involves treating people differently based on a personal characteristic that is unrelated to their ability to do the job. Discrimination may occur throughout the employment relationship and relate to recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignments, promotion, termination of employment or retirement, and disciplinary practices. Prohibited grounds under PR2 include gender, race, nationality, political opinion, affiliation to a union, ethnic, social or indigenous origin, religion or belief, marital or family status, disability, age, sexual orientation or gender identity. Non-discrimination measures must apply to all project workers, including non-employee workers. Almost all economies in which the EBRD operates have ratified the relevant ILO conventions,[22] which relate to non-discrimination (C111)[23] and the right to equal remuneration for work of equal value (C100),[24] and prohibit workplace discrimination in national law.

As well as being a matter of compliance with PR2 and national law, ensuring non-discrimination and equal opportunities is good business practice and brings a range of positive benefits to companies, including the ability to recruit from the widest possible talent pool and improved retention and productivity. Discrimination prevents workers from making their fullest possible contribution to the workplace and impedes the creation of a harmonious, motivated and productive working environment. In broader terms, employment discrimination generates socioeconomic inequalities that undermine social cohesion and slow poverty reduction.

Discrimination may be direct or indirect and does not have to be intentional. Practices that appear neutral but result in the unequal treatment of people with certain characteristics are referred to as indirect discrimination. For example, requiring all managers to regularly undertake business travel at short notice and to work beyond their contracted hours may appear neutral because it applies to all managers in the same way, but may in fact have a disproportionate impact on women, who are more likely to have unpaid caring responsibilities, for example, in relation to childcare or care for elderly relatives.

Characteristics inherent to the job requirement are those that genuinely relate to a worker's ability to perform a particular task. For example, if a job entails regular lifting of heavy loads, employers can select applicants based on their ability to meet this requirement. However, this should be based on an objective assessment of an individual applicant, rather than an assumption based on the applicant's gender, age, disability or any other characteristic.

Discrimination may also include violence, harassment and bullying, which cannot be tolerated in the workplace. It is often based on prohibited grounds for discrimination and may include gender-based violence and harassment (GBVH). The term "gender-based violence" means violence and harassment directed at persons because of their sex or gender, or disproportionately affecting persons of a particular sex or gender, and includes sexual harassment and sexual exploitation and abuse. Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular, when creating an intimidating, hostile, degrading, humiliating or offensive environment. While GBVH and sexual harassment can affect any worker, it disproportionately affects women and people of diverse sexual orientation and gender identities. The risk of GBVH may be heightened with an increase in labour influx, when migrant workers bring their families to a project, when accommodations and other services are provided and in certain work contexts, such as night-time or isolated work.

21 See EBRD (2023c).

22 With the exception of Kosovo and the West Bank and Gaza, which are not ILO members.

23 See ILO (1958).

24 See ILO (1951).

In 2019, the ILO adopted Convention No. 190 and Recommendation No. 206 to combat violence and harassment, including GBVH, in the world of work.[26,27] Convention No. 190 recognises that GBVH can constitute a human rights violation or abuse, that it is a threat to equal opportunities and is incompatible with decent work.

EBRD clients must develop policies to promote non-discrimination and equal treatment and to prevent harassment (including sexual harassment) and bullying in the workplace, including clear codes of conduct and reporting channels. They must also ensure that any contractors also develop and implement similar policies. These policies must be clearly communicated and accessible to management, supervisors and workers, and managers and supervisors must be trained in how to apply the policies consistently.

Within this framework, clients should consider adopting "family-friendly" working practices, including parental leave and flexible working arrangements, to help workers reconcile work and family responsibilities. Workplaces that do not tolerate discrimination and harassment and promote family-friendly working practices are also associated with a range of broader positive organisational outcomes, including improved recruitment and retention and reduced absenteeism.

Clients should take additional steps to protect the rights of people with disabilities (including physical, learning, sensory and emotional disabilities) and provide equal opportunities for people with disabilities, to enable them to gain employment and retain their job, including by making any necessary accommodations set out in national law.[28]

Special measures of protection or assistance to remedy past discrimination refer to policies designed to increase the employment of underrepresented groups in the workforce or, in particular, to remedy past discrimination, such as affirmative action, with a view to achieving effective equality of opportunity and treatment in the workplace. These will not be deemed discrimination and may be used where permitted by law. They may include measures to increase the awareness and availability of job opportunities for underrepresented groups, or measures to encourage or support the promotion of underrepresented groups into management positions. Similarly, projects may have objectives to promote the employment of the local community.

