

# INTERNATIONAL ACCOUNTABILITY PROJECT

## In Practice: Information Disclosure at the EBRD *International Accountability Project*

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The [Early Warning System](#) team strives to ensure the accuracy of the data. This analysis was shared with the European Bank for Reconstruction and Development in advance of publication to allow opportunity [for comment](#). While the Early Warning System team has made every attempt to research and present data accurately, it is often difficult to guarantee the complete accuracy of certain projects due to the lack of regularity and transparency in how various development institutions record and publish information. Where there is a lack of clarity in the information, the team has represented the information cautiously. The Early Warning System team is committed to correcting any identified errors at the earliest opportunity.

The European Bank for Reconstruction and Development (EBRD or the Bank) is revising three policies central to the environmental and social governance of its projects: its [Access to Information Policy](#), [Environmental and Social Policy](#), and [Project Accountability Policy](#). Together, these three policies form the core of the institution's protocols ensuring communities' right to access information, right to development, and right to remedy.

These processes can be both inaccessible and esoteric. However, as the [International Accountability Project](#) (IAP) and our partners have repeatedly witnessed, the often destructive impact of development projects demands that the policies of development banks reflect international best practice.

**This must begin with a strong foundation in the right to access information.**

Having early access to information can mean the difference between a community learning about a project when the bulldozers arrive, and a community engaging with investors to co-design a project that avoids harm and creates real benefits. In practice, **the right to access information goes far beyond simple information disclosure - it ensures that communities are equipped with the necessary information to substantively engage in the development processes that will ultimately shape their lives.**

To this end, IAP and our partners monitor the online disclosure practices of several development institutions through the [Early Warning System](#) initiative, to better understand what project information is being disclosed, when it is being shared, and ultimately, how accessible the information is for communities - the purported beneficiaries of development projects. Most recently, we engaged with the private sector lending arm of the Inter-American Development Bank, IDB Invest, to share [our analysis of their disclosure practices](#) as part of their public consultation on their Access to Information Policy.

**We have analyzed the EBRD's disclosure practices with the same objective in mind of assessing the information made available online for potentially affected communities to access, and to**

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share our assessment with the EBRD in the spirit of contributing to a more robust and people-centered *Access to Information Policy* and practice.

## **Methodology**

Our analysis tracks the information disclosed on the EBRD's website for **195 projects proposed between November 1, 2017 and November 30, 2018**, with "proposed" referring to the date the project summary document (PSD) was first released on the EBRD's online webpage.

We monitored the EBRD's disclosure practices by reviewing and assessing the information available on each project's webpage, as of January 2019, based on criteria aimed at maximizing community access to information.

