



universität
wien

MASTER THESIS

Titel der Master Thesis / Title of the Master's Thesis

„European Bank for Reconstruction and Development as
an intergovernmental financial institution “

verfasst von / submitted by

Danylo Soroka

angestrebter akademischer Grad / in partial fulfilment of the requirements for the degree of
Master of Laws (LL.M.)

Wien, 2022 / Vienna 2022

Studienkennzahl lt. Studienblatt /
Postgraduate programme code as it appears on
the student record sheet:

UA 992 548

Universitätslehrgang lt. Studienblatt /
Postgraduate programme as it appears on
the student record sheet:

Europäisches und Internationales Wirtschaftsrecht /
European and International Business Law

Betreut von / Supervisor:

Professor Ratka Thomas

Table of content

Introduction	3
Chapter I. Prerequisites, the creation process, the intra-organizational mechanism and the EBRD structure	7
1.1. Historical background of the EBRD creation	7
1.2. Main objectives of the EBRD.....	10
1.3. Financing sources and instruments for implementing the European Bank for Reconstruction and Development	20
Chapter II. The project cycle as a basic mechanism for implementing a partnership with the EBRD	29
2.1. Project life cycle: components and stages.....	29
2.2. Project evaluation criteria	32
2.3. Post-project evaluation of the effectiveness of project implementation with EBRD involvement	39
Chapter III. EBRD Strategy for Ukraine as the potential member of the European Union	43
3.1. Ukraine's political and economic relationship with the institutions of European integration	44
3.2 Implementation of international legal norms into legal system of Ukraine ..	46
3.3. Results of the implementation of the previous EBRD strategies in Ukraine until 2021	49
3.4. EBRD Legal Reform Program in Ukraine	53
3.5. Strategic guidelines in accordance with the Program of Cooperation between the Government of Ukraine and the EBRD during 2017-2021	58
3.6. Issues of cooperation between the EBRD and Ukraine	67
Conclusion	71
Bibliography	74
Anhang	78
Annexes	79

Introduction

The European Bank for Reconstruction and Development (EBRD) is a unique international credit institution in many ways leading to a convergence in economic and political terms in Western and Eastern Europe. As Adam Bronstone mentioned in his work, “The existence and activities of the European Bank for Reconstruction and Development clearly reflect the nature of regional European integration”¹. The creation of a new financial institute was necessary not only to provide financial assistance to the countries of Central and Eastern Europe, but also to strengthen the integration processes on the continent. The founding of the EBRD, according to its founders, was to form the basis of a single European structure that would further lead to the creation of a confederation. That is why it is necessary to consider first the prerequisites and the process of establishing the EBRD.

In the late 1980s, world society became increasingly convinced of the need to create and expand such intergovernmental institutions as the EBRD, the IMF, the EIB, etc. It was caused by the inability of many states to overcome the crisis of inflation, unemployment, disorder in the country on their own, which was caused by the political situation, modernization of all spheres of life. It should be noted that this situation was in almost all post-Soviet countries, so the transition to a new European standard of living is still very difficult.

The European Bank for Reconstruction and Development is an international organization and was created under the Treaty of Paris, signed on May 29, 1990, to promote reforms in Central and Eastern European countries with a view to transitioning the countries of the region to a market-oriented economy. According to the work of Ibrahim F.I. Shihata, the founders of the bank are 40 countries - all countries in Europe (except Albania), USA, Canada, Mexico, Morocco, Egypt, Israel, Japan, New Zealand, Australia, South Korea and two international organizations - the European Economic Union and the European Investment Bank, as well as a number of Eastern European countries². The former USSR also participated in the founding of the bank.

All members of the International Monetary Fund may be members of the EBRD, except European countries. The EBRD was quickly drafted. The event is the result of several meetings of experts on the drafting of the Agreement and three meetings of Member States' representatives in Paris on 15-16 January, 8-11 March and 9 April 1991, as well as the personal

¹ Adam Bronstone. The European Bank for Reconstruction and Development: The Building of a Bank for East Central Europe. Manchester University Press, 1999. – Pg. 24

² Ibrahim F.I. Shihata. The European Bank for Reconstruction and Development: Comparative Analysis of the Constituent Agreement. Springer, 1991. – Pg. 14

involvement of future EBRD President Jacques Attali. Currently, the EBRD funds projects only in the following countries: Azerbaijan, Albania, Latvia, Tajikistan, Armenia, Lithuania, Turkmenistan, Belarus, Moldova, Uzbekistan, Bulgaria, Mongolia, Ukraine, Bosnia and Herzegovina, Poland, Croatia, Macedonia, Russia, Montenegro, Hungary, Romania, Estonia, Georgia, Serbia, Kazakhstan, Slovakia.

Such promptness in the creation of the International Financial Institute is explained by the fact that the social and economic transformations that took place in the 1980s in the countries of Central and Eastern Europe led to economic and political restructuring, as well as to the decline of production and foreign trade, the disturbance of the financial sphere, worsening living standards, social and national conflicts in the region. This made the countries of Central and Eastern Europe (along with the former USSR) dangerous neighbours who not only did not conform to the process of European integration but could complicate and delay it.

The text of the Agreement and some of the principles of the EBRD's activities were based on the practical experience of leading international financial institutions, such as the IMF and regional development banks.

A relevance of the research topic: International financial organizations are the most active drivers in stimulating globalization. The activities of global financial institutions, namely the European Bank for Reconstruction and Development, are a factor that significantly affects the development of the economy, the implementation of programs aimed at market reform, economic restructuring and stabilization of the national currency. Thus, there is a need to study the activities of the EBRD, its impact on the development of processes in the international economic environment.

At different times, both domestic and foreign economists have dealt with the problems of international financial organizations. Among them, for example, such Western representatives as A. Bronstone, D. Driscoll, P. Menkvekd, S. Weber, C. Holman. Also Ukrainian scientists E. Evdokimova, A. Kadatska, V. Karavaev, L. Krasavina, P. Lebedeva, I. Mironova, A. Moiseev are also devoted to these problems, P. Valeev, A. Vodyanov, G. Anulova, I. Bondarenko, and others.

Thus, the relevance of this topic is due to the fact that the formation of the global economic system is a relatively new process, which has not yet been studied by economics, as well as not studied the role of international financial organizations in it. This knowledge is necessary for the development of a scientifically sound strategy of Ukraine's cooperation with international institutions and to identify the country's place in the global economic system.

The purpose and objectives of the study: The main purpose of this work is the analysis

and theoretical understanding of the objective function of the EBRD and the mechanism for implementing its activities, which in some way determines the place of countries in the global economic system.

This goal necessitated the solution of the following tasks:

- To determine the role of international financial organizations in the global regulatory system;
- To explore the evolution of the EBRD's credit policy model and highlight the EBRD's priorities;
- To explore the main tools and mechanisms for implementing the EBRD's credit policy;
- To reveal the current state of cooperation between Ukraine and the EBRD in the credit sphere, to carry out a comprehensive assessment of the effectiveness of the implementation of key programs and projects of the EBRD;
- To determine areas of cooperation between Ukraine and the EBRD in the future. The object of the study is the activity of the European Bank for Reconstruction and Development as an international financial organization of the global level in its organizational and economic structure and scope.

The subject of this study is the system of international economic relations arising from the mechanism of implementation of the EBRD's target function in its impact on the formation of the global economic system.

A methodology of the research: The methodological basis of the study are the fundamental provisions of the theory of international economics in relation to the patterns of development of the world economy and the role of international organizations in it. In the first section, in disclosing the essence of international financial organizations, methods of scientific abstraction, a combination of analysis and synthesis, a systematic approach, causation were used. In the second section of the work, in the analytical part, where the peculiarities of the EBRD implementation mechanism were studied, the methods of logical and historical, quantitative and qualitative analysis, statistical methods, methods of comparative analysis were used. In the final third section, the main scientific method was the method of causal, logical and functional connections and dependencies.

The theoretical basis of the work was economic research of domestic and foreign scientists. Materials of the State Committee for Statistics, the Ministry of Economy and European Integration, and the Ministry of Finance of Ukraine were used in writing the work.

The EBRD's annual reports and analytical developments of the EBRD served as a factual and

statistical basis.

The scientific novelty of the work is that the scientific study of the EBRD's role in the international economic community has been the subject of a comprehensive study, in the process of which the most significant results were obtained, which reveal personal contribution to solving the problem and specify the novelty:

- The role of international financial organizations in the formation of the global economic system is revealed, thanks to which it was proved that international financial organizations are the leading subject of formation of this system, as by their nature the institutional and organizational nature and scope are global;

- Put forward and argued that the implementation of the EBRD's target function is the formation of a global economic system, which is manifested in (1) strengthening the interdependence of national monetary and financial systems of member countries, (2) reducing the level of autonomy of national authorities. recipients in the field of decision- making regarding national economic development;

- The peculiarities of the implementation of the EBRD's target function in Ukraine are revealed.

The practical significance of the obtained research results is that the work allows tracking the role of the EBRD in the international economic community and identifying a place in this process in Ukraine. The latter is necessary in the development of Ukraine's foreign economic strategy, in particular the strategy of relations with international financial organizations.

The obtained theoretical result can serve as a basis for further theoretical and practical research. The results of the research can also be used by authors, civil servants, judges, teachers, entrepreneurs.

The structure of the thesis: Thesis consists of an introduction, three sections, conclusions, a list of sources used. The full volume of the thesis is 78 pages. The list of used sources consists of 65 items and occupies 4 pages.

Chapter I. Prerequisites, the creation process, the intra-organizational mechanism and the EBRD structure

The EBRD is officially believed to have been established on April 15, 1991 in London. This date is exactly the date the EBRD started operations.

The creation of the EBRD was needed not only to provide financial assistance to Central and Eastern European countries, but also to strengthen continental integration processes³. The founding of the EBRD, according to its founders, was to form the basis of a single European structure that would further lead to the creation of a confederation. It was necessary to integrate cooperation with the Western countries within the common economic space through administrative, financial and cultural infrastructures.

The geographical location of all European countries has set common regional objectives for combating environmental pollution (pollution of the Baltic Sea or the Danube), the creation of pan-European energy and telecommunications systems. The solution to these problems required funding from a single major international department, which was to become the European Bank for Reconstruction and Development.

A. Akhmetgaraeva mentioned in her work that the establishment of a financial institution such as the European Bank for Reconstruction and Development required a certain organizational structure⁴. This is primarily due to membership in the European Bank and management. Each country must have its share of the capital and its percentage of votes. With a clear delineation of tasks and responsibilities, managing such capital is greatly simplified.

1.1. Historical background of the EBRD creation

In the late 1980s and early 1990s, a new political environment developed in the countries of Central and Eastern Europe (CEE). The end of the Cold War provided a measure of international stability, changed the political situation and balance in the world, and contributed to the development of democratic processes in the CEE countries.