For further guidance on practical implementation in EBRD client workplaces, see the PR2 thematic guidance note on non-discrimination and equal opportunity.[29]

3.2.6. Workers' organisations

This provision applies to all project workers. Clients must implement these provisions in relation to their own workforce and to non-employee workers, and require contractors or other intermediaries to apply them.

Effective engagement with employees and their organisations carries a number of business benefits. Clear and effective channels of engagement can serve as a useful early warning system for an employer. This means problems can be identified early and anticipated before they escalate into more intractable conflicts that may have been avoided or at least predicted. In turn, such engagement allows solutions to be more constructive, collaborative and less confrontational. Freedom of association refers to the right of workers to form and join trade unions or other representative organisations freely, without prior authorisation from government or employers and without fear of reprisal or interference. Freedom of association paves the way for an environment in which workers and employers can come together to address and resolve differences in a way that serves the interests of all parties.

A workers' organisation is any voluntary organisation of workers established for the purposes of maintaining and improving their terms of employment and workplace conditions. The term excludes organisations that have not been freely chosen by the workers involved or that are under the influence or control of the employer or the state. In the economies where the EBRD operates, trade unions are by far the most common and standard form of worker organisation. In some contexts, there may be additional or alternative structures, such as worker committees, but these must not assume functions that are defined in national law as the exclusive prerogative of trade unions, which usually includes collective bargaining.

Clients must not interfere with workers' rights to form or join a workers' organisation, for example, by favouring one workers' organisation over another or unreasonably restricting access to workers by representatives of such organisations. Workers should be free to meet and discuss workplace issues on the premises during scheduled breaks and before and after work.

25 See EBRD, CFC and IFC (2020).

26 See ILO (2019a).

27 See ILO (2019b).

28 See, for example, UN Global Compact and ILO (2017).

29 See EBRD (2023d).

Clients must inform workers that they have the right to elect workers' representatives, form or join workers' organisations of their choosing and engage in collective bargaining in accordance with national law. This should be done at the time of hiring or induction. In addition, information on workers' representatives at the workplace should be made accessible to all workers, for example, on a company notice board or on the company intranet.

Clients must not discourage workers from forming or joining a workers' organisation, or discriminate or retaliate against workers who attempt to form or join a workers' organisation. Examples of discrimination would include refusing to hire workers who have been members or leaders of workers' organisations at other firms (for reasons unrelated to qualifications or job performance) and dismissing, demoting or re-assigning workers in response to union activities. Clients must not use outsourcing arrangements or fixed-term contracts as a means to undermine the functioning of workers' organisations.

PR2 sets out a specific and additional requirement for clients in countries where national law substantially restricts the establishment or functioning of workers' organisations. This requirement is triggered only where there are legislative restrictions, not where there are practical challenges to freedom of association. Where this requirement is triggered, clients in these countries must not restrict workers from developing alternative mechanisms to represent their interests and protect their rights as regards working conditions and terms of employment. In addition, clients will neither seek to influence nor control these mechanisms. Alternative mechanisms may include worker committees or other means whereby workers choose their own representatives for dialogue with the employer.

There are also specific, additional requirements that apply to clients in countries where national law does not contain any specific provisions on workers' organisations or collective bargaining. Where this requirement is triggered, clients must not discourage workers from electing worker representatives, forming or joining workers' organisations of their choosing, or from bargaining collectively, and will not discriminate or retaliate against workers who participate, or seek to participate, in such organisations and collective bargaining.

Collective bargaining refers to the process of negotiation and agreement between the representatives of collectively organised groups of workers and employers. Collective bargaining cannot work without freedom of association, as workers must be free to choose whether and how they are to be represented in collective bargaining.

The outcome of a successful bargaining process will normally be a collective agreement, which is binding on all signatories. In some jurisdictions, a collective agreement may apply beyond the signatory parties to the entire workforce if the agreement is registered with the state authorities for the purposes of a state "extension" of the agreement. Where this is not the case and a collective bargaining agreement exists, but does not cover all workers, substantially equivalent terms and conditions of employment should be offered to all workers in similar positions.

3.2.7. Wages, benefits and conditions of work

This provision applies to all project workers. Clients must implement these provisions in relation to their own workforce and to non-employee workers, and require contractors or other intermediaries to apply them.