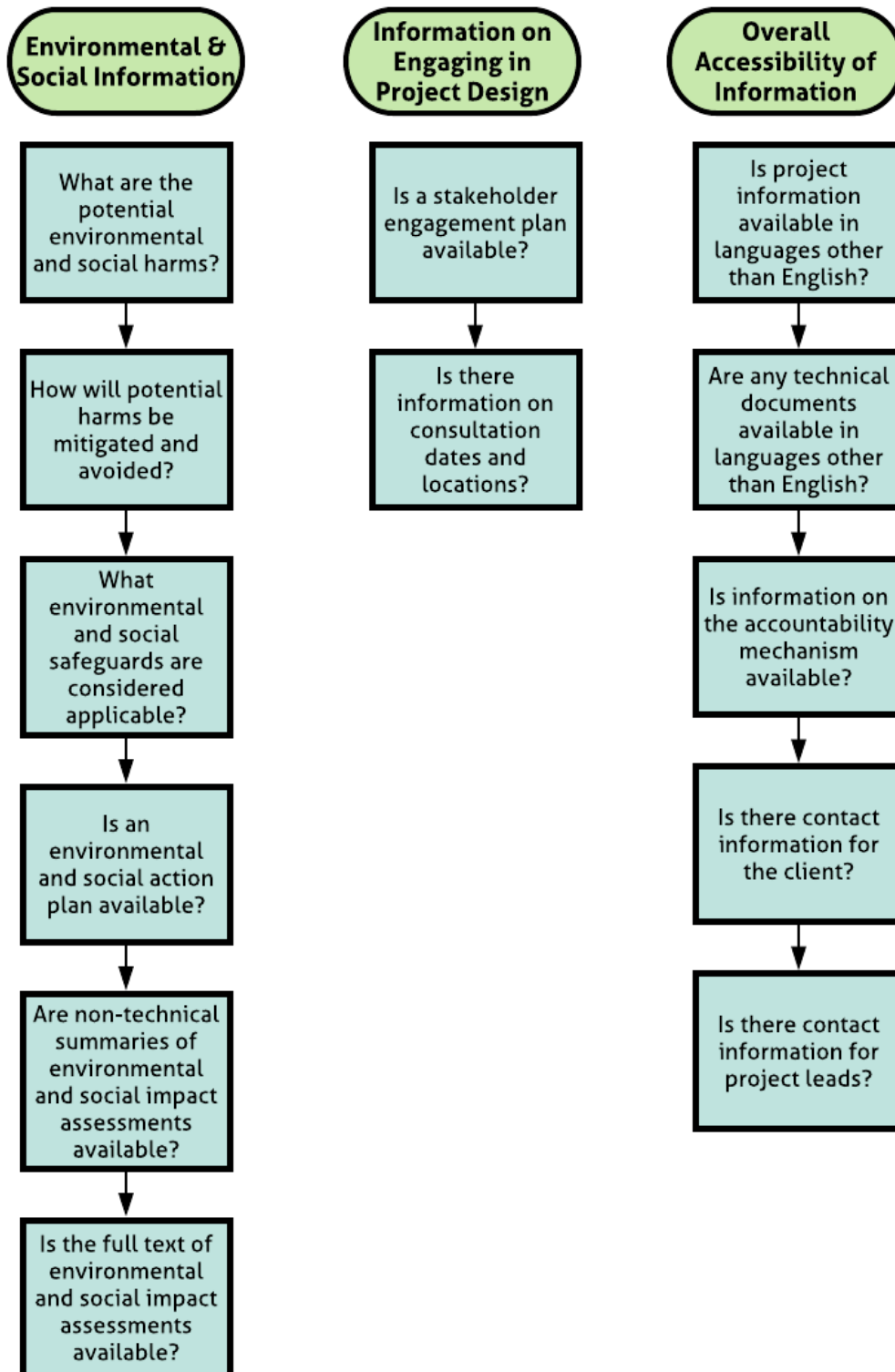
Specifically, we tracked:

- The number of days available for communities to access information before an investment decision is made (also known as the Board date);
- Whether a summary or overview of potential environmental and social harms that might result from the proposed project was disclosed;
- Whether it was clearly specified which environmental and social safeguards were triggered for a project;
- Whether non-technical summaries of environmental and social impact assessments were available;
- Whether the full text of environmental and social impact assessments were available;
- Whether details were given on how potential harms would be mitigated and prevented;
- Whether documents such as environmental and social action plans (ESAPs), and stakeholder engagement plans were available;
- Whether information on consultation dates and locations was disclosed;
- Whether contact information for the client was provided;
- Whether contact information for the EBRD's project leads was provided;
- Whether information on the EBRD's accountability mechanism was provided;
- Whether PSDs were available in languages other than English; and
- Whether any technical documents (not including PSDs) were available in languages other than English.

It should be noted that our criteria is not based on existing policy provisions, and does not evaluate compliance with Bank policies. Instead, our analysis seeks to assess current Bank disclosure practices against criteria which if met, would establish the foundation for the meaningful fulfillment of communities' right to access information. The specific criteria is derived from our experiences working directly with communities affected by development bank projects, and our work to make information accessible through the Early Warning System.

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## Criteria Based on Maximizing Community Access to Information



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We evaluated this criteria based on the principle of early access to information. Communities possess legitimacy and local expertise that can better the design of potential projects, anticipating and mitigating adverse impacts, and ensuring they achieve positive impacts that further their development priorities. Communities have the right to know and to be meaningfully consulted before any investment decision is made; the guarantee that “[\[t\]he human person is the central subject of development and should be the active participant and beneficiary of the right to development](#)”; and the right to remedy, should they suffer harms from projects.

Correspondingly, our analysis primarily focuses on the minimum information communities should expect to access when a project is still in its proposed stage, given that the ideal would have communities participate in proposing, designing, and contributing to projects that are aimed at fulfilling their development priorities.