At the same time, after the collapse of the socialist system, these countries faced problems associated with a sharp drop in production, the standard of living of the population, large-scale migration of labor and unemployment, aggravation of national problems and their escalation into armed conflicts, environmental degradation. CEE financial institutions have inherited such serious problems as bad loans, limited financial reserves, sluggish capitalization process,

³ Kadatska, A. International law of the European Bank for Reconstruction and Development. National Legal University of Ukraine. Kharkiv, 2016. – Pg. 10.

⁴ Akhmetgaraeva, A. History and basic prerequisites for the creation of the European Bank for Reconstruction and Development. Basic facts about the European Bank for Reconstruction and Development. A.S. Dnipropetrovsk, 2009. – Pg. 18

excessive monopolization of the financial sector, associated with the fact that the shareholders of credit institutions were state-owned enterprises, acting simultaneously as borrowers. The CEE countries faced the task of forming and accelerating the development of the private sector of the economy.

On the other hand, the end of the Cold War meant the possibility of further development of integration processes in Europe, one of the manifestations of which was the creation of European interstate organizations that contribute to strengthening the role of this region on the world stage, the balance of power in which, after the collapse of socialism, shifted in favor of the United States.⁵

All this led to the establishment of one of the international financial organizations - the European Bank for Reconstruction and Development (EBRD).

At the stage of formation of the EBRD, a discussion unfolded on some issues, in particular:

The lack of need for the organization of the EBRD was justified by the existence of international financial institutions (primarily the IMF and the International Bank for Reconstruction and Development (IBRD) and its group). The ability to take control of the processes of reconstruction and development in the countries of Central and Eastern Europe, as well as the lack of specific programs at that time among the founders of the EBRD, was questionable;

The question of the expediency of the US joining the European financial institution, where they will certainly not occupy a leading position. The most polar opinions were expressed, for example, to be a member of the EBRD for the United States is a chance to influence European processes that should not be neglected, and vice versa, that the EBRD will become a "bureaucratic machine in the hands of a few Europeans", so it is better for the United States not to be a member (during the discussion, the first point of view won);

The USA and Japan tried to disrupt the participation of the Soviet Union in the EBRD. As a result, the USSR was still accepted as a member of the EBRD, but Art. 8 of the Establishment Agreement was supplemented by paragraph 4 and the USSR was to limit access to EBRD resources to the amount of paid-in shares, i.e. ECU 180 million for a three-year period;

The fears of Western European states regarding the escalation of political instability into armed conflicts in CEE due to the difficulties of the transition period, including economic ones;

Desire to form a single European structure in which the CEE countries would be integrated;

The presence of common tasks of European states due to their geographical proximity (in

⁵ Kosmin A.D. "World economy and foreign economic activity"; tutorial. - M.: Economics, 2006

such areas as ecology, energy, infrastructure, etc.);

The desire of Western European states to create a controlled financial institution (in which the United States would not play a dominant role), which would contribute to raising the status of Western Europe in the formation of global and regional economic policy, as well as increasing its role in the balance of power between the three centers of rivalry - the United States, Western Europe and Japan;

An opportunity for the former USSR to break through isolation from international financial institutions. By the time the EBRD was created, the USSR aspired to become a member of the IMF and IBRD, but it did not succeed, although the need for support from leading financial institutions in the field of investment and technical assistance was acutely felt. Such a need could only be met with the help of a new international financial institution, the founder of which the USSR would have been from the very beginning, in connection with which the USSR actively supported the idea of creating the EBRD;

The lack of experience of the IMF and IBRD in solving such large-scale problems that appeared in connection with the need to stabilize and transition to a market economy in the CEE countries.

The main objective of the EBRD is to promote the transition to an open market-oriented economy, as well as the development of private and entrepreneurial initiative in CEE countries committed to and implementing the principles of multi-party democracy, pluralism and market economies.

The Bank annually assesses countries for compliance with this goal, in particular, according to the following criteria: free elections; representativeness of the government; the duty of the government and officials to act in accordance with the law; separation of political parties from the state; independence of the judiciary; equal protection by law of citizens, including minorities; freedom of speech, religion, assembly, movement; the right to private property; the right to form trade unions and organize strikes.

Thus, the Bank positions itself not just as a regional development bank, linking its activities with the progress of the transition process in the CEE countries, while officially the Bank cannot operate in countries that are not committed to the principles of multi-party democracy, pluralism and market economy, or do not conduct them into life. Unlike the IMF, which imposes fairly strict conditions for specific macroeconomic indicators, the EBRD is pursuing a softer policy, striving not to curtail its activities in problem states to the last.⁶

⁶ Rezuev E.V. "Window to Europe" , 2006. - No. 3. – p.15

1.2. Main objectives of the EBRD

Different countries are at different stages of the process of transition to a market economy. Local conditions determine the way the Bank operates, its strategy, and in some cases lead to the development of innovative ways to finance and mitigate risks. The Bank prepares detailed strategies for each country of operations, tailoring its financial instruments and working methods to the capabilities and needs of each country and each project. The level and nature of the demand for EBRD financing depends on the stage of the transition process in which a country is located and on its attractiveness to private investors.

As the transition to a market economy continues, new opportunities are emerging, and in some other areas the need for the Bank's involvement is reduced. Thus, the EBRD's activities are guided by the transition process. Creating an environment conducive to investment inflows depends primarily on the countries of operations. In response to changing opportunities and needs, the Bank is increasing its annual equity commitments and expanding intermediary financing for on-lending to small and medium-sized enterprises (SMEs). As a leading investor in the region, the EBRD sets the tone for other investors. Its thorough financial analysis provides funding for healthy and sustainable businesses that should have a lasting impact on the transition process by their very existence.

As EBRD funds are limited, the Bank has to be efficient and have the greatest possible impact on the transition through its projects. The Bank emphasizes the importance of “showcase impact”, which allows individuals and businesses to learn by participating in a process or observing the content of projects and their success or failure. Many EBRD projects provide a clear indication of what type of project can be successful in a given industry or country. The Bank promotes institutional strengthening and the creation of an entrepreneurial and legal environment conducive to the development of the private sector.

The EBRD's first priority is to ensure the development of financial institutions and their role. Financial institutions play a critical role in the transition to a market economy, as they have the ability to direct funds to appropriate niches, promote capital accumulation, facilitate trade and create acceptable standards of financial discipline.⁷

According to the Agreement on the establishment of the European Bank for Reconstruction and Development: “The membership in the Bank is open to two categories of countries: European countries and non-European countries that are members of the IMF, as well as organizations such as the European Economic Community (EEC) and the European

⁷ Savvina O.V. "International Financial Organizations"; Russian Academy of Entrepreneurship, 2006

Investment Bank (EIB) are related to the main principle of the EBRD - transparency and openness. The EBRD is represented by 62 countries (including all former Soviet republics) as well as the EEC and the EIB⁸. The two EBRD members are not states, but international organizations, namely the EEC and the EIB. Membership of an international organization is not allowed in any of the IFRSs. However, membership of organizations in the EBRD does not imply a precedent either for other organizations or banks to become members of the Bank or for those organizations to become members of other organizations or other banks.

According to the Agreement on the establishment of the European Bank for Reconstruction and Development: "A special feature of the EBRD is the successful attempt to preserve the influence of European countries in the regional organization through shareholding in such a way that, when voting, the EU Member States, together with the EEC and the EIB, retain a 51% majority"⁹. This desire is primarily due to the desire to prevent the United States from being the leading regional development bank in Europe, as has happened in almost all IFRSs. Upon accession, the EU countries together with the EEC and the EIB held a 51% stake, the US - 10%, Japan, Germany, the United Kingdom, France, Italy - 8.5% each. Today, Germany holds a 10% stake in the relevant quota recalculation after its merger with the GDR, which was originally an independent member.

In voting, the number of votes shall be distributed in accordance with the number of shares of the Member in the Bank's subscribed capital. The EBRD uses a "weighted vote" system, which is accepted by all IFRSs. M. Strenina Linden has identified that a distinctive feature of the "weighted voting" system used by the EBRD is that the founders of the EBRD have abandoned the basic voting practices of other IFRS's¹⁰.

Decisions at the EBRD are taken by a simple majority. There are also cases where decisions are taken by a qualified majority. The EBRD Statute states that the EU, together with the EEC and the EIB, hold a majority of votes in the Bank. A Member State shall have only votes in accordance with the shares paid. This provision of the EBRD Statute is unique. The governance structure is similar to that of other IFRSs.

The governing and permanent bodies of the EBRD are:

- 1) Board of Governors;

⁸ Agreement on the establishment of the European Bank for Reconstruction and Development. Concluded in Paris May 29, 1990. – Art. 3

⁹ Agreement on the establishment of the European Bank for Reconstruction and Development. Concluded in Paris May 29, 1990. - Art. 5, Par. 2.

¹⁰ Strenina, M. European Bank for Reconstruction and Development (EBRD): features of creation, organizational structure, credit and investment policy. Moscow State University, 2017. Pg. 127.

- 2) Board of Directors, or Directorate (consisting of 23 members);
- 3) President, Vice-Presidents;
- 4) Environmental Advisory Board (consisting of 17 leading experts).

The work of H. Schrepler has pointed that The Board of Governors may fully or partially delegate its powers to the Directorate, except for the admission and determination of the terms of admission of new members, termination of membership, election of directors and president, determination of remuneration of directors and deputy directors, approval of the general balance, amendment of the Agreement and termination of the Bank's operations, authorization to sign general agreements on cooperation with other international organizations, etc. In doing so, the Board of Governors retains full authority over all the tasks entrusted to the Directorate¹¹. The number of votes each member has is equal to the number of its subscribed shares in the Bank's share capital.

The Board of Directors of the EBRD is the main executive body in charge of current issues of the Bank's activities. The Board of Directors also performs activities in accordance with the powers delegated to it by the Board of Governors: prepares the work of the Board of Governors; within the instructions of the Board of Governors - determines the policy and nature of decisions on granting loans, guarantees, investments in capital, technical assistance, presents a report for the financial year; approves the EBRD budget, etc.

The EBRD Board of Directors consists of 23 members, reflecting the group composition of the Bank's member countries. The Board of Directors is elected according to the following scheme:

- 11 members represent Belgium, Greece, Denmark, Ireland, Spain, Italy, Luxembourg, the Netherlands, Portugal, the United Kingdom, Germany, France, the EEC and the EIB;
 - 4 members represent the countries of Central and Eastern Europe;
 - 4 members represent other European countries;
 - 4 members represent non-European countries.

The composition of the Board of Directors of the EBRD is unique and reflects the character of a regional European organization. The directors at the EBRD are re-elected every three years. The number of votes of each Member State is equal to the number of shares in which it subscribes. The majority of decisions in the governing bodies of the EBRD require a simple

¹¹ Schrepler, H. European Bank for Reconstruction and Development (EBRD). H.A. Schrepler, Kiev, 1998. - Pg. 91.

majority of votes, provided that it is at least 2/3 of the total number of members entitled to vote.