Wages and benefits refer to the compensation received by a worker, including monetary payments, as well as medical insurance and pensions. Conditions of work refer to the physical conditions in the workplace, as well as the terms of employment, including hours of work, breaks, overtime arrangements and access to leave, including for vacation, sickness, maternity and paternity.

Overtime work is defined as any additional hours over and above contractual working hours. It must be carried out in accordance with national law, including in terms of remuneration, circumstances in which it is permitted and any stated limitations. In all circumstances, even if not required by national law, overtime should be voluntary. This means there should be no obligation on workers to work any more hours than they are contractually required, and they should not be subject to any detriment for refusing to do so.

Where wages, benefits and conditions of work are set out in a sectoral or enterprise-level collective agreement, this would indicate that they are adequate under the terms of PR 2.16. In these circumstances, clients should verify that they meet the requirements of national law and PR2 and provide wages, benefits and conditions of work in line with these agreements.

Wages should be paid regularly, on time and without any unlawful deductions. Wage deductions of any type require a legal basis in national law, regulations or collective agreements. Project workers will be informed of the conditions under which any deductions will be made, and these should be reflected in their contracts. All necessary measures should be taken to limit deductions from wages, to safeguard the ability of the worker and their family to meet their basic needs.

Clients and their contractors will keep adequate and accurate records of working time and payroll. Clients will also ensure that workers receive itemised payslips. If wages are paid via bank transfers, these should be paid into workers' own bank accounts and workers should have full, unhindered access to them.

Where collective bargaining agreements do not exist, or do not address specific issues, clients are required to provide "reasonable" working conditions and terms of employment. In determining "reasonable" working conditions and terms of employment, clients should ensure compliance with national law and should also take into consideration factors including (i) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits and the relative living standards of other social groups; and (ii) economic factors, including levels of productivity. Overall, EBRD investments should not undermine wage levels or living standards in the economies where the Bank operates, including by ensuring that working conditions and terms of employment are no less favourable than those provided by comparable employers in terms of sector, industry and geography. In order to achieve this, clients may wish to consider conducting a benchmarking of wages and terms of employment in the relevant sector and region.

Where collective bargaining agreements exist but do not cover all workers, the terms and conditions of employment, as well as the benefits of all workers in similar positions, should be substantially equivalent.

PR2.18 requires clients to identify migrant workers on a project, including those engaged through third parties, and take steps to ensure that wages, benefits and conditions of employment are "substantially equivalent" to those of non-migrant workers carrying out the same work. In some instances, migrant workers may be provided with different terms and conditions of employment – for example, if they are provided with accommodation and receive lower cash wages than non-migrant workers – but this should not constitute a disadvantage.

For further guidance on practical implementation in EBRD client workplaces, see the PR2 guidance note on wages and working hours.[30]

3.2.8. Worker accommodation

This provision applies to all project workers. Clients must implement these provisions in relation to their own workforce and to non-employee workers and require contractors or other intermediates to apply them.

On some projects, the client, or contractors working for the client, may provide workers with accommodation. This accommodation can take various forms, from long-established, permanently built dormitories to temporary exploration camps or lodgings in the local community.

When accommodation, transportation and/or basic services such as catering or medical care are provided to workers, this shall be provided in a non-discriminatory manner and comply with national and international standards in terms of quality, security, safety and professional competency. If workers are charged for accommodation and related services, prices should be at market rate, transparent and fair.

In some cases, migrant workers may take their families or members of their family to their place of employment. This will affect the provision and management of accommodation and other services. Best practice includes providing workers and their families with individual family accommodation, allowing them to have a normal family life and ensuring that family members have access to adequate education and medical services.

Clients should develop a set of standards and a plan for establishing and maintaining accommodation. Compliance with national and local law is a basic and essential requirement, including building regulations on sanitation, safety or building materials. These standards should be clearly communicated and required of any contractor or accommodation providers. Conditions with respect to accommodation and related services should be monitored by the client.

Provisions should be made for workers' physical safety and well-being and protection of their belongings. The accommodation provider must plan for emergencies by ensuring adequate emergency exits, well-marked and unobstructed escape routes, and posted emergency exit plans.