Our findings only address information disclosed through the EBRD’s webpage - its primary medium of communication. While outside the scope of our analysis, for many communities without ready access to internet, this is already a significant limitation to the accessibility of the information disclosed. In order to meaningfully fulfill the right to information, the EBRD must take steps to ensure that information reaches communities potentially impacted by its projects through means accessible to them, before a project is considered for investment.

## Findings

Risk Category	# of Projects
A	12
B	109
C	4
FI	57
<i>Unknown or unassigned</i>	13

Project Status at Time of Analysis	# of Projects
<i>Active (Disbursing)</i>	42
<i>Approved (Signed or Approved)</i>	100
Closed	1
Proposed	56

Our analysis of the EBRD’s current disclosure practices shows that the Bank has a few strong points of note, including consistently sharing information about the Bank’s accountability mechanism, providing contact information for clients, and translating PSDs into national languages. These points are discussed below.

Substantively however, as a development institution that seeks to uphold the principles of democracy and is bound by international human rights standards, the EBRD can and should do much more to ensure that communities have safe, timely and accessible information early in the lifecycle of a project, so they can meaningfully participate.

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Overall, the quality of information being disclosed by the Bank is inadequate, and falls considerably short of fulfilling communities' right to access information.

Let's take a closer look.

## ***Disclosure of Environmental and Social Risks, Applicable Safeguards, and Mitigation Measures***

- *Whether a summary or overview of potential environmental and social harms that might result from the proposed project was disclosed*
  - Yes - 68
  - No - 127
- *Whether details were given on how potential harms would be mitigated and prevented*
  - Yes - 95
  - No - 100

**Our analysis showed that only 34% of the 195 projects in our dataset provided an overview of the adverse environmental and social impacts likely to result from a proposed project, and only 48% of the 195 projects shared measures to mitigate these risks.** Although every PSD has an “*Environmental and Social Summary*” section, the majority focus solely on the benefits of a project and proposed risk mitigation measures, without clearly listing the potential adverse impacts.

This cannot be considered sufficient to fulfill communities' right to access information. In fact, this approach appears to purposefully de-emphasize and obfuscate anticipated adverse environmental and social impacts. Communities have the right to know and understand about the complete picture of a project - including both perceived benefits and risks - before a project is approved, so that they can meaningfully contribute alternatives and solutions to adverse impacts, and ensure that intended benefits align with their development priorities.

Moreover, the EBRD's approach to this fundamental section of the PSD begs the question, what is the purpose of disclosing this information, and for whom is it intended? Unequivocally, potentially affected communities should be the primary target for this information, with the aim of fulfilling their right to access information, and equipping them to meaningfully engage. However, the very language used in these sections is complex, dense, and acronym-heavy, seemingly directed at an internal Bank audience as part of a box-ticking exercise.

- *Whether it was clearly specified which environmental and social safeguards were triggered for a project*
  - Yes - 69
  - No - 126

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In addition to a distorted summary of impacts and mitigation measures, **only 35% of the 195 projects in our dataset clearly specified which environmental and social safeguards were triggered, and which were considered inapplicable.** Only projects categorized as FI (financial intermediary) consistently disclosed the complete list of Performance Requirements (the EBRD's categorization of safeguards) that were considered applicable to a project. Unfortunately, the majority of all other PSDs simply state that the *"project must comply with PRs"*, a vague description that is not helpful for those seeking to understand the Bank's environmental and social governance. Communities have the right to know about the specific standards and policies for which they can hold the Bank accountable, which have been deemed inapplicable, and why.

- *Whether non-technical summaries of environmental and social impact assessments were available*
  - Yes - 39
  - No, but referenced in PSD text - 11
  - No, with no reference in PSD text - 145
- *Whether the full text of environmental and social impact assessments were available*
  - Yes - 12
  - No, but referenced in PSD text - 16
  - No, with no reference in PSD text - 167

**Only 20% of the 195 projects in our dataset provided non-technical summaries of environmental and social impact assessments, and only 6% provided access to the full text - some with broken links.** 5% of projects referenced the existence and/or future disclosure of non-technical summaries, with a corresponding 8% for the full text. It should be noted that non-technical summaries are still highly complex documents, and not easily accessible from a community-centered perspective.