The President (four-year term, possible re-election) manages the current affairs in accordance with the directions of the Directorate. He chairs the meetings of the Board of Directors and may participate in the meetings of the Board of Governors. He is the Bank's authorized representative. In charge of the Bank's staff, the President is responsible for organizing the work of the EBRD, as well as for recruiting and firing staff, in accordance with the rules established by the Directorate. For instance, A. Egorov considers that the EBRD president enjoys greater authority over the presidents of other IFRSs, since he is the head of the Bank's staff¹². The EBRD president does not vote, but in cases where votes are divided equally, he has the right to cast a deciding vote. The existing unfixed rule defines the EBRD president as a European. The first EBRD president was Jacques Attali.

Staffing is an important aspect of the EBRD's activities. The process of activity and assistance to the countries depends on what specialists and specialists work at the bank. It is very important that every project, every issue is well analysed, timely considered and invested¹³. But in doing so, the EBRD does not forget the overriding principle of transparency, so it emphasizes that anyone who has a law, financier, economist, etc. degree can work in the field of reconstruction and development, as well as good experience into another bank.

The creation of the EBRD as the first international financial institution in which the United States will not play a dominant role, it is desirable for the countries of the European Community from the standpoint of raising their status and shaping global and regional economic policies, to enhance the role of Europe in the balance of power between the three world centers of rivalry - the United States, Europe, Japan.

Having developed specific concepts for the formation, training and transfer of staff, the EBRD has become more alert to the issues of developing the capacity of its staff. All senior-level employees are required to undergo training in production process management. In addition, the EBRD is closely looking for a more rational work-life balance for its employees, adopting appropriate regulations that allow for more flexible work organization and allow employees to manoeuvre their work hours and work from home¹⁴. The procedure for lodging complaints and appeals has also been strengthened, ensuring that employees have the right to request that their decisions be reviewed by the administration. Recruitment is built with a view to ensuring a

¹² Egorov, A. International financial infrastructure. Moscow - Linor, 2009. – Pg. 54.

¹³ Akhmetgaraeva, A. International legal personality of the European Bank for Reconstruction and Development. Tomsk State University Journal No. 8, 2009. Pg. 87.

¹⁴ Borodulina, L. Regional Credit and Financial Institutions. Textbook 2nd edition: International Economic Relations. Moscow, 2011. - Pg. 262

diverse and multinational staff of the organization.

The goals and functions of the EBRD stem from the goal of establishing the bank itself, which is first and foremost the creation of a shadow market economy, transparent governance and promoting eco-friendly development without the negative effects in the long run. The work of A. Moiseev has pointed that the EBRD's political focus distinguishes the Bank from other IFIs, but environmental issues also play a major role¹⁵. The EBRD is, to a certain extent, a hybrid bank in that it combines the functions of a development bank that provides medium to long-term loans and bank guarantees, and an investor, as it conducts much of its operations in the form of equity investments. The main EBRD financial instruments are loans (82%) and equity investments (20%), the share of bank guarantees is low (only 2%).

But not only this "hybridity" lies in the differences between the EBRD and the Bretton Woods Institutions (IMF, World Bank, etc.). Specific features of the EBRD can be characterized as follows:

- The Bank places strong emphasis on project support conditions: when providing EBRD financing, emphasizes on client fulfilment of several structural and institutional conditions to improve the investment climate, accelerate structural change, optimize corporate governance, etc.;
- EBRD is the only international financial institution that finances both development projects and the private sector on a commercial basis (on a self-sustaining basis), without providing any "soft" loans or price subsidies;
- Unlike commercial banks, the EBRD is able to take on political risks (due to the fact that the countries of operations are simultaneously shareholders), the risk of currency conversion (due to the status of preferential lender, the EBRD debt is not subject to restructuring), a variety of commercial risks as well as the project risks involved in developing large public sector projects (thanks to shareholder technical assistance funds).

In developing the text of the EBRD Establishing Agreement and defining the principles of its operations, the experience of existing leading IFIs and their charter documents were used. Some of the provisions and principles in the EBRD's charter documents were first formulated. The EBRD's organizers and founders did not want the new bank to become another development bank that would finance traditional development projects and programs.¹⁶

The text of the EBRD Establishment Agreement gives a complete understanding of the

¹⁵ Moiseev, A. European Bank for Reconstruction and Development. Moscow State University, 2006. - Pg. 109– 129.

¹⁶ Ereemeeva, I. European Bank for Reconstruction and Development. Minsk, 2012. - Pg. 90–91.

goals and objectives of the Bank, regulates its activities. “In accordance with Article 1 of Chapter 1 of the EBRD Agreement, the Bank's objective is to facilitate a transition to an open market-oriented economy, as well as the development of a private and entrepreneurial initiative in Central and Eastern European countries that recognize the principles of multi-party democracy, pluralism and a market economy bring them to life”¹⁷.

The EBRD's functions are:

- 1) Promoting, through private and other interested investors, the establishment, improvement and expansion of productive, competitive and privately-owned businesses, small and medium-sized enterprises;
- 2) Attracting domestic and foreign capital as well as management experience to achieve the Bank's goals;
- 3) Promoting productive investment, including investment in services and finance and in appropriate infrastructure, where necessary to support private and entrepreneurial initiatives, thereby contributing to creating a competitive climate and improving productivity, living standards and improving working conditions;
- 4) Provision of technical assistance in the preparation, financing and implementation of relevant projects, both individually and under special investment programs;
- 5) Stimulation and promotion of capital markets development;
- 6) Support for sound and economically viable projects involving more than one recipient member;
- 7) Promoting environmentally sound and sustainable development in its activities.

All the EBRD's functions are to address the dual task of promoting the transition to democracy and a market economy and promoting entrepreneurship in CEE, including the CIS and Baltic countries. The current goals and functions of the EBRD are: lending, advisory assistance, investing in member countries, guaranteeing credit, improving living standards. Regional development banks, including the EBRD, are focused on developing the economies of the member states of the region¹⁸. The scope of activity of universal and regional development institutes is different.

A significant difference between the EBRD and other regional development banks is that the European Bank for Reconstruction and Development is intended to facilitate the transition from a command-and-control system of economic management of post-socialist countries to

¹⁷ Agreement on the establishment of the European Bank for Reconstruction and Development. Concluded in Paris May 29, 1990. – Art. 1, Chapter 1.

¹⁸ Schrepler, H. European Bank for Reconstruction and Development (EBRD). Kyiv, 2008. Pg. 14

an open, market-oriented model. The Bank's most important and historically new task has been to help create new economic conditions in countries as the political system changes. At the same time, it is considered necessary to prevent the intolerable social conditions that could lead to the collapse of society in these countries and endanger the safety of their neighbors¹⁹. Other objectives include business (investment promotion, business improvement, privatization and structural restructuring), infrastructure and ecology (policy improvement and direct investment for environmental restoration).

Recent tasks have been included in the EBRD Charter, taking into account IFRS experience, and if some of them (investments, structural transformations, technical assistance, infrastructure upgrades) are reflected in the statutes of the organizations, then there are no references to IFRS statutes created in the EBRD. "Ecology", although in practice these institutions are confronted with environmental issues. The EBRD's environmental protection function is enshrined in Article 2, paragraph 1, of the EBRD Statute, in accordance with which "The Bank promotes its environmentally sound and sustainable development"²⁰.

The Bank recognizes the existence of major environmental problems in Central and Eastern Europe and takes into account the principle of environmentally sound development in all its activities, including technical assistance and other operations, and supports specific environmental projects.

The EBRD identifies priorities related to sound economic development and environmental protection²¹. These include:

- 1) Assisting countries in the region in shaping environmental policies to improve the quality of the environment;
- 2) Encouraging the development of industries for the production of environmentally friendly goods and services;
- 3) Organizing and supporting specific research and programs to address regional and national environmental issues and promote environmental education;
- 4) Implementation of the environmental assessment system for all EBRD projects;
- 5) Consultation on environmental analysis;
- 6) Inclusion of environmental conditions in the agreement;
- 7) Implementation and monitoring of specific environmental control and improvement

¹⁹ Weber, S. Origins of the European Bank for Reconstruction and Development. S. Weber, 1994. – Pg. 38.

²⁰ Agreement on the establishment of the European Bank for Reconstruction and Development. Concluded in Paris May 29, 1990. – Art. 2, Par. 1

²¹ Paul A. Menkveld. Origin and Role of the European Bank for Reconstruction and Development. London, Dordrecht, Boston: Graham & Trotman, Ltd., 1991. – Pg. 34.

programs.

The whole set of issues directly related to environmental protection concerns NPP safety²². In accordance with the proposal of the G7 to establish an international program to improve the safety of nuclear power plants in Central and Eastern Europe, the EBRD established in March 1993 the Nuclear Security Fund (NSF), which receives donations from donors to use as free loans for urgent security measures. The EBRD is in favor of shutting down obsolete Chornobyl nuclear power plants in the former socialist bloc countries and intends to help finance their replacement.

The EBRD finances various industries. The following activities are not funded²³:

- 1) Defense industry;
- 2) Tobacco industry;
- 3) Production of means prohibited by international law;
- 4) Gaming;
- 5) Production and processes that have an adverse effect on the environment.

Specific requirements for the recipient of funding are:

- 1) High level of motivation and experience of management;
- 2) It is desirable that domestic investors participate in the share capital of the enterprise
- 3) Having a foreign strategic partner is optional, but can significantly increase the chances of approving an investment project.
- 4) The most important areas of the EBRD's fiscal policy are the financial sector, energy, telecommunications infrastructure, transportation and agribusiness. Privatization is one such area.

The EBRD's charter regulates not only economic but also political processes²⁴. The general policy requirements of the EBRD include the stability of the political regimes, which is explained by the desire to repay the funds provided under the specific loan agreement with the government, as well as the ban on the country's participation in hostilities and the use of loans for military purposes. C. Holman has identified that the EBRD for the first time received a treaty-mandated political mandate under which the Bank must promote democracy by creating

²² Morozov, D. The EBRD. Money, No. 6, 2006. – Pg. 11.

²³ The European Bank for Reconstruction and Development. The EBRD: The role and activities. European Commission. London, 2000. – Pg. 18-19.

²⁴ Chudnovets, A. The Establishment of the European Bank for Reconstruction and Development. National University of Lugansk, 2014. - Pg. 147-148.

democratic institutions, overseeing the protection of minority interests, and preventing the threat of human rights violations²⁵. The Bank assumes that it is impossible to create a market economy and democracy without a democratic state and strong structures of government. The Bank promotes the development of legislation in the Member States, which allows for the development of budget and tax policies, encourages the creation of market economy structures necessary for the emergence of the private sector.

The purpose of the EBRD is to support Member States in undertaking structural and sectoral economic reforms²⁶. Including demonopolisation and privatization, with the strategic objective of fully and integrating their economies into the world economic space by:

- organization, modernization and expansion of industrial competitiveness and private enterprise, especially small and medium-sized enterprises (the EBRD must allocate at least 60% of its resources to the non-state sector);
- mobilization of national and foreign capital, introduction of modern highly efficient forms and methods of management;
- investment in manufacturing to create a competitive environment and increase productivity, quality of life and improve working conditions;
- providing technological assistance in the preparation, financing and implementation of promising projects;
- stimulating and encouraging the development of capital markets;
- implementation of large and economically sound projects in which more than one recipient country is interested;
- promoting environmentally sound development.