Worker accommodation and related services must be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Particular attention should be paid to the safety and security of women workers, including safeguards against sexual harassment and other forms of gender-based violence. This will include separate sleeping areas for men and women (except in the context of family accommodation) with lockable doors and windows, separate lockable sanitary facilities, adequate and

30 See EBRD (2023e).

well-maintained lighting around the facilities, and measures to avoid overcrowding and lack of privacy. The client should consult with women workers to identify any additional or specific measures that could be undertaken to improve the safety and security of accommodation or related services.

Measures made to afford security and protection to local communities should be reasonable and not unduly restrict workers' freedom of movement. Public health emergencies may demand the imposition of temporary and proportional restrictions on freedom of movement to protect the workforce and local community. Any such restrictions must be in compliance with local and national regulations and guidelines and with the objectives of (i) guaranteeing the health and safety of the workforce and community, and (ii) limiting any disproportional restrictions of freedoms and rights of workers.

The EBRD and the International Financial Corporation (IFC) have published guidance[31] that sets out a range of criteria that can be applied in relation to worker accommodation.

3.2.9. Collective dismissals

This provision applies to project workers directly engaged by the client. Clients must implement these provisions in relation to their own workforce. PR2.20 does not cover the demobilisation of contractor workforces at the end of a planned construction phase or other fixed-length project. However, in the case of a demobilisation of contractor workers, all relevant national legal requirements must be followed and this may include requirements pertaining to collective dismissal, particularly if the workers involved are employed on contracts of unlimited duration.

Collective dismissal (also commonly referred to as retrenchment, redundancy or lay-offs) refers to the dismissal of more than one worker for economic, technical or organisational reasons. Commonly, collective dismissals result from restructuring processes or are necessitated by adverse economic circumstances. Provisions on collective dismissals do not cover situations in which only one worker is dismissed, situations in which one or more workers are dismissed for performance or disciplinary reasons, or situations in which workers depart voluntarily or retire, even if this results from a reorganisation or restructuring (for example voluntary redundancies or enforcement of retirement age where provided for by national law).

In many economies where the EBRD operates, national law sets out requirements for employers to follow during collective dismissals by establishing a specific numerical threshold of jobs affected. PR2 applies to all cases of multiple dismissal for economic, technical or organisational reasons and may, therefore, cover a broader range of scenarios than those defined as "collective dismissals" under national legal provisions. In all cases of multiple dismissal for economic, technical or organisational reasons, clients must follow PR2, including in relation to developing a collective dismissal plan proportionate to the scale of redundancies anticipated and consulting with workers and their organisations. Clients must also follow requirements set out in their loan covenant relating to the provision of advance notification to the EBRD of planned workforce reductions and, where requested by the EBRD, a copy of the proposed plan for collective dismissal.

Where a potential need for collective dismissal is identified, the client will carry out an analysis of alternatives, setting out the potential number of positions saved through each alternative, and a cost analysis to determine the viability of alternatives. This analysis should be based on consultation with workers and their representatives and may include measures such as reductions in hours, salary cuts, temporary layoffs (such as furloughs), business reorganisation and redeployment, hiring freezes, voluntary redundancies and early retirement. Alternatives to job losses should be clearly communicated to workers and clients should follow all applicable national requirements. This may include specific requirements to obtain consent from workers and their representatives on modifying the terms and conditions of employment. Explicit, informed consent should also be sought from workers departing through voluntary redundancy or early retirement, and workers should never be compelled or put under pressure to accept such arrangements.

When no viable alternatives are identified and a decision is taken to proceed with collective dismissal, PR2 requires the development of a collective dismissal plan, even if this is not a requirement of national law. Developing a clear and comprehensive collective dismissal plan is the best way to ensure that an efficient and fair process is being followed and to demonstrate compliance with national law and PR2. The scope and level of detail of the collective dismissal plan will vary from case to case depending, among other things, on the number of anticipated job losses and associated socioeconomic impacts. A collective dismissal plan will normally include:

- the reasons why job losses are necessary
- the timescale for collective dismissal
- who will be consulted and when
- how employees will be selected
- how alternative jobs will be sought
- how severance pay will be calculated
- what measures are in place to assist those losing their jobs in seeking new work/retraining
- how broader community impact issues are to be addressed, where applicable.

31 See EBRD and IFC (2009).

In developing a retrenchment plan, the client will consult with workers and their organisations. At a minimum, consultations should include a discussion of ways to avoid collective redundancies or to reduce the number of workers affected, as well as ways to mitigate the consequences of collective dismissal. It is also good practice to consider other areas for consultation, such as the selection criteria for workers to be dismissed and the amount and payment of severance.

