



European Bank
for Reconstruction and Development

EBRD Performance Requirement 2: Labour and working conditions

Guidance note on human resource policies and employee documentation

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At-a-glance summary

Human resource (HR) policies enable clients to demonstrate how they meet the European Bank for Reconstruction and Development's (EBRD) Performance Requirement 2 (PR2). They may be documented in company handbooks, collective agreements or through dedicated policies on specific issues, such as non-discrimination.

All EBRD clients need to:

- ensure that HR policies and employee documentation are written in clear language and made available in the main language(s) spoken by the workforce
- provide workers with written employment contracts at the beginning of their employment relationship and when any material changes occur
- ensure that workers are familiar with and understand the terms and conditions of their employment, including the period of employment, wages, hours of work and rest periods, overtime arrangements and any benefits (such as leave for illness, maternity/paternity or holiday), and that these are included in the written employment contract
- ensure that any material changes to their terms and conditions of employment are substantively and procedurally consistent with national law on the modification of contracts of employment
- ensure that up-to-date employment records are kept and that document collection respects the rights of workers to privacy and data protection.

This information is intended to assist EBRD clients in their capacity as employers.

1. What are the EBRD's standards on HR policies and employee documentation?

The EBRD wants to ensure that the working conditions in the projects it finances comply with national labour, anti-discrimination and health and safety laws and regulations, as well as international good practice in these areas.

The EBRD's specific requirements on HR policies and employee documentation are summarised in its PR2 on labour and working conditions, as follows:

EBRD requirements on HR policies – PR2.8

PR2.8: “The client will adopt and/or maintain written human resources policies and management systems or procedures appropriate to its size and workforce setting out its approach to managing the workforce in accordance with the requirements of this PR and national law. These policies and procedures will be understandable, accessible, and communicated to workers, and in the main language(s) spoken by the workforce.”

EBRD requirements on employee documentation – PR2.9 and PR2.10

PR2.9: “The client will provide workers with written contracts at the beginning of the working relationship and when any material changes to terms or conditions of employment occur, describing the employment relationship with the client. The contract will set out their rights under national labour and employment law and any applicable collective agreements with respect to working conditions and terms of employment (including their entitlement to wages, hours of work and rest periods, overtime arrangements and overtime compensation), and any benefits (such as leave for illness, maternity/paternity, or holiday). Any material changes will be documented and communicated to the workers. This information will be understandable and accessible to workers, and available in the main language(s) spoken by the workforce. Human resources management systems will ensure up-to-date employment records are kept that respect the rights of workers to privacy and data protection.”

PR2.10: Communications will be managed with a view to providing the workers with: (i) adequate information on changes that might affect them, in particular on anticipated changes associated with the project and (ii) the opportunity to provide comments as part of continuous improvement, including how to raise grievances as detailed in paragraph 21 of this PR.”

2. What is a human resources (HR) policy?

HR policies describe how an organisation manages its employees. They allow employers to communicate with employees, adopt a consistent approach to managing them and demonstrate compliance with national laws.

An organisation's policies are often not kept together in one place and may be documented in different ways. They may not be labelled "HR policy".

Examples of documents that may set out HR policies

- A diagram of management structure.
- Collective agreements.
- Company handbook or internal guidelines.
- Dedicated policies on particular topics, such as occupational health and safety or discrimination.

3. What is “appropriate” for the purposes of PR2?

In many ways, the requirement for clients to have appropriate HR policies is a means to an end: it allows the client to show how it intends to implement all of the requirements of PR2. Beyond its HR policies, the client should be able to provide concrete evidence of compliance.

PR2 requires clients' HR policies to be in written form, as this enables managers and supervisors to apply policies more fairly and transparently. However, there is no one “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. It is likely that a client's policy will often go beyond the scope of the requirements of PR2.

There is no particular wording that clients must adopt to comply with PR2. However, for reference, we set out some sample policy clauses on issues that should be included in clients' HR policies in section 4. Not all aspects of PR2 are covered in section 4, as not all aspects of PR2 are HR issues (for example, management of the supply chain or contractors).

4. PR2 issues that should be included in HR policies – sample clauses

PR2.9 Working relationships

- We ensure that all workers are provided with a written contract – in the main language(s) spoken by the workforce – and that this includes their entitlement to wages, hours of work and rest periods, overtime arrangements and overtime compensation, as well as any benefits such as leave for illness, maternity/paternity or holiday.
- We ensure that HR management systems will respect the rights of workers to privacy and data protection.

PR2.11 and 2.12 Child labour

- We do not employ children below the national minimum age of employment.
- We have procedures in place to verify the age of all young workers (those between the minimum age of employment and the age of 18).
- We do not allow young workers to work at night or in hazardous conditions, and carry out a risk assessment and regular monitoring of health, working conditions and hours of work.