The EBRD cooperates with other investors and creditors in providing loans and guarantees, as well as investing in equity. This activity is complemented by lending to infrastructure or other public sector projects focused on supporting private sector initiatives²⁷.

The EBRD statute provides for its activities only in countries that adhere to the principles of democracy. Environmental concern is an integral part of a sound corporate governance system and is a part of all EBRD investment operations.

Therefore, in all its investment operations, the EBRD must:

²⁵ C. Holman, H. Canton. The Europa Directory of international organizations. London, 2001. – Pg. 292–293.

²⁶ Migun, I. EBRD lending activities in the markets of Central and Eastern Europe. National University of Finance. Odesa, 2005. – Pg. 22

²⁷ Lebedeva, P. European Bank for Reconstruction and Development: legal issues of activity. St. Petersburg State University, 2003. – Pg. 43–44.

- promote the creation of a full-fledged market economy in the country, namely to provide an effect on the transition process;
- take risks in order to support private investors, but not drive them out of the market;
- apply sound principles of banking.

Through its investments, the EBRD promotes:

- structural and sectoral reforms;
- development of privatization, competition and entrepreneurship;
- strengthening financial institutions and legal systems;
- developing the necessary infrastructure to support the private sector;
- introduction of a sound corporate governance system, including for the purpose of solving environmental problems.

As a catalyst for transformation, the EBRD²⁸:

- encourages co-financing and attracting foreign direct investment;
- attracts domestic capital;
- provides technical support.

The Bank accepts projects that come from any source. The most important prerequisite for considering the application received, which determines the future fate of such a project, is the quality of the materials provided and whether they meet the world standards in project finance²⁹. The main subjects of the EBRD lending are private companies or state-owned enterprises to be privatized as well as new companies, including joint ventures with international investments.

The main objective of the bank is to encourage investment in the region. The EBRD cooperates with other investors and creditors in providing loans and guarantees, as well as investing in equity. This activity should be complemented by lending to infrastructure or other public sector projects that are focused on supporting private sector initiatives.

The EBRD encourages regional cooperation, and projects supported by it can span multiple countries. In making its decisions, the EBRD is guided by core business policies and strategies by countries approved by the Board of Directors³⁰. Country strategies include a review

²⁸ Eremeeva, I. European Bank for Reconstruction and Development. Minsk, 2012. – Pg. 31

²⁹ Migun, I. EBRD lending activities in the markets of Central and Eastern Europe. National University of Finance. Odesa, 2005. – Pg. 24.

³⁰ Krasavina, L. European Bank for Reconstruction and Development. National University of Tarasa Shevchenko. Kiev, 2017. Pg. 41–42.

of political and economic developments and identify priority areas of activity. In a number of cases, assistance needs identified by the Bank are common to most countries in the region, combining these strategies with the desire to stimulate productive investment in each country.

Many states have difficulties in the political, organizational and economic spheres, which are caused by socio-economic instability, lack of legal framework and uncertain market conditions³¹. In some cases, this has led to delays in using the EBRD funds. These factors have helped the EBRD to develop fairly clear project selection models. In its activities, the EBRD has met with restraint from international investors and commercial banks about expanding funding for private sector projects. This has highlighted the importance of the EBRD as a catalyst for investment. The reluctance of some governments to provide guarantees for infrastructure projects in their countries is also holding back EBRD operations. Technical cooperation activities directly or indirectly support the EBRD's investments and loans; it focuses on project preparation, sector research and advisory services. An important aspect of the EBRD's work is the training of management and professional development in all countries and at various levels.

Therefore, the training is at the heart of the EBRD's activities and is carried out in almost all its projects. As part of these efforts, the Joint Vienna Institute was opened in 1992 on the initiative of the EBRD and the other five international sponsoring organizations (IMF, IBRD, BIS) to assist post-socialist countries in preparing their banking and banking tasks, economic personnel able to work in a market economy³².

1.3. Financing sources and instruments for implementing the European Bank for Reconstruction and Development

The EBRD is a unique combination of a commercial bank and a development bank, that is, the Bank's primary task is to finance projects that contribute to economic development, but despite this, the Bank operates in a self-sustaining manner³³. We also need to pay attention to what the bank finances. These are different industries, apart from the defence and tobacco industries, as well as gambling projects, namely: loans for commercial enterprises, loans for projects in the industry, infrastructure development, investments in statutory funds of enterprises, guarantees.

Today, the authorized capital of the EBRD is more than 16 billion dollars. The total nominal amount of shares payable is \$ 5.3 billion, which corresponds to 30% of the initial

³¹ Egorov, A. International financial infrastructure. Moscow - Linor, 2009. Pg. 95-96

³² Bekyashev, K. International public law. Moscow, 2010. Pg. 33

³³ Mironova, I. Universal and regional interstate financial development organizations: a comparative analysis of functioning. St. Petersburg State University, 2005. – Pg. 56.

authorized share capital. In addition, 125 shares are not subject to distribution among EBRD members. With the highest credit rating, the Bank can raise funds on international capital markets at the most favourable rates. The Bank's capital resources include authorized capital, borrowed funds and funds received through repayment of loans or guarantees of the Bank, income from investments of the Bank, as well as any other financial resources and income that are not part of the resources of special funds of the Bank. Of the usual resources, the EBRD provides market-based loans to countries for cost-effective development projects.

Special funds include funds allocated to the relevant special fund and income from investments made from the resources of special funds. Further, the first two open-end special funds were established in April 1992 under the Baltic Investment Program adopted by the Nordic Ministers of Economy and Finance (Denmark, Iceland, Norway, Finland and Sweden)³⁴. The main goal of the program is to promote private sector development by supporting small and medium enterprises in Latvia, Lithuania and Estonia. Other countries and multilateral organizations may contribute to these funds.

The resources of special funds are usually used for preferential lending to low-profit sectors of social infrastructure and technical assistance.

The Bank stipulates that at least 60% of its liabilities must relate to private sector financing³⁵. The EBRD's activities include promoting private sector development, strengthening financial institutions and legal systems, and developing the infrastructure needed to support the private sector. That is, the Bank performs a dual function - a development bank by 40% and a business bank by 60%.

There are two main methods of financing EBRD projects: direct and through intermediaries.

Direct Financing Instruments: The EBRD provides direct financing for specific private sector projects, restructuring and privatization, and finances the infrastructure that supports these activities. The main recipients of the bank's loans are joint ventures, especially with the participation of foreign sponsors.

The EBRD's charter favours the financing of private enterprise development. There is an opinion that it would be logically correct to pay more attention to infrastructure, especially in the CIS countries that do not have experience of private enterprise. But it is a mistake to think that Eastern Europe can develop on the strength of only one private sector. At first, the danger for the Bank was that the EBRD could become a European branch of the IBRD since the activities

³⁴ Blishchenko, I. Issues of International Law: International Organizations. Kyiv, 2004. Pg. 56

³⁵ Anulova, G. International Monetary and Financial Organizations and Developing Countries. BEK Publishing House. Moscow. 2016. Pg. 80

to support private enterprises are the responsibility of the World Bank³⁶.

The Bank offers a wide range of financial instruments and is flexible in developing project financing schemes. The minimum amount of the bank's loan is 5 million euros, although the bank may show flexibility in this matter if the project is of fundamental importance to the country.

Loans: The EBRD provides loans, the terms of which consider the specific requirements of each project. The bank can take credit risk either entirely on its balance sheet, or syndicate part of it in the market. The loan may be secured by the borrower's assets or be converted into shares or involve participation in share capital. The Bank issues loans (and consequently requires their repayment) in each of the freely convertible currencies, mainly in US dollars and euros.

When lending to private commercial enterprises, as a rule, loans are provided without the right to recover from foreign sponsors after the start of the project. The basis for the loan is the movement of cash on the project and the opportunity specified in the project to repay the loan within a specified period. The loan in most cases is provided under a property guarantee.

Repayment of principal is usually carried out in equal installments every six months. In accordance with commercial practice, upon signing the loan agreement, a one-time fee is paid to cover the administrative costs incurred by the Bank in preparing the project³⁷.

Loans from international organizations such as the EBRD are traditionally excluded from the amount of public debt in the event of its restructuring, and thus these organizations have the status of a preferred creditor. When the EBRD acts as the main lender, banks that are intermediaries of loans to private sector borrowers can also benefit from the status of a preferred lender.

Legal participation in share capital: Equity investment can take a variety of forms, including subscription to ordinary or preferred stock. Investments in quasi-equity capital are offered, ranging from subordinated loans, debt obligations and promissory notes that yield income, and ending with preferred shares that are freely redeemable. By repurchasing a share in the share capital, the EBRD expects to receive the appropriate return on investment. He always has a clear plan for withdrawing his funds and always acts as a sub-controlling shareholder, another EBRD financing instrument.

The Bank considers financing the transfer of shares in existing companies only in cases of privatization, when such a transfer will clearly increase the efficiency of the company (for

³⁶ Gerchikova, I. European Bank for Reconstruction and Development. Kiev, 2002.- Pg.39

³⁷ Artyukh, K. Legal status of the European Bank for Reconstruction and Development. K. Artyukh, 2004. – Pg.76

example, by improving management, reconstruction under the leadership of new owners or mergers with another company)³⁸.

Guarantees: The EBRD can help borrowers gain access to capital by providing guarantees. Guarantees come in a variety of types, from guarantees against all risks to partial guarantees for specific risks, but in all cases the maximum risk must be known and clearly defined and the credit risk must be acceptable.

The EBRD does not issue guarantees for export credits. The guarantee allows you to raise additional funds, but its use makes the loan more expensive. In practice, the EBRD rarely uses this instrument and only in combination with other instruments. The EBRD may also guarantee the placement of shares issued by a public or private enterprise.

Trade facilitation mechanism: The EBRD involves local banks in its trade facilitation programs. This strengthens their reputation as a reliable partner and provides them with wider access to the international trading capital market. Under these programs, the EBRD issues partial guarantees for the payment of local bank agreements, which are settled by letters of credit.

The EBRD assumes the commercial and political risks of default on the part of the issuing bank, and they assume the risk of local companies. Both importers and exporters, who are not charged a commission, benefit from this program. The guarantee fee is paid by the bank that orders the EBRD guarantee.

The EBRD provides guarantees for a wide range of goods and services, including consumer goods, commodities, machinery and equipment, energy supply, engineering, construction, technical and other services³⁹. It is possible to issue guarantees for some types of production related to the environment, but in this case, it is necessary to conduct a preliminary environmental survey. In addition, the Trade Facilitation Program does not allow the financing of certain activities and the production of certain substances.

Customers of local banks from the private sector can also be provided with funds in the form of working capital, trade capital, as well as medium and long-term investments. This always considers the specific needs of customers.

Many importers and exporters enjoy the benefits of this program. In most cases, they do not even know that their agreements were financed under EBRD guarantees, as the EBRD's direct partners are only issuing banks and confirming banks.

³⁸ Driscoll, D. What is the International Monetary Fund. IMF, 1997. Pg.51.