One of the key objectives of developing fair and objective selection criteria is minimising the risk of discrimination, including "indirect discrimination". By way of example, indirect discrimination could arise in a collective dismissal context if part-time employment were used as a selection criterion. Women are generally far more likely than men to work part time, so a "part-time employment" selection criterion could leave women disproportionately impacted by a retrenchment process. As far as possible, EBRD clients should avoid situations in which specific groups of workers are disproportionately affected by a retrenchment process.

There should be an effective grievance mechanism in place to allow workers to appeal against their selection for redundancy. Each individual should have the right to put forward reasons why he or she should not be selected for redundancy or to raise complaints about the way in which the process has been handled. This may be part of a general grievance mechanism or a specific process for the collective dismissals exercise. The process should be transparent and communicated to workers in writing, and the process should be completed promptly.

Any outstanding back pay, benefits or severance payments mandated by law and/or collective agreements should be paid in a timely manner, that is, usually on or before the termination of the working relationship, or otherwise according to a timeline set out in a collective agreement. Any such collective agreement should be in place at or before the termination of the working relationship. In certain jurisdictions, clients will be required to make payments for the benefit of the worker to specific institutions, such as pension funds, health funds and social security funds. Where this is the case, clients should provide workers with evidence of such payments.

For further guidance on practical implementation in EBRD client workplaces, see the PR2 thematic guidance note on workforce retrenchment.[32]

3.2.10. Grievance mechanism

This provision applies to all project workers. Clients must implement these provisions in relation to their own workforce and ensure that non-employee workers also have access to an effective grievance mechanism (see non-employee workers below).

A grievance mechanism is a procedure that provides a clear and transparent framework to address grievances in recruitment and in the workplace. Workplace concerns are usually different from issues raised by project-affected communities and other stakeholders, so require a separate mechanism to address them.

A grievance mechanism should clearly establish the policy and procedures for receiving and responding to grievances. These should be communicated to all workers, including management, in a clear and understandable manner. The mechanism should always allow for timely resolution of complaints and should normally provide for a meeting to discuss the grievance should the worker wish to attend. All line and senior managers should receive training to ensure their familiarity with the organisation's grievance procedure, and staff with responsibility for receiving and processing grievances should also be given appropriate training relating to their specific areas of responsibility.

If there is an existing grievance mechanism, such as through a collective bargaining agreement, this may be utilised, providing it is properly designed and implemented, addresses concerns promptly and is readily and safely accessible to all direct and contracted workers. Existing grievance mechanisms may also be supplemented by additional channels for raising grievances in project-specific situations, for example, mechanisms focused on conditions in worker accommodation or specifically related to the implementation of a collective dismissal exercise. Providing that existing channels are adequate and meet the requirements set out in PR2.21, the client should not seek to establish a separate mechanism that interferes with existing channels.

An effective and appropriate grievance mechanism operates with independence and objectivity. It informs workers of the steps being taken to address their concerns and allows for feedback about the response within the timeframes specified in the grievance mechanism procedure. It provides for an appeals process to which unsatisfied grievances may be referred and prevents any form of retribution for filing a grievance. All grievances should be dealt with respectfully and in line with the procedure. Clients should inform and train workers on how to use the grievance mechanism and encourage its use to express complaints and suggest improvements. Workers should be able to raise grievances in their own language.

Grievance mechanisms should be designed to direct complaints through an appropriate process in order to protect the confidentiality of the worker, and should provide for workers to raise concerns to a person other than their immediate supervisors. Submitting a grievance should not require personal information or physical presence, and channels allowing concerns to be raised anonymously should be available, particularly for sensitive complaints, such as those relating to GBVH.

32 See EBRD (2023f).

The grievance mechanism must be able to receive, record, investigate and manage incidents of GBVH in a safe and confidential manner. As a first step, clients should consider whether it is necessary to establish separate procedures or a standalone grievance mechanism to manage these types of complaint or whether existing grievance channels can be adapted to facilitate safe reporting.[33] When developing such a mechanism, clients should consult with a diverse group of workers, including women and people of diverse sexual orientation and gender identity, and look to resolve potential barriers that these groups face in accessing grievance mechanisms.

Clients should document all grievances and follow up on any corrective action. The client's mechanism should not delay or hinder access to other judicial or administrative remedies that are available under law, including employment tribunals or administrative mechanisms defined under collective agreements.