PR2.13 Forced labour

- We are committed to ensuring that all of our workers enter into employment freely and voluntarily, without coercion or penalty, including through abusive and fraudulent recruitment practices, and that we do not use any form of forced, bonded or involuntary prison labour.
- We prohibit charging workers any recruitment, processing or placement fees in order to obtain employment with our company.
- We will exercise appropriate due diligence in the selection and management of recruitment agents and labour providers used to select, recruit and transport workers.
- We ensure that migrant workers are provided with a written copy of the terms and conditions of their employment (see PR2.9) for their review and signature before they leave their home country.
- We do not require workers to lodge monetary deposits or bonds as a condition of employment.
- We and third parties acting on our behalf will not hold workers' original identity papers, passports, work visas or other personal documents.
- Workers are free to leave their jobs without penalty after reasonable notice.

PR2.14 Non-discrimination and equal opportunity

- We are committed to ensuring that all of our employment relationships are based on the principle of non-discrimination and equal opportunity.
- We make employment decisions fairly and objectively and not on the basis of personal characteristics, such as 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, unrelated to inherent job requirements.
- We have put in place measures to ensure that we do not discriminate in any aspect of the employment relationship, including recruitment and hiring, job assignment, compensation (including wages and benefits), working conditions and terms of employment, including reasonable adaptation of the workplace related to disabilities, access to training, promotion, termination of employment or retirement, and discipline.
- We provide equal pay to men and women for work of equal value.
- We provide equal pay and benefits to local and migrant workers performing the same job.
- We have put in place measures to prevent and address any form of violence and harassment, bullying, intimidation and/or exploitation, including any form of gender-based violence (GBV).

PR2.15 Workers' organisations

Note: Clients may need to adopt different policies on worker organisation depending on the local context. The first set of clauses below is appropriate for EBRD investee economies where workers exercise in practice their rights to freedom of association. The second set is appropriate for countries where national law substantially restricts the establishment or functioning of workers' organisations. The third set is appropriate for countries where national law is silent on the establishment or functioning of workers' organisations.

A. Clauses for countries without significant restrictions on worker organisations

- We respect our workers' right to form or join organisations of their choosing, of their own free will, and do not discriminate or retaliate against workers who participate or seek to participate in organisations or who bargain collectively.
- We will 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.
- We do not interfere with the operation of trade unions or other representative organisations within our organisation.
- We provide worker representatives with access to the workplace to enable them to carry out their representative functions.
- In accordance with national law, we engage with workers' organisations and provide them with information needed for meaningful negotiation.

B. Clauses for countries with significant restrictions on worker organisations

- We will not restrict workers from developing alternative mechanisms to represent their interests and protect their rights regarding working conditions and terms of employment. This may include:
 - recognising worker committees
 - allowing workers to choose representatives for dialogue with management.
- We will not seek to influence or control these mechanisms.

C. Clauses for countries where national law is silent

- We will not discourage workers from electing worker representatives, forming or joining workers' organisations of their choosing or from bargaining collectively.
- We will not discriminate or retaliate against workers who participate, or seek to participate, in such organisations and collective bargaining.
- We will engage with such workers' representatives and workers' organisations and provide them with information needed for meaningful negotiation in a timely manner.

PR2.16, PR2.17 and PR2.18 Wages, benefits and conditions of work

- We provide wages, benefits and conditions of work – including hours of work – that meet minimum statutory requirements and are comparable to those offered by equivalent local and regional employers.
- Where we enter into collective agreements, we honour the terms of those agreements.
- We provide clearly understandable verbal and written information to employees about their wages before they enter employment and provide detailed information on their wages, including benefits and deductions, for each pay period.
- We ensure that overtime work will be voluntary and will be performed and compensated in accordance with national law.
- We do not make deductions from workers' wages other than in line with national law and where the employee has given his/her consent.
- We ensure that any migrant workers receive the terms and conditions of their employment.

PR4 Occupational health and safety

Note: This is a sample policy statement setting out the employer's overarching commitments on occupational health and safety (OHS). However, it may be more appropriate to develop a separate policy that is specifically tailored to the type of work involved and the nature of the risks faced by workers, particularly where organisations operate in high-risk sectors. OHS policies need to be reviewed and updated periodically, particularly if there are changes to the nature of the work or the workplace. It is important to note that, in addition to an OHS policy, PR4 requires clients to maintain an OHS management system that is appropriate to their size and nature and in line with international good practice: this would set out in far more detail how the organisation deals with health and safety risks.

- Our goal is to prevent occupational injuries and accidents.
- We are committed to providing our workers with a healthy and safe working environment and controlling risks that arise from our work activities.
- We consult with our workers on matters regarding their health and safety.
- We provide and maintain a safe plant and equipment.
- We provide information, instruction and supervision for workers on health and safety matters.