³⁹ Evdokimova, E. The role of the European Bank for Reconstruction and Development (EBRD) in the modernization of the economy of the Eastern European countries of the European Union. Moscow State Institute of International relations. Moscow, 2016. – Pg.55

The program is a great tool for attracting new customers and provides:

- guarantees for a wide range of trade and financial instruments;
- unconditional guarantees of payment on the first demand in writing;
- guarantees in the amount of up to 100% of the nominal value of basic trade and financial instruments;
- acceptable commission rates, determined separately for each transaction;
- a simple procedure for the rapid issuance of guarantees.

The EBRD has two banks identified by the EBRD: PrivatBank and the First Ukrainian International Bank⁴⁰.

The main task of the EBRD is to support and develop a healthy and competitive financial services sector. To this end, the EBRD invests in the share capital of privatized and private banks. The EBRD's main criteria are private sector focus, corporate governance and competent management.

It should be emphasized once again that the EBRD is the largest investor in Central and Eastern Europe and the CIS. The EBRD provides credit resources for equity investments, guarantees and leasing arrangements. In addition, through existing and existing EBRD support programs, it finances the training of qualified personnel. The EBRD finances project loans and its operational needs by borrowing funds on international capital markets at very favourable rates. Although the EBRD differs in structure from commercial banks, its methods of working with projects are similar. The Bank undertakes only commercially viable projects. He sets commercial prices for his services.

Participation in the capital of investment funds in the capital of several large investment funds, which, in turn, invest in private enterprises in the countries of operations. Trade facilitation: As a rule, local banks join trade support programs, which also strengthen the reputation of the banking system and access to the international market of trade capital.

Under these programs, the Bank may issue guarantees of partial payment of transactions arranged by local banks, the settlements of which are made by letters of credit. Participation in the share capital of banks, the EBRD uses programs to participate in the share capital of banks and provide them with credit lines, which is one of the effective instruments for financing the EBRD.

⁴⁰ Bobin, M. Interstate financial and economic organizations of Europe: Legal aspects of the institution and activities. Kyiv, 2011. – Pg.81

The peculiarity of the EBRD is that, unlike the World Bank, it finances no more than 35% of the costs of creating a new company or 35% of the long-term capitalization of a company that is already operating. At the same time, the EBRD can help find partners for the remaining share. The Bank operates on the principle of "co-financing", invests in the program only a third of its funds, attracting other participants. EBRD project capitalization scheme⁴¹:

- 35% - EBRD loan;
- 25% - share of a foreign sponsor;
- 15% - syndicated loan;
- 15% - share of the local sponsor;
- 10% - shares of other creditors.

It should be noted that the EBRD's share in the project may be increased to 49%. As a rule, for projects in the private sector no more than 2/3 of the required amount is provided in the form of a loan and not less than 1/3 - in the form of share capital⁴². Additional financial resources usually must come from other project participants. By cooperating with other commercial banks, investment funds, and state export-import organizations to assist in obtaining loans, the Bank thus transfers part of the project risk to the market mechanism. As a result, one dollar invested by the bank attracts an additional two dollars to the project. The EBRD does not make it a condition for compensation from a Western sponsor or partner in cases where the project fails. Interest on loans considers the possibility of non-repayment. The bank requires companies to insure their risks if possible.

Also, using various financing mechanisms, the European Bank for Reconstruction and Development has achieved significant results during its existence, especially in Central Europe - Poland, Czech Republic, Slovakia, Hungary, as well as in the Baltic countries - Latvia, Lithuania, Estonia⁴³. Most of the loans provided in these countries went to the development of telecommunications, energy, agribusiness, as well as privatization.

In addition to the above-mentioned instruments of EBRD financing and implementation of its activities, there are other instruments such as government programs, enterprise rehabilitation program, business consulting services program, and microfinance banks. Consider them in more detail.

1) Government programs and agencies: The EBRD has offices in almost every country, so government programs provide for the provision of funds to the state - the

⁴¹ Gerchikova, I. European Bank for Reconstruction and Development. Kiev, 2012. Pg. 38-39

⁴² Bondarenko, I. Bank as an element of the economic system. 2007. - Pg. 122-123

⁴³ Gorshkov, A. Participation of Central and Eastern European Countries in the IMF and IBRD. Foreign Trade, No. 6. 2012.- Pg. 62

borrower, considering all the circumstances of political, economic, social and others. character.

Results of analyses in the work of K. Titov have showed that 84 million euros were provided through government agencies and programs, mainly in the form of grants for projects in Southeast Europe, Russia and Central Asia, Ukraine⁴⁴.

The funds were mainly used to promote trade, infrastructure, micro and small enterprises and equity financing. The following donors participated in the programs: Germany, Italy, the Netherlands, the USA, Finland, Switzerland and Sweden. In addition, the funds were provided through the Northern Region Environmental Partnership (NDP) and the Small Business Support Fund.

2) *Enterprise rehabilitation program:* Thanks to the Enterprise Rehabilitation Program (ERP Program), companies from Central Europe and Central Asia can learn from some of the world's most experienced business leaders. Former directors and leading

executives of world-class companies are happy to share their experience, which has found itself in a difficult position by enterprises in the region in order to introduce modern methods of work and increase turnover.

The ERP program aims to improve management, commercial and technical skills⁴⁵. The donor-funded program helps to develop the national economy and thus helps reduce poverty and improve social conditions. The ERP program is implemented by the Enterprise Rehabilitation Group on behalf of the EBRD. Specialists are working directly with specific companies to improve the skills of management, business plans, structural reforms, production organization, design, marketing and implementation of new products. In addition, they help reduce production costs and develop domestic and export markets.

The ERP program raises awareness of the environmental impact of production and economic activities, promotes the optimization of energy consumption and the development of health and safety standards at work⁴⁶. In addition to improving production and economic performance, the ERP specialists help companies establish contacts with potential trading partners or investors.

In addition, ERP operations have been deployed in Southeast Europe, Central Asia, the Caucasus, Russia, and all other countries of the former Soviet Union. After receiving assistance

⁴⁴ Titov, K. Social policy of the European Bank for Reconstruction and Development in Central and Eastern Europe. National University of Tax Service of Ukraine, 2010. Pg.29

⁴⁵ Chan, E.P. European Bank for Reconstruction and Development as a participant in international monetary relations. E.P. Chan, 2018. – Pg. 91

⁴⁶ Elizarov, V. Environmental dimension of investment policy of the European Bank for Reconstruction and Development. V.N. Elizarov, 2006. – Pg. 33

under the ERP program, the turnover of small enterprises increased by more than 30%. ERP projects have allowed to introduce reliable mechanisms of management and financial control, to develop new concepts of design and marketing, to raise labour productivity, to increase sales volumes and employment levels. In enterprises with less than 250 employees, turnover usually increases by about 34% and the employment rate by 15%. In larger enterprises, labour productivity and turnover have also increased, but usually these enterprises go to a certain "unbundling" in order to maintain their profitability. More than 80% of ERP projects were rated by independent experts as "satisfactory" or "quite satisfactory".

3) Business Consulting Services Program (BCSP): This program is designed to help small and medium-sized enterprises (SMEs) with 10 to 500 employees to advise them on production and economic issues. Thanks to it, companies (usually less than 100 employees) can expand their production and increase competitiveness.

The program aims to develop the capacity of national business consulting firms by enabling them to perform commercial tasks and organize practical training for them. In addition, the BCSP, if necessary, involves foreign experts and national consulting firms, monitors the implementation of each task in order to ensure the quality of work of consultants.

The program is managed by a group of ERPs based in the EBRD. Results of analyses in the work of V. Karavaev have showed that the BCSP program is aimed at supporting well-defined projects that can bring quick results in the field of market research, AMS and business planning. It is funded by several donors, who have so far provided around € 32 million for 2,860 projects in 15 countries⁴⁷.

The implementation of the BCSP program began in the Baltic States, where it has been operating for more than eight years. Under the Baltic BCSP program, 1,680 projects have been implemented at more than 1,260 enterprises with more than 237,000 employees and total sales of around € 10 billion. Thanks to the BCSP program assistance, the companies were able to raise € 43 million from external sources. Initially, the Baltic BCSP program was funded by the Nordic countries, which provided 11.2 million euros, and then managed to attract another 3.7 million euros from the European Community.

For instance, K. Titiov has considered that in Russia (Kaliningrad, St. Petersburg and Samara) and other CIS countries (Azerbaijan, Armenia, Georgia, Kazakhstan and Uzbekistan), a total of 551 projects have been implemented at 536 enterprises with more than 51,000

⁴⁷ Karavaev, V. From London to Kyiv: a new stage of vaginal financial cooperation with the West. Finance, No. 5. 2012. Pg. 8

employees⁴⁸. These programs are funded by Germany, Denmark, Luxembourg, Norway, the United Kingdom, Finland, Switzerland, Sweden and Japan for a total of about 10 million euros. In South-Eastern Europe, the BCSP program operates in Bulgaria, Bosnia and Herzegovina, Macedonia, Serbia and Montenegro, Slovenia and Croatia and is funded by Austria, Germany, the United Kingdom, the EU Lighthouse and the Central European Initiative.

As a rule, projects with Ukrainian consultants are short-term - 4-6 months, depending on the direction in which the consulting service is being implemented. Projects with international expert practitioners are long-term: they can last about a year or even more, so they are more focused on medium-sized businesses that have a resource, both financial and non-financial, to implement and implement the changes that are needed as a result of the project.

Today more than 50% of enterprises have increased their turnover, improved productivity, created more than 2,500 jobs, and export sales have doubled. A year after the completion of the consulting project, the EBRD makes its assessment: it asks the business to analyze the impact of the project on both financial and non-financial aspects. Such feedback is very important, including for subsequent projects.

One of the good examples will be when the EBRD worked with a furniture company in Lutsk - Modern-Expo, 30% of whose products were exported at the time of the start of the project. To cope with this volume, the company needed to develop a long-term strategy and adapt its procedures to improve efficiency. An international expert from Canada, who has extensive experience in this field, was invited to lead this project. Previously, this company already had a project with the EBRD in 2011 in the field of energy efficiency. As a result of the interaction, the company's turnover increased by 179%, the share of export sales became 70%, the number of employees increased by 195%, and the reduction in electricity costs was 31%⁴⁹.

⁴⁸ Titov, K. Social policy of the European Bank for Reconstruction and Development in Central and Eastern Europe. National University of Tax Service of Ukraine, 2010. – Pg.65

⁴⁹ Source: <https://www.strategeast.org/ebird-provides-15-mln-loan-to-ukraines-modern-expo-on-expanding-of-its-business-operations/> Date of access: 03.03.2021

Chapter II. The project cycle as a basic mechanism for implementing a partnership with the EBRD

One of the most important mechanisms of cooperation with the EBRD is the project method. The project submitted to the EBRD must comply with the general strategy of the bank, namely - to help create a market economy. This section discusses the EBRD's project requirements, provides a step-by-step approach to the EBRD funding mechanism with an example, evaluation criteria and post-project evaluation of projects.