It is important that clients keep a grievance register up to date and conduct regular reviews of all grievances and actions taken to evaluate the effectiveness and timeliness of the grievance procedure and resolutions. The subjects of grievances that are being lodged should also be monitored, to identify patterns of recurrence. Processes should be in place to ensure grievance information is kept confidential and that any record keeping ensures data protection.

For further guidance on practical implementation in EBRD client workplaces, see the PR2 guidance on employee grievance mechanism.[34]

3.2.11. Non-employee workers

In certain cases, workers in the core business functions of a project may not be directly contracted by the client, but rather through contractors and sub-contractors, agents, brokers or other intermediaries. Where such workers are performing tasks related to the core business functions of the project, the client has the responsibility to ensure that (sub)contractors and other intermediaries comply with the standards set out in this PR (with the exception of PR2.20 on collective dismissals and PR2.25-26 on supply chains).

Prior to contracting and throughout the contracting process, clients should make reasonable efforts to assess the capacity of a third party to comply with this PR and occupational health and safety (OHS) provisions under PR4,[35] to ascertain their legal standing and to establish contractual obligations on such third parties to comply with PR2 and relevant provisions under PR4. The latter obligation should also bind all third-party contractors to establishing equivalent requirements with their (sub)contractors. Where contracts are already let and contractors appointed, the client will review these contracts and, if necessary, bring contractor requirements in line with PR2, either by contract amendment, a supplementary undertaking (bilateral warranty) or through revisions to the contractor management plan and the implementation of a contractor code of conduct.

The past performance of contractors may be assessed by reviewing information provided by the contractors themselves or otherwise obtained, including through:

- information in public records, for example, corporate registers and public documents relating to violations of applicable labour law, including reports from labour inspectorates and other enforcement bodies
- business licences, registrations, permits and approvals, or documents specifying the contractor's labour and OHS management systems and procedures
- identification of key personnel responsible for labour management and health and safety, and their qualifications
- workers' qualifications and training to perform the required work
- records of safety and health violations and responses, accident and fatality records and notifications to the authorities
- records of legally required worker benefits/insurance and proof of workers' enrolment in these programmes
- worker payroll records for previous works, including hours worked and pay received
- examples of employment contracts used for previous works
- identification of safety committee members and records of meetings
- copies of previous contracts with subcontractors, showing inclusion of provisions and terms reflecting PR2.

33 Because of the sensitive nature of these grievances, complainants should have more than one point of contact available to file a grievance, including at least one female contact point, as well as the option to file a grievance without being physically present. All contact points must receive appropriate training, including on survivor-centred approaches, confidentiality and safeguarding survivors and witnesses from retaliation. All workers should receive training on their options for lodging grievances relating to gender-based violence and harassment. Workers who lodge such grievances must be protected from retaliation or other negative consequences, and clients need to have appropriate referral pathways in place should the complainant require medical, psycho-social or legal support services.

34 See EBRD (2023g).

35 See EBRD (2019), p. 23.

Prior to and during the contracting process, the client must identify the risks and impacts to project workers and communities associated with the recruitment, engagement and demobilisation of project workers by (sub)contractors. In relation to the demobilisation of project workers by (sub) contractors, while PR2.20 on collective dismissals does not apply, all relevant national legal requirements must be followed and this may include requirements relating to collective dismissal, particularly if the workers involved are engaged on contracts of unlimited duration. In many contexts, the workforce profile of demobilised workforces may include vulnerable workers, including migrant workers, and any risks associated with their demobilisation must be clearly identified, including risks to local communities. Risks are likely to be heightened where demobilisation involves a large number of workers and where alternative employment opportunities are limited.

The client should manage and monitor the performance of all (sub)contractors in relation to contracted workers, focusing on compliance with their contractual agreements. As appropriate to the project, monitoring may include periodic audits, inspections, spot checks of project locations or work sites and review of contractors' and subcontractors' documentation. The latter may include:

- employment contracts or arrangements between third parties and contracted workers
- records relating to grievances received and their resolution
- reports relating to safety inspections, including fatalities and incidents and implementation of corrective actions
- records relating to incidents of non-compliance with national law
- records of training provided for contracted workers to explain working conditions and arrangements for the project, including access to a grievance mechanism.