- We ensure that all of our workers are competent to do their jobs and have adequate ongoing training to do their jobs safely.
- We ensure safe handling and storage of hazardous substances.
- Where occupational accidents occur, we document and report them in accordance with national legislation.
- We have emergency prevention, preparedness and response arrangements in place.
- **The clause should clearly state who has overall responsibility for OHS within the organisation, as well as other individuals with key health and safety responsibilities.**

PR2.19 Worker accommodation (where applicable)

Note: This is a sample policy statement that sets out the employer's overarching commitments on worker accommodation. However, it may be more appropriate to develop a standalone worker accommodation policy, particularly if a large number of workers are housed in worker accommodation.

- We have policies in place governing the quality and management of accommodation and provision of services.
- We provide accommodation for our workers that is appropriate for its location, meets national and international accommodation standards, is clean and safe, and meets the needs of workers – in line with good industry practice.
- We do not restrict workers' movements to and from the accommodation, except in case of reasonable security measures or logistical restrictions, where necessary.
- We provide accommodation for our workers in a manner consistent with the principles of non-discrimination and equal opportunity, including safeguards against sexual harassment and other forms of GBV.

PR2.20 Collective dismissal

- Prior to undertaking any collective dismissal, we will carry out an analysis to identify alternatives to the planned workforce reduction.
- In the event of collective dismissal, we will develop a collective dismissal plan to assess, reduce and mitigate the adverse effects of the workforce reduction on workers.
- The final collective dismissal plan will reflect the outcome of consultations with workers and their organisations.
- We will develop selection criteria based on fair, objective, consistently applied criteria and put in place an effective grievance mechanism.
- We will comply with all legal and collectively agreed requirements relating to collective dismissal, including the notification of public authorities and the provision of information to, and consultation with, workers and their organisations.
- We will pay all outstanding back pay and social-security benefits and pension contributions and benefits, either before the termination or at a point in time agreed with workers or through collective agreement. Workers will be provided with evidence of such payments.

PR2.21 Grievance mechanism

- We have a confidential grievance mechanism that is available to all workers (and their organisations, if any) to raise concerns about recruitment and workplace practices, without fear of intimidation, discrimination or retaliation.
- The mechanism includes provisions for complaints requiring special protection measures, such as reports of gender-based violence.
- We ensure all workers understand the process and the various reporting channels available to them, including the ability to lodge grievances in their native language.
- We aim to address workers' concerns promptly, using a process that is transparent and understandable and provides feedback to everyone concerned.
- **The clause should state who has overall responsibility for the grievance mechanisms and tell workers where to find out more about the procedure. Information should be posted in accessible areas. There may be a separate policy on grievance mechanisms.**

5. Employee documentation

Contract of employment

PR2 requires all clients to issue workers with written contracts at the beginning of the working relationship and when any material changes to the terms or conditions of employment occur, whether or not this is required by national law. Clients should be able to demonstrate that written contracts are concluded with – and communicated to – all employees.

Written employment contracts help to ensure that there is no misunderstanding between the parties on the terms and conditions of employment. Any significant changes to the contract must also be in line with national law, agreed with the employee in question and signed in writing by both parties.

Content

PR2 requires that written contracts should set out workers' rights under national labour and employment law and any applicable collective agreements with respect to working conditions and terms of employment.

PR2 requires all contracts to contain the following, at a minimum:

- 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 any legislative requirements on terms that must be included in employment contracts. More generally, best practice dictates that contracts should also clearly set out the following:

- position title and brief job description
- place of work
- duration of contract (for example, if the contract is fixed term, dates should be specified)
- procedures for terminating the employment contract, including notice requirements
- reference to HR policies (including policies on grievance mechanisms and OHS) and/or the company handbook
- reference to a relevant collective agreement (where applicable).

Where there are relevant HR policies or collective agreements, these should be posted in an area that is accessible to all workers.

6. Communicating HR policies and employee documentation

PR2 requires HR policies to be communicated to workers. They should be written in clear language that is easily comprehensible for employees. It also requires HR policies to be in the language(s) spoken by the workforce – this is particularly important in workplaces that have large numbers of migrant workers.

Employees may be given a hard copy of the policies, or they may be made posted on a notice board in a common area that is accessible to all workers. Depending on the organisation, it may be appropriate for HR policies to be posted on the internet or emailed to employees.

Contracts should be in an appropriate language and style. The language should be accessible to workers, taking into account linguistic differences and differing levels of literacy. Contracts should be available in the main language(s) spoken by the workforce and, where there are large numbers of migrant workers, it may be necessary to translate employment contracts.

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