2.1. Project life cycle: components and stages

The government, municipal or private enterprise applies to the EBRD for a project loan and, if the bank decides that the project is potentially eligible for funding, the project cycle begins. It continues either until the end of the project, or, in case of refusal of funding, until the Board of Directors decides. There are certain procedures for each stage of the project cycle.

The sequence of the project cycle is⁵⁰:

1. Identification (study) of the project: whether it is suitable for EBRD financing.
2. Stage of preparation: negotiations between the project customer (ie the borrower) and the bank on the terms of the loan, preparation of documents for consideration by the bank.
3. Approval of the project, the EBRD undertakes to provide financing.
4. Execution and repayment of the loan.

Identification is a mechanism: the project information office in London or the EBRD's country offices in the countries of operations conduct an initial evaluation of the project to determine if the bank can help finance it - this stage is called project selection⁵¹. This path should be followed by all potential customers in order to save their time and money. Transactions are carried out by specialists with extensive experience in banking. To work on the project, the bank appoints an operations manager and further communication with the bank is maintained through this employee. The banking department consists of territorial divisions, which are responsible for all countries of operations, as well as branch divisions. Commercial

⁵⁰ Strenina, M. European Bank for Reconstruction and Development (EBRD): features of creation, organizational structure, credit and investment policy. Moscow State University, 2017. Pg. 22-23

⁵¹ Akhmetgaraeva, A. International legal personality of the European Bank for Reconstruction and Development. Tomsk State University Journal No. 8, 2009 – Pg.5

enterprises intending to obtain financing, or intermediaries authorized to act on their behalf, should send requests directly to the EBRD. The Bank ensures complete confidentiality of operations.

The EBRD acts as quickly as possible, depending on the availability of information and its quality. However, potential sponsors should be aware that the bank will not start financing until it is fully convinced that it has all the necessary information and carefully verified legal documents⁵². After an initial appeal to the EBRD, the bank's staff advises potential borrowers on how to proceed and possible project schemes. At this initial stage, the bank requires the following detailed information from the client:

- about shareholders, both local and foreign;
- on the content of production activities;
- a proposal on the nature of the EBRD's possible participation (equity partners; sources of credit).

The information provided at this stage should be enough to enable the bank to determine whether the proposed project meets the main directions and strategies of its activities and, in general, whether the bank should engage in them in the future⁵³.

Analysing this information, the bank makes a preliminary conclusion on the technical, financial, economic, environmental and institutional feasibility of the project. It is also determined whether the project complies with the bank's sectoral and national policies. At the end of this stage, the Bank's staff prepares the first of the documents required for the permit - a report on the start of work on the project. It provides an analysis of the already implemented stages of the project. This memorandum is not provided for publication, at this stage of the project there is no opportunity for public participation. If the project passes this stage, it is included in the bank's work plan.

Project preparation: this stage is divided into two parts - initial and final consideration. At the first stage, the bank agrees with the customer on the general structure of the project. Upon completion of the initial examination, an Act of initial examination is prepared. In the second stage, the terms and conditions of funding are discussed in more detail⁵⁴. The agreed structure, terms and conditions of the project are submitted for approval to the operational committee of the bank. At this stage of the project, an environmental review is conducted, it is

⁵² Khalevinskaya, E. Eurobank: Political Structure, Development Bank, Commercial Bank. Odessa, Finance and Statistics, 2012. – Pg.11

⁵³ Moiseev, A. European Bank for Reconstruction and Development. Moscow State University, 2006. - Pg.47

⁵⁴ Strenina, M. European Bank for Reconstruction and Development (EBRD): features of creation, organizational structure, credit and investment policy. Moscow State University, 2017. Pg. 29

confirmed that the project is environmentally safe, documents are being prepared for consideration by the Board of Directors.

Most tasks at this stage are entrusted to the bank's staff. However, the project customer is responsible for the announcement of the proposed project in the media, for the implementation of environmental impact assessment and other environmental procedures.

The EBRD requires the contracting authority to inform the public and the people directly affected by the project results and to consult the public. During the consultations, those who will be affected by the project, and all stakeholders and organizations have the right to submit sound recommendations, suggestions and express their views on the project.

V. Elizarov has identified that all appeals must be documented and submitted to the bank. In accordance with the EBRD's environmental procedures, it requires an independent analysis of the project's compliance with environmental requirements⁵⁵.

The conclusion on the impact on the environment should include information on:

- environmental status of the project at the moment;
- potential impacts of the project on the environment;
- environmental aspect of the bank's participation in the project;
- conducted consultations with the public.

At this stage, the mandate letter on the procedure of the bank's work with the client and on the procedure of payment of project development costs is also agreed. This letter is legally valid and signed by both parties.

After approval by the operational committee of the project scheme, the project manager and the client agree on specific terms and conditions of project financing, which are fixed in the list of conditions (this document forms the basis of legal documentation)⁵⁶. And lastly, the client prepares an information letter and sends it to the bank. The information letter details the legal status of the project company and the content of the most important contracts. The bank provides a form of information letter, which must be completed by lawyers of the company. Then the project manager submits it for final consideration to the operational committee, where the Board of Directors prepares the Final Examination Report and documents for consideration.

Work on these two stages of project approval is carried out in parallel with the preliminary study of the project. If it is not possible to immediately provide the information in

⁵⁵ Elizarov, V. Environmental dimension of investment policy of the European Bank for Reconstruction and Development. 2006. – Pg. 48

⁵⁶ Jone, C. A new central Europe. The Banker. April, 1995. – Pg. 65

full, the client must agree with the project manager on the deadlines for its provision. The work of M. Strenina has pointed that once the bank has received all the necessary information, the terms of the transaction are usually 3 to 4 months, although for less complex projects, these terms may be shortened⁵⁷.

All bank documents intended for internal use, such as the Act of initial examination, the Act of final examination and documents for consideration by the Board of Directors, except in certain cases of the Board's consent to their publication, are not available to the public⁵⁸. Project summaries will be made public (at least 30 days before the Council's consideration of projects in the private sector, and 60 days in the public sector).

Project approval: this is the conclusion on the project, the President's recommendation and other documents are submitted to the Board of Directors, which makes the final decision on funding. If the Board of Directors approves the project, a loan agreement is signed. This ends one stage of the project cycle and begins another. The customer of the project begins its implementation. After approval by the Board, the documentation regarding the terms of the loan is no longer subject to change.

Project implementation: this is the next stage of the project cycle - it is the actual implementation of the project, for example, the construction of the facility and its subsequent operation. Execution of the project is the business of its customer. The EBRD is only monitoring this process. The terms of the agreement require the EBRD to make sure that the loan is used only for the agreed purposes. Results of analyses in the work of D. Morozov have showed that in addition to this very important monitoring function, monitoring the progress of the project is designed to ensure the achievement of its objectives by constantly working with the customer, identifying and resolving any problems⁵⁹.

Thus, in accordance with sound banking principles, the EBRD provides technical, economic, financial, legal and environmental justification for all its projects, and the project is implemented in the following stages: project identification, project preparation, approval and loan disbursement.

2.2. Project evaluation criteria

The main emphasis of the bank is on the quality of its projects, as well as on the possibility of improving their efficiency, so it affects the criteria for evaluating projects. The

⁵⁷ Strenina, M. European Bank for Reconstruction and Development (EBRD): features of creation, organizational structure, credit and investment policy. Moscow State University, 2017. Pg. 32

⁵⁸ Gerchikova, I. European Bank for Reconstruction and Development.. Kiev, 2012. – Pg. 77

⁵⁹ Morozov, D. The EBDR. Money, No. 6, 2006. – Pg. 28

bank is constantly trying to achieve a "multiplier effect" of its projects, namely: the clarity of additional benefits for the country's economy, attracting co-financing or eliminating bottlenecks in infrastructure⁶⁰. When developing the financing scheme that best meets the requirements of the project, the bank is guided by the following principles:

1. The EBRD finances up to 35% of all project costs from scratch, or 35% of the long-term capitalization of an existing company.
2. Other investors, industrial ones, are required to make significant contributions to the share capital of projects carried out from scratch or new joint ventures when special technical and managerial qualifications are required. In such cases, industrial sponsors receive a controlling stake or enough rights to manage the enterprise.
3. No more than two thirds of the amount of borrowed funds and not less than one third of the share capital are provided for projects in the private sector.
4. Other co-financing participants should, as a rule, provide additional funds.

Each project is evaluated considering the relevant strategy for the individual country. Country strategies are approved by the EBRD's shareholders, and they further form the basis of banking operations and prioritize specific activities. The EBRD does not provide funding for defence-related activities, the tobacco industry, the production of drugs prohibited by international law, and the gambling business. In addition, the bank cannot finance some productions due to the harmfulness of their impact on the environment or the inability to sufficiently mitigate their negative impact on the environment⁶¹.

In accordance with sound banking principles, it is necessary to provide technical, economic, financial, legal and environmental justification for all projects financed by the bank through loans or equity participation, as well as to justify the acceptability of credit risk⁶². The allocation of EBRD resources for technical cooperation is determined solely by the EBRD's operational priorities, namely:

- formation and preservation of the portfolio of productive investments;
- project implementation support;
- creation of institutional infrastructure directly related to EBRD operations;
- ensuring a balanced ratio of projects in the private and public sectors.

⁶⁰ Eremeeva, I. European Bank for Reconstruction and Development. I. A. Eremeeva. Minsk, 2012. – Pg. 30

⁶¹ Strenina, M. European Bank for Reconstruction and Development (EBRD): features of creation, organizational structure, credit and investment policy. Moscow State University, 2017. Pg. 38

⁶² Khalevinskaya, E. Eurobank: Political Structure, Development Bank, Commercial Bank. Odessa, Finance and Statistics, 2012. – Pg. 49

In the process of preparing project proposals, sponsors are encouraged to use the services of experienced financial advisors (commercial, commercial banks, as well as audit and consulting firms). Further, I. Bondarenko has consider that the work of advisors can accelerate the pace of preliminary study of the project by the bank and, consequently, the project review process⁶³. If the advisor increases the cost of the project, there is a possibility to pay his fee from the funds provided by the EBRD.

At all stages of the project evaluation process, the bank's environmental policy is considered. The bank's procedures in this area include the selection of information, the study of the state of the environment, the inclusion of environmental conditions in legal documents, as well as environmental supervision of projects and their evaluation⁶⁴.

When examining projects, the EBRD requires the provision of relevant information for project analysis and evaluation. It is useful that in the whole project proposal all the submitted information is as much as possible confirmed by the relevant data. Such information can be divided into:

- A - Operational and project information.
- B - Financial information.
- C - Environmental and regulatory information.

A. Operational and project information includes:

1. Description of the project proposed for EBRD financing: It should be noted whether it is a matter of working from scratch, or the expansion of an existing enterprise, as well as the acquisition or privatization, or a joint venture. It is useful to indicate the intended use of funds - construction, working capital, etc. According to the work of A. Bronstone it is also necessary to inform how the project was prepared, in what condition it is today and why the client is applying for funding from the EBRD⁶⁵. This brief description should indicate the completion dates of the facility, including the installation of equipment and the start of production.