Clients should work collaboratively with contractors and subcontractors to support their compliance with this PR. In particular, where third parties have limited resources and capacity, the client will assess the type of support it can provide to improve such third-party performance, which may include the use or extension of the client's systems or services to supplement those of the third party, in relation to the requirements under this PR. For example, clients could provide training directly for all third-party workers, to explain labour and working conditions for the project and ensure that labour and working conditions are covered in any induction training.

The client must ensure that workers of subcontractors have access to a grievance mechanism. Contractor and subcontractor grievance mechanisms should be based on the same principles as those set out above and should be made available to all workers, even those who are employed on a short-term or temporary basis. In order to ensure that all project workers have access to a grievance mechanism, clients can place contractual obligations on contractors to introduce and operate grievance mechanisms and to report regularly on the functioning and outcomes of such mechanisms. In circumstances where third parties are either unable to provide grievance mechanisms or the procedures established are inadequate, the client must establish a means of receiving grievances directly from workers. Where such a mechanism is established, the client should ensure that the responsibility for responding to the worker grievance and dealing with the issues underlying it rests with the contractor that is employing the workers in question.

3.2.12. Supply chain

Primary suppliers are defined in PR1 as "those suppliers who, on an ongoing basis, directly provide goods or materials essential for the core operational functions of the project".[36] The environmental and social assessment process identifies, to the extent possible, the types of goods and materials to be obtained from suppliers that should be considered primary suppliers. Clients must map all primary suppliers – identifying their name, location and subsector – and assess the risk of child labour and forced labour being used in their operations, as well as the risks of harm to workers.

Risks of harm should be understood as all life-threatening situations, including but not limited to: exposure to significant fall and crushing hazards; exposure to hazardous substances, including chemical and biological hazards; exposure to electrical hazards; and exposure to the risk of fire and explosion. Furthermore, "risk of harm" should be understood to include risks of gender-based violence in primary supplier workplaces. The risk of harm occurring to workers can arise from a combination

36 See EBRD (2019), p. 13.

of the presence of hazards in a workplace and the capacity and adequacy of management systems to manage those risks. Where such risks are identified, clients should ask their suppliers to provide information on their policies and practices on OHS and GBVH and take steps to ensure that life-threatening situations are either prevented or removed from the supply chain.

Clients must also identify any "reported" risks of child labour and forced labour in lower tiers of the supply chain. In identifying reported risks, clients should use authoritative sources, providing credible and objective assessments of goods and their source countries that carry a high risk of child or forced labour. Sources must include, at a minimum, the findings of the most recent US Department of Labor List of goods produced with child labor or forced labor.[37]

If risks are identified, clients should develop an appropriate plan to manage and monitor them. If a client identifies the presence of forced labour or child labour in the operations of a primary supplier, the client should seek professional advice on how to address this issue, to ensure that victims' rights are protected and victims are safeguarded from any future harm.

Where a child is found to be engaged in a worst form of child labour, including hazardous and dangerous work, immediate steps should be taken to remove that child from such activities. Where possible, children who are above the minimum age for employment should be moved to non-hazardous, age-appropriate tasks in line with national legal requirements. In relation to other forms of child labour, the focus should be on progressive remediation, taking into consideration that removing children from work straight away is likely to worsen their immediate situation and does not address the root causes. In all cases, the aim should be to eliminate the use of child labour within a reasonable timeframe and to ensure that no additional children are engaged in child labour.

Where the presence of child labour has been identified, the client will monitor the supplier on a regular basis. Where monitoring identifies that the supplier is not making sufficient progress on eliminating the use of child labour within a reasonable timeframe, clients will cease procurement of goods or materials from that supplier.

Where forced labour is identified, clients must obtain evidence from suppliers that immediate steps have been taken to remedy the situation and prevent further abuses. In the absence of such evidence, the client must stop procuring goods or materials from that supplier.

EBRD clients will ensure that specific requirements in relation to child labour, forced labour and risk of harm are included in all purchasing orders and contracts with suppliers. These requirements should be clearly communicated to all suppliers and, where relevant, clients should consider helping suppliers to meet these requirements through capacity-building programmes, training and guidance. Appropriate monitoring mechanisms should be established to track the implementation of these requirements and provide feedback on performance and any new areas of risk.