- *Whether an environmental and social action plan (ESAP) was available*
  - Yes - 12
  - No, but referenced in PSD text - 103
  - No, with no reference in PSD text - 80

Similarly, **only 6% of the 195 projects in our dataset disclosed environmental and social action plans, although a staggering 52% referenced their existence and/or future disclosure within the PSD text.** Many vital details, including project mitigation measures and stakeholder engagement, are referenced as included within the ESAP, a document that is rarely disclosed. An additional Environmental and Social Due Diligence Document (ESDD) is also consistently cited within the PSDs as the primary document containing the Bank's evaluation of a proposed project, however is not publicly disclosed for a single project in our dataset.

**Given that 72% of the projects in our dataset were already approved or active at the time of analysis, the above numbers documenting the gaps in disclosure of key environmental and social information are particularly alarming.**

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For a community seeking to understand the potentially life-altering impacts of a project, early and complete access to this information is critical, regardless of risk category. Communities should have the opportunity to fully understand the impacts of a project, analyze the assessments produced within their own rubric of local expertise, understand which safeguards are considered applicable by the Bank, provide recommendations that often highlight overlooked complexities, and suggest alternatives that better the overall project design. Disclosing this information after an investment has already been approved does not afford communities meaningful access to information, thereby precluding many of these opportunities.

## ***Disclosure of Information on Engaging During Project Design and Implementation***

- *Whether a stakeholder engagement plan was available*
  - Yes - 28
  - No, but referenced in PSD text - 39
  - No, with no reference in PSD text - 128
- *Whether information on consultation dates and locations was provided*
  - Yes - 20
  - No - 175

The EBRD's disclosure practice is particularly weak in providing access to information on stakeholder engagement and consultation - the details of how and when a community member can engage with a project. In our dataset, **only 14% of projects disclosed plans for stakeholder engagement, with 20% referencing the existence of these plans without disclosing the documents themselves.** Similarly, **only 10% of projects included specific information on consultation dates and locations.**

Fulfilling the right to access information goes hand-in-hand with meaningful consultation and stakeholder engagement to ensure projects actually better the lives of those they affect. From the experience of IAP and our partners, inadequate consultation can result in or exacerbate existing environmental and human rights risks, resulting in social conflict and grievances.

Without access to the above information, how are communities expected to meaningfully participate? And, without access to documents on the environmental and social impacts, action plans and policies, can communities truly be informed participants in consultations?

- *Whether contact information for the client was provided*
  - Yes - 183
  - No - 12
- *Whether contact information for the EBRD's project leads was provided*
  - Yes - 0
  - No - 195

While the EBRD is consistent about disclosing contact information for their clients, with **93% of projects in our dataset containing this information, none of the project webpages in the dataset**

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included information on project-specific leads at the EBRD. In response to our analysis, the EBRD has stated:

*“Disclosure of contact information for the EBRD’s project leads is set out by PIP section D 3.1.1(x). However, in recent years due to growing personal data protection concerns the Bank has scaled down on disclosure of personal contact information of its employees within PSDs. This is mitigated by provisions of numerous email addresses on the Bank’s website, through which one could request the information on any project.”*

Although the EBRD’s consistency is welcome, simply providing the contact information for clients is insufficient if it is not updated and specific, or the contact points are unresponsive. As tested by IAP’s partner [CEE Bankwatch](#) in 2017, only [13 out of 38 financial intermediaries](#) contacted based in southeast Europe responded to queries about the implementation of the EBRD’s Environmental and Social Policy, with only 6 providing a contact person or dedicated email address for environmental and social issues.

This presents yet another substantial and unnecessary barrier for communities attempting to access timely information about projects. It should be noted that this hurdle was faced by an established non-governmental organization actively monitoring the EBRD and its activities, calling attention to the added challenges communities would face in conducting the same exercise. For this reason in addition to those detailed above, communities should have the ability to follow-up directly with the Bank for additional information (including updated and specific contact information for the client), and to share their own analysis and recommendations.