2. Information on project sponsors: Upon receipt of the application for funding, the EBRD will need to contact the project decision maker. This is usually the sponsor of the project, the party responsible for the implementation of the project and its completion. The

⁶³ Bondarenko, I. Bank as an element of the economic system. 2007. – Pg. 80

⁶⁴ Paul A. Menkveld. Origin and Role of the European Bank for Reconstruction and Development. London, Dordrecht, Boston: Graham & Trotman, Ltd., 1991. – Pg. 96

⁶⁵ Adam Bronstone. The European Bank for Reconstruction and Development: The Building of a Bank for East Central Europe. Manchester University Press, 1999. – Pg. 58

sponsor can be a company, such as a prospective borrower, or a third party (contractor or potential buyer of the borrower's products). The sponsor manages the development of the project and is responsible for ensuring its success. The EBRD needs the sponsor to have a deep interest in the project. The bank needs detailed information about the support that the sponsor will provide for the project, namely in terms of capital, management experience, activities, production and sales⁶⁶.

3. Work experience: A sponsor with experience in this field should be familiar with the risks and can make strategic, commercial and financial decisions regarding the entity applying for funding. Having a sponsor means for the EBRD that an organization that is familiar with this industry is willing to risk their money by investing it in the company. It is necessary to indicate separately that the sponsor knows about the company and how much he can invest in it, based on their experience and capabilities. A brief description of similar projects in which the sponsor has participated will also be useful. If the project involves the expansion of existing capacity, it is necessary to report on the company's previous activities and any experience gained in the field of production expansion, in particular:

- a brief history of the enterprise since its inception;
- the legal status of the enterprise, the composition of shareholders and the nature of corporate governance;
- country of registration, organizational structure and current status;
- the names of the main banks and main customers, who, if necessary, can give feedback.

4. Financial condition: Data on the sponsor's financial condition will allow the EBRD to assess its reputation. The EBRD can rely on a sponsor for relevant, ongoing project support, and the degree of trust will depend on its financial condition. The work of E. Evdokimova has pointed that the sponsor must attach financial statements for the last three years that have been audited, as well as document any noteworthy facts for these three years⁶⁷. If the shareholder is an individual, the EBRD must know what property he owns, for example, shares of other companies or cash receipts from other companies.

5. Information on other shareholders: If other shareholders are involved in the project, the sponsor must provide information on their role, future management rights and the number of

⁶⁶ Chan, E.P. European Bank for Reconstruction and Development as a participant in international monetary relations. E.P. Chan, 2018. – Pg. 121

⁶⁷ Evdokimova, E. The role of the European Bank for Reconstruction and Development (EBRD) in the modernization of the economy of the Eastern European countries of the European Union. Moscow State Institute of International relation. Moscow, 2016. – Pg. 83

votes of the relevant parties. You also need information about the capital, assets and experience of these shareholders, as well as whether any of them provide financial support or guarantees for the project. According to the work of M. Strenina it is necessary to add the financial statements of these shareholders for the last three years⁶⁸.

6. Product information: It is necessary to provide a detailed description of the products or services with which the company plans to enter the market. In most cases, the EBRD will ask an independent third party to evaluate the proposed product, so it is worth including enough detailed information to allow such an evaluation⁶⁹. It is important to give the main characteristics of your products, compare it with the products of competitors and show its benefits to potential consumers.

7. Information on production: In assessing the production process, the EBRD must ensure that it provides competitive production, regardless of labour costs or tax benefits.

8. The market: It is necessary to characterize the market for products and prove detailed plans for the company to enter this market (new market, market that has already formed, or a saturated market). The type of market is the main element in determining the risk associated with the project and the reliability of cash flows from the project. It is also worth explaining how the clientele was segmented and worked with. It is necessary to show the difference between existing and potential customers, to characterize the market capacity and the planned scale of demand. If the company plans to export products, it is necessary to indicate to which export markets it will be supplied. It will be useful to include a description of the evolution of the market over the past two or three years and its evolution over the next five years. It is necessary to report on the pricing strategy and compare it with the pricing strategy of competitors. Given the pricing strategy, indicate how you can enter the market,

maintain and increase its market share, maintain its rate of return. To the pricing strategy it is necessary to add the analysis of evolution of prices for production, to give an estimation of key pricing elements (cost of resources, sensitivity of consumer demand)⁷⁰.

It is necessary to characterize the plans of sales and distribution of products, namely: the organization and promotion of sales; mechanism for receiving payments; strategy in the field of brand advertising.

9. Management: Quality management is key to the success of a project. The EBRD

⁶⁸ Strenina, M. European Bank for Reconstruction and Development (EBRD): features of creation, organizational structure, credit and investment policy. Moscow State University, 2017. Pg. 44

⁶⁹ Fedyakina, L. World External Debt: Theory and Practice of Settlement. Moscow, Business and Service, 2008. P. 21.

⁷⁰ Gorshkov, A. Participation of Central and Eastern European Countries in the IMF and IBRD. Foreign Trade, No. 6. 2012.

needs to assess the strengths and weaknesses of project management. The project must indicate which of the sponsors directs its employees to manage the project, management structure and relationships between different departments and employees, functions of each department, the process of information flow between departments and management, control over work⁷¹.

It is useful to add short personal data, which would include the following information: name, functional responsibilities and work experience in the profile.

B. Financial information

The European Bank for Reconstruction and Development needs an accurate calculation of project costs and use of funds, especially the use of EBRD funds. The work of M. Strenina has pointed that this information must be provided at the initial stage of project development. Below are three information items for which financial information is provided⁷².

1) The cost of the project.

Here you need to specify the following:

- how to estimate the cost;
- the estimated cost of the work;
- who made the estimate (by the company or an independent expert) and the degree of its accuracy;
- data on any expenses already incurred;
- information on the receipt of equipment, materials, especially if they are provided by one of the sponsors;
- information on provisions for unforeseen expenses.

The project budget should include any possible costs for the registration of collateral and insurance policies.

2) Project implementation: The EBRD may instruct the sponsor, either independently or with the help of contractors, to implement the project on time, using the funds efficiently.

⁷¹ Kadatska, A. International legal status of the European Bank for Reconstruction and Development. National Legal University of Ukraine. Kharkiv, 2016. – Pg. - 44

⁷² Strenina, M. European Bank for Reconstruction and Development (EBRD): features of creation, organizational structure, credit and investment policy. Moscow State University, 2017. P 47

For the bank to be able to assess the risks associated with the implementation of the project, it is necessary to:

- briefly outline the activities related to its implementation, indicating the names of people and organizations responsible for the implementation of certain parts of the project;
- justify the choice of these organizations and describe their past activities;
- describe the content of contracts with these organizations, indicating the obligations to complete the project, the schedule of payments and guarantees of work;
- present a detailed work schedule.

The EBRD requires commercial principles when purchasing goods or services, so the sponsor should pay close attention to this issue. Indicate and justify the proposed method of purchasing goods, services and equipment with EBRD funds, confirm that the goods, services and equipment have been procured on a strictly commercial basis⁷³.

The EBRD may engage experts to analyze project implementation and report any potential overspending.

C. Environmental and regulatory information

In accordance with its environmental mandate, the EBRD must contribute to the environmentally sound and sustainable development of the country. Therefore, to assess the environmental impact of the project, the bank must have enough information on environmental aspects.

Environmental and regulatory information includes:

- location of the project object;
- land use, for the object, in the past and present;
- description of any construction works envisaged by the project;
- proposed measures to mitigate the impact on the environment and its improvement;
- a statement of the division of responsibilities for any pollution and responsibility for it;
- any information about the company's environmental policy.

⁷³ Strenina, M. European Bank for Reconstruction and Development (EBRD): features of creation, organizational structure, credit and investment policy. Moscow State University, 2017. – Pg. 49-50

Copies of any environmental inspections or environmental impact assessments should be attached. A description of the requirements that apply to the project and related to environmental protection, hygiene, and labor protection should be provided⁷⁴. The EBRD should evaluate the regulatory framework for the proposed project.

2.3. Post-project evaluation of the effectiveness of project implementation with EBRD involvement

Project evaluation is a very important process, because it is an indicator of the activity and efficiency of the whole bank. So this is an assessment of transactions after the investment. As a rule, it happens in a year - two after full development of means. The EBRD's Project Evaluation Division (PED) aims to determine the extent to which the EBRD's operations are being met and to monitor its compliance with its statutory obligations⁷⁵. Lessons learned help to improve the selection and scheme of future operations.

In assessing the impact of EBRD projects on the PED transition process, it considers their wider impact in the sector and the economy. During the project evaluation, the PED analyses its impact on the transition process, using the same criteria as the EBRD in the project selection and approval process. Several key indicators relate to stimulating the privatization process, training qualified personnel, developing competition and promoting market expansion. Other important aspects are institution building to improve the functioning of markets, positive demonstration effects and the introduction of new standards of business ethics and management.

I. Migun has identified that according to statistics, about 10% - 20% of projects are rated "low - negative" for the impact effect. This apparent lack of progress can be explained by the fact that EBRD operations are conducted in countries with a high degree of commercial and financial risk⁷⁶. This undermines the sustainability of several projects in the private sector and prevents them from fully realizing their potential to influence the transition process. But 60% to 80% of EBRD projects are rated "excellent" to "satisfactory" for their impact on the transition process.

These rankings place great emphasis on the impact on the transition process, but they also consider other indicators such as project performance, financial and environmental performance and the complementary role of the EBRD (the EBRD's ability to complement rather than replace private funding sources). In 1996 - 2007, the ratings of "successful" or "quite

⁷⁴ Elizarov, V. Environmental dimension of investment policy of the European Bank for Reconstruction and Development. V.N. Elizarov, 2006. Pg. 27

⁷⁵ Avdokushin, E. International Economic Relations. Marketing, Moscow. 2010.

⁷⁶ Migun, I. EBRD lending activities in the markets of Central and Eastern Europe. National University of Finance. Odesa, 2005. – Pg. 68

successful" scale 53% of the total. This is well below the percentage of projects (74%) that received "excellent - satisfactory" ratings for the impact on the transition process⁷⁷. The difference between the ratings of the impact of projects on the transition process and the ratings of the overall effectiveness of projects is mainly due to lower ratings of financial indicators due to the high-risk investment climate in EBRD countries, especially those in the initial or intermediate stages of transition.

As in previous years, it was concluded that the EBRD could more effectively mitigate the risk in specific areas and that the expertise and development of project schemes should be more actively involved in the relevant field. In 2006, six projects received a rating of overall project efficiency "quite successful".

Based on these results, it was concluded that the EBRD had made some progress in fulfilling its mandate, especially given the difficult conditions of its activities⁷⁸. One of the main tasks of the evaluation is to consider the experience gained during the development of new projects. The process begins with a broad discussion by the EBRD Banking Department of the lessons learned from the project appraisal. In addition, at each stage of the project approval process, bankers regularly receive information about experience⁷⁹. Examples from practice are discussed in seminars and used to consider the specific needs of the departments of the banking department. In addition, the GP prepares information materials for the EBRD management and enters lessons learned for internal use into the database. A similar database for external use is currently being developed.