37 See US Department of Labor (n.d.).

Annex 1. Typical content of HR policies

There is no single "correct" approach to devising HR policies, and each organisation should adopt HR policies that are appropriate to the sector and legislative context in which it operates, the labour risks it faces and its size. Not all aspects of PR2 will be covered in HR policies, as not all aspects of PR2 are HR issues (for example, management of the supply chain or contractors). In other areas, it is likely that a client's policy will often go beyond the scope of the requirements of PR2.

In relation to PR2, the typical content of HR policies will include:

- working relationships
- child labour
- forced labour
- non-discrimination and equal opportunity, including GBVH and sexual harassment
- workers' organisations
- worker accommodation (where applicable)
- collective dismissal
- grievance mechanisms
- wages, benefits and conditions of work
- data protection and management of confidential information.

Annex 2. Issues typically included in an employment contract

PR2 requires that written contracts set out workers' rights under national labour and employment law and any applicable collective agreements with respect to working conditions and terms of employment. At a minimum, PR2 requires that all contracts contain the following:

- type of employment contract and reference to applicable national legislation
- entitlement to wages
- hours of work and rest periods
- overtime arrangements and overtime compensation
- any benefits (such as leave for illness, maternity/paternity or holiday).

In addition, clients should always take into account legislative requirements as to terms that must be included in employment contracts.

Beyond national law and PR2 requirements, it is good practice that contracts clearly set out the following:

- position title and a brief description of the position
- place of work
- date employment commenced and duration of contract (if the contract is for a fixed duration, dates should be specified)
- wages and remuneration (including form and frequency of pay)
- working hours
- code of conduct (for example relating to sexual harassment) and other relevant policies relating to workers' responsibilities
- overtime arrangements, including conditions for overtime and compensation
- leave entitlements (illness, parental, holiday)
- procedures for the termination of the employment contract, including notice requirements
- disciplinary procedures applicable to the worker
- details of available grievance procedures
- details of pensions and social-security arrangements
- reference to HR policies (including policies on grievance mechanisms and OHS) and/or company handbook
- reference to a relevant collective agreement (where applicable)
- details of how workers' data is processed, whether data are shared, how long data will be retained for and the employee's rights in relation to their personal data.

Annex 3. Additional resources

There are many resources available to EBRD clients seeking further information on how to implement the requirements of PR2. The resources listed below do not necessarily represent the views of the EBRD.

EBRD, CDC, IFC, *Emerging Good Practice on Addressing Gender-Based Violence and Harassment*: www.ebrd.com/documents/gender/addressing-genderbased-violence-and-harassment-emerging-good-practice-for-the-private-sector.pdf

EBRD, CDC, DFID and IFC, *Managing Risks Associated with Modern Slavery:* https://www.ebrd.com/downloads/about/sustainability/Workers_accomodation.pdf

EBRD, IFC, *Workers' accommodation: Process and standards: a guidance note by IFC and the EBRD:* https://www.ebrd.com/downloads/about/sustainability/Workers_accomodation.pdf

ILO *Helpdesk for Business on International Labour Standards*: www.ilo.org/empent/areas/business-helpdesk/lang--en/index.htm

ILO *information resources and publications on International Labour Standards*: www.ilo.org/global/standards/information-resources-and-publications/lang--en/index.htm

IPIECA, *company and supply-chain labour rights guidance*: www.ipieca.org/resources/good-practice/company-and-supply-chain-labour-rights-guidance

ITUC *Global Rights Index*: www.ituc-csi.org/ituc-global-rights-index-2020

US Department of Labor, *International Child Labor & Forced Labor Reports, 2019-20*: https://www.dol.gov/agencies/ilab/resources/reports/child-labor

US Department of Labor, *Sweat and Toil App*: www.dol.gov/general/apps/ilab

US Department of Labor, *Comply Chain – Business Tools for Labor Compliance in Global Supply Chains*: www.dol.gov/ilab/complychain

US Department of State, *Human Rights Reports*: www.state.gov/j/drl/rls/hrrpt/

Verité Resources: https://verite.org/resources/

Verité Responsible Sourcing Tool: https://www.responsiblesourcingtool.org

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EBRD (2023c) *EBRD Performance Requirement 2 Labour and working conditions: Forced labour – Guidance note*, London.
Available at: https://www.ebrd.com/sites/Satellite?c=Content&cid=1395268982876&d=&pagename=EBRD%2FContent%2FDownloadDocument

EBRD (2023d) *EBRD Performance Requirement 2 Labour and working conditions: Non-discrimination and equal opportunity – Guidance note*, London.
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