- *Whether information on the accountability mechanism was provided*
  - Yes - 195
  - No - 0

Our analysis showed that the EBRD also consistently shares information about its accountability mechanism, so that communities can seek access to justice, if needed. This is a strength that must also translate into practice by ensuring this information is also disclosed in-person, in languages and formats deemed accessible to communities, during all stages of the project cycle.

## ***Overall Accessibility of Information Disclosed and Timing of Disclosure***

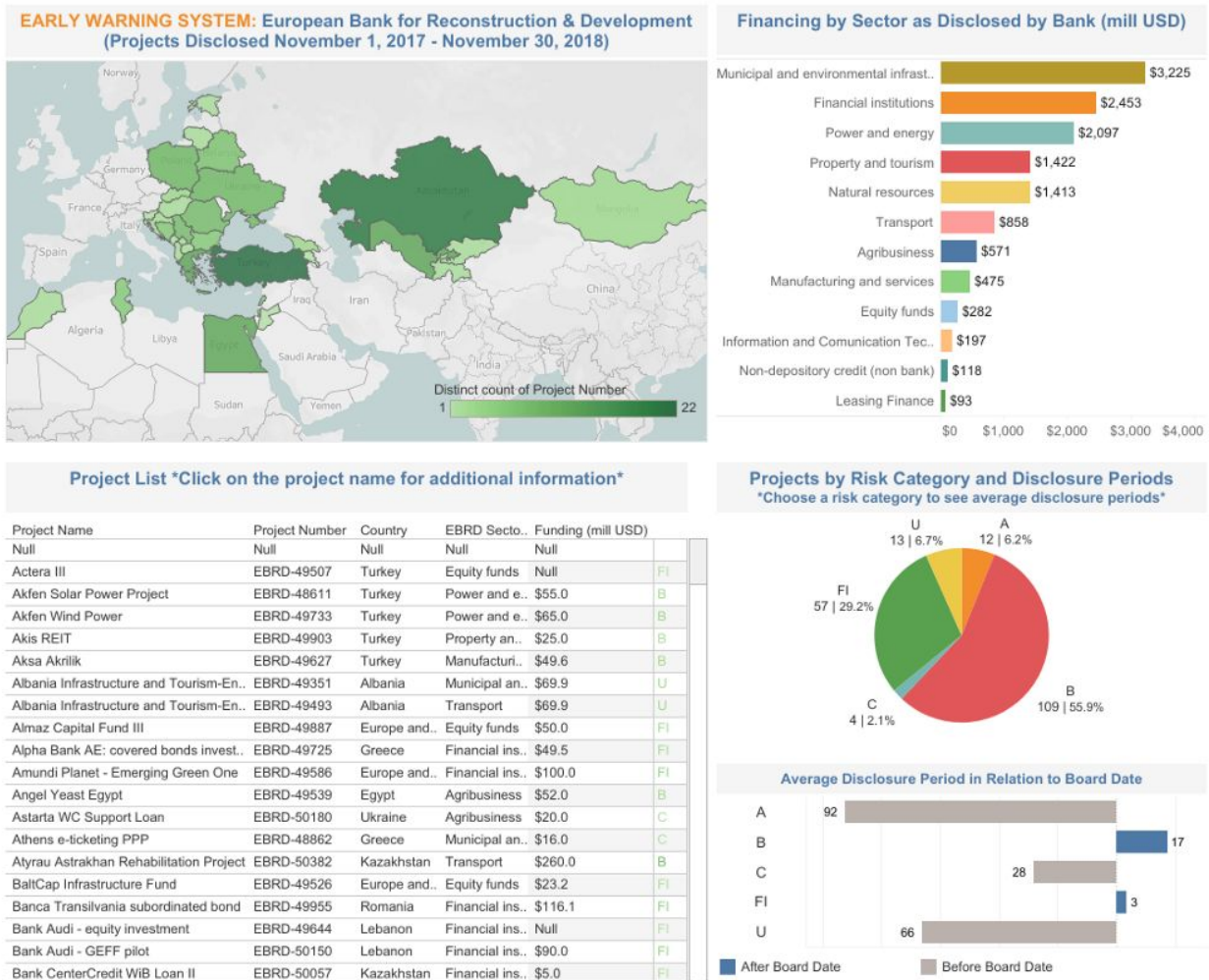
- *Whether PSDs were available in languages other than English*
  - Yes - 187
  - No - 8
- *Whether any technical documents (not including PSDs) were available in languages other than English*
  - Yes - 25 (1 project had a broken link)
  - No - 170



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The EBRD's effort in ensuring that **95% of its PSDs are translated into national languages** is commendable. However, although a step forward, the possibility that national languages are also inaccessible for potentially affected communities in the areas where the EBRD is active should also be considered. Additionally, it should be noted that **only 12% of projects disclosed technical documents available in a language other than English.**

The language barrier, in addition to the highly technical information disclosed, severely tempers the accessibility of vital project information for potentially affected communities.



Explore the EBRD's projects by country, sector, risk category, and disclosure period using this interactive map, available [here](#).

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Finally, our points above are predicated on the recognition that in addition to early access to information, communities require sufficient time to understand and evaluate project information, in order for their rights to be meaningfully fulfilled.

As the interactive map above illustrates, the longest period of notice communities theoretically receive before an investment decision is made is 92 days for projects that are considered high risk, or Category A. However, this accounts for only 12 projects or 6% of our dataset. **For projects that have the potential to pose significant risks to the environment and people, or Category B, PSDs are disclosed an average of 17 days after the date the project is considered for approval.** This is the case for the majority of projects in our sample, since **55% of projects are classified as Category B.** Similarly, information on financial intermediary investments, which accounts for 29% of the dataset, is disclosed an average of **3 days after the Board date.** Projects considered low risk, or Category C, are disclosed an average of 28 days before the Board date. It should be noted that the dates used in this analysis are those that are self-reported by the EBRD on the PSD, under the categories of “PSD Disclosed” and “Target Board Date”.

[In response](#) to the above data, the EBRD emphasized that despite these startling findings, with the exception of one project, all projects were compliant with Bank policies, since several PSDs received authorization for delayed disclosure, according to their internal records. We reiterate that our analysis does not evaluate compliance with EBRD policy, but rather measures EBRD disclosure with best practice aimed at increasing community access to information. In fact, using this benchmark, EBRD’s disclosure practice underscores the substantial shortcomings in the current policy, which must be strengthened to be more people-centered. Delayed disclosure - for whatever reason articulated - is still cause for concern, given that it precludes the meaningful participation of communities in project design. It should be noted that PSDs do not publicly note whether or not a project was authorized for delayed disclosure, nor do they provide reasons for such a referral. Additionally, it may well be that the date disclosed under “Target Board Date” does not reflect the actual date the Board considered the project for approval. However, if true, this simply points to the lack of timely updates of key information included in the PSD.

Given all of the above, these numbers are unacceptable. With these disclosure timeframes, in addition to the barriers detailed above in accessing specific documents, a community has little less than two months to translate and understand the information disclosed, organize themselves, evaluate the project’s impacts, and propose recommendations based on their expertise to decision-makers – all assuming they are able to access the website immediately on the date of disclosure.

Access to information must ensure those who need the information most are able to receive and understand it. Recognizing that is unrealistic for local communities to visit the EBRD website each day to see if any proposed project may affect them, the [Early Warning System](#) team is closing this gap by summarizing and distributing projects proposed by the EBRD and other development institutions to partners in country, as soon as possible.

We strongly recommend that communities be given as much time as possible, ideally at least 120 days, to meaningfully engage in the proposal stage of a project, and that the information be made as accessible as possible to better enable their participation. Specific timeframes for disclosure

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must be codified within the Access to Information Policy for all risk categories, to ensure that information is disclosed and accessible to communities well before a project can be considered for approval.

## ***Looking Forward: Strengthening the EBRD's Information Disclosure Practices***

The EBRD operates in a region where space is already often restricted for communities to voice their concerns about projects, or even request access to information. This makes the Bank's information disclosure practices even more critical. The EBRD must do more to meaningfully fulfill communities' right to safe, timely and accessible information, early in the project cycle.

We encourage the EBRD to use the opportunity afforded by public consultations on its draft *Access to Information Policy and Directive* to strengthen its disclosure policies and practices, so that they better prioritize communities - the intended beneficiaries of development.

*The dataset used for this analysis is also available for [download](#). The analysis was shared in advance with the EBRD for comment and their response can be viewed [here](#).*