Evaluation of projects and purchase of goods and services: A special study concludes that, although the program has managed to increase the number of loans, their volume and quality, the results do not yet allow us to talk about its stability. Therefore, considering the results obtained to date, the program is assigned a general rating of "partially successful". When performing the tasks of the institution building program will be able to receive a rating of "successful" or "quite successful".

The impact on the transition process was assessed considering the program's ability to provide commercial lending to micro and small enterprises, ensure political dialogue and create favourable conditions for small business lending. The lack of clear interest from one of the leading participants in the program has led to a reduction in its scale in several regions. In

⁷⁷ Schrepler, H. European Bank for Reconstruction and Development (EBRD). H.A. Schrepler. Kyiv, 2008. – Pg. 19

⁷⁸ Krasavina, L. European Bank for Reconstruction and Development. National University of Tarasa Shevchenko. Kiev, 2017. Pg. 71-72

⁷⁹ Adam Bronstone. The European Bank for Reconstruction and Development: The Building of a Bank for East Central Europe. Manchester University Press, 1999. – Pg. 41

anticipation of the results of negotiations with this participant in a special study program for the effect of the impact on the transition process was awarded a rating of "satisfactory" (as of today).

The program may receive a rating of "good" or "excellent" for the effect of influencing the transition process, but this requires several problems. To obtain a "good" rating, it is necessary to eliminate institutional obstacles to the implementation of the program, identify and attract new creditworthy regional banks and introduce new mechanisms and technologies into the program⁸⁰. In order to obtain an "excellent" rating, in addition to the above-mentioned conditions, partner banks need to supplement the funds received by them through the program with financial resources from other sources.

Purchase of goods and services: When procuring goods, works and services for one or another EBRD project, no discrimination is allowed, honesty and transparency are ensured. V. Ganyushkin has identified that contracts awarded under EBRD projects should be based on these fundamental principles enshrined in the EBRD's procurement and supply rules. The principles are designed to increase efficiency and minimize credit risks in implementation of Bank-financed projects⁸¹.

The EBRD requires all participants in the procurement process to adhere to the highest standards of business ethics and conduct.

The EBRD differentiates its methods of procurement of goods and services in the public and private sectors. A private sector client is allowed to use its procurement methods if the EBRD is convinced that they are commercially viable and the prices are fair and market. In addition, the client must ensure the absence of conflicts of interest and unconditional compliance with the fundamental interests of his company. The procurement procedure in the public sector is regulated. The EBRD invites clients to use a structured, transparent order, maximizing competitiveness and a level playing field for all participants⁸². The EBRD closely analyses and monitors the procurement process at all key stages of this process.

A bidder may submit only one bid or participate as a joint venture or consortium in only one bid for each contract (in a row). If a participant submits more than one bid or participates in more than one bid for any contract, all bids submitted for such a contract are rejected, which does not prevent, however, the participation of the same subcontractor in more than one bid.

The EBRD continues to work closely with other international development banks to harmonize paperwork for public sector procurement. The EBRD has published a draft document on the harmonization of procurement documents. Significant progress has been made in the

⁸⁰ Weber, S. Origins of the European Bank for Reconstruction and Development. S. Weber, 1994. – Pg.18-19

⁸¹ Ganyushkin, V. Diplomatic law of international organizations. Moscow, 2012. – Pg. 102-103

⁸² Artyukh, K. Legal status of the European Bank for Reconstruction and Development. 2004. – Pg.62

preparation of documents for the pre-qualification selection of construction companies and requests for consulting services⁸³. As for the document on the production of construction works, in this regard, consultations are already underway with representatives of the private sector.

In order to increase the efficiency of EBRD-financed procurement, it prepares several documents and regularly posts information about planned contracts on its website.

⁸³ Krasavina, L. European Bank for Reconstruction and Development. National University of Tarasa Shevchenko. Kiev, 2017. – Pg. 29-30

Chapter III. EBRD Strategy for Ukraine as the potential member of the European Union

Ukraine became a member of the EBRD in August 1992 following the signing by the President of Ukraine of the Decree “On Ukraine's Membership in the European Bank for Reconstruction and Development” № 379/92 of 14 July 1992. In addition, this Decree defines the representation of Ukraine in the governing bodies of the EBRD. The Minister of Finance of Ukraine is appointed by the Governor of Ukraine - a member of the Board of Governors of the European Bank for Reconstruction and Development, and the Chairman of the National Bank of Ukraine is appointed by the Deputy Governor of Ukraine - a member of the Board of Governors of the European Bank for Reconstruction and Development. In April 1993, the Bank's Permanent Representative Office was opened in Kyiv. Also, the possibility of opening a Permanent Representation of the EBRD in Dnepropetrovsk is being considered in the current period.

Based on the so-called “Ukrainian team” of the EBRD, which belongs to the business group of Southern and Eastern Europe, a separate EBRD department for Ukraine was established with its location in Kyiv. For instance, E. Shenin has considered that in order to regulate at the legislative level the status and activities of the EBRD Permanent Representation to Ukraine, an Agreement between the Government of Ukraine and the European Bank for Reconstruction and Development on cooperation and activities of the EBRD Permanent Representation in Ukraine was signed in June 2017⁸⁴. Throughout its cooperation with Ukraine, the EBRD has provided investments totalling more than € 3 billion in 150 projects. According to the Ministry of Finance, as of December 1, 2017, the EBRD's portfolio in Ukraine includes 133 projects with a total funding of 2.86 billion euros.

Ukraine became the third largest borrower of EBRD financial resources (after Russia and Poland), accounting for 8.7% of the Bank's total signed commitments. This is much higher than in previous years, when Ukraine ranked fifth. In 2015-2017, Ukraine was the second largest borrower in terms of annual commitments (after Russia) where the EBRD operates (total operations reached € 772 million in 2017). The projects have invested in the food and oil and gas industries, transport, telecommunications, finance and services in agriculture, as well as municipal infrastructure. The EBRD also manages the Chernobyl Shelter Fund, established in December 1997 to assist Ukraine in the reconstruction of the

⁸⁴ Sheinin, E. Will the EBRD Help Economic Reforms in Ukraine? Foreign Trade No. 22, 2018. – Pg. 7

sarcophagus, which is set to become an environmentally sound system⁸⁵. The EBRD's project portfolio is mainly concentrated in the private sector - about 71% of total funding - compared to 29% in the public sector. Today, Ukraine's cooperation with the EBRD is in accordance with the Program of Cooperation between the Government of Ukraine and the EBRD for 2017-2019, signed in June 2017. According to the annual report EBRD: "The program of cooperation for 2017-2019 between the Government of Ukraine and the European Bank for Reconstruction and Development provides for such priority areas of cooperation, which are joint work on the preparation and implementation of projects"⁸⁶.

3.1. Ukraine's political and economic relationship with the institutions of European integration

Today, Ukraine and the EU are closer than ever. At the same time, the events of the last 4 years have shown how far they are still from each other regarding economic potential, management approaches and vision of the future. The idea of European integration attracted the Ukrainian elite and aroused the support of Ukrainian society.

For instance, P. Smirnov has considered that despite the decline in public confidence in the promises of the "upper echelons," support for the pro-European development vector among citizens remains high. According to a survey conducted in December 2017, 50% of respondents spoke in favour of European integration, i.e. only slightly less than the maximum (59%) of 2014 and significantly more than 16% of Ukrainians who spoke out for the rapprochement with the Eurasian Economic Union led by Russia⁸⁷. Exclamations against the European Union are heard from both extreme left and ultra-right groups, but the general level of negative attitude towards the EU does not exceed the actual level in the member states themselves. The high level of public support for the "European orientation" indicates how significantly the situation in Ukraine has changed since 2014. Euromaidan, the Russian annexation of Crimea, the war in the Donbass and Western sanctions against the Russian Federation (RF) forced Ukraine to move away from its former multi-vector foreign policy of balancing between the West and Moscow.

The European vector of the country's development is now formalized in the form of an Association Agreement between Ukraine and the European Union. It entered into force in

⁸⁵ Elizarov, V. Environmental dimension of investment policy of the European Bank for Reconstruction and Development. V.N. Elizarov, 2006. – Pg. 14

⁸⁶ Annual report EBRD, 2017, London, EBRD. Pg. 31-33

⁸⁷ Smirnov, P. Actual Issues of Ukraine's Participation in International Financial Organizations. Money and Credit, No. 4, 2010. – Pg. 15

September 2017 and has become an impressive confirmation of the soft power of the EU. The Ukrainian state can take advantage of the assistance package of almost € 15 billion (about \$ 18.5 billion) of the growing presence of EU institutions, as well as the implementation of approximately 400 technical assistance projects from the EU and member states. Some of these benefits are already available.

Thanks to the agreement, which finally entered into force on June 1, almost 400,000 Ukrainians visited the EU Schengen zone without visas in 2017. Despite the fact that this is less than 1% of the country's population, most of which continues to live in poverty and cannot afford to travel, these changes were of great symbolic importance - according to 25% of Ukrainians, this was the main political event of the year⁸⁸. Nevertheless, the most difficult work is still ahead, and further rapprochement with the EU will not be easy. Kiev is somewhat disappointed that deepening ties with the European Union did not bring with it either the prospect of membership or the large-scale financial assistance that other new members of the union had previously received. The government approved an ambitious plan to join the EU Schengen zone, the Customs Union, the Energy Union and the Single Digital Market.

Results of analyses in the work of E. Sheinin have showed that according to independent estimates, during 2017, a total of 10 of 89 (or 11%) legal provisions were implemented⁸⁹. The stated aspirations also face the problem of low professional potential of senior political leadership. Reform of the public administration system is in full swing, and key "players" - such as, for example, the administration of the First Vice Prime Minister responsible for European integration, are becoming more competent, but the government as a whole is still unable to effectively implement reforms on the path of European integration.

The discrepancy between desires and opportunities gives credibility to the suspicion that a significant part of the ruling elite simply imitates unification with Europe, as their predecessors did before 2014, and is engaged in - as it was called in the 2000s - "declarative Europeanization". Several authoritative politicians see the EU mainly as a declarative resource for the elite who want to maintain Western support, which is manifested in its sanctions against Russia, obligations under the Minsk agreements and economic support⁸⁶. Some political scientists expected a "counter-revolution" in Ukraine, because the elite that came to power as a result of the Euromaidan in the wake of pro-European slogans, itself impeded the reforms. Unofficially, such a sceptical point of view is quite common in Brussels.

There is an opinion that Ukraine is unable to change quickly thanks to reforms under

⁸⁸ Vodyanov, A. The Dilemma of the State Investment Strategy. Ukrainian Economic Journal, No. 10. 2017. Pg.12

⁸⁹ Sheinin, E. Will the EBRD Help Economic Reforms in Ukraine? Foreign Trade No. 22, 2018. Pg. 9

the auspices of the EU, and there is growing disappointment that the country is returning to the past and in many ways still resembles a privatized state. Soon, this trend will continue, as the attention of the government is almost completely focused on the 2019 elections.

As a result, the political recommendations of the West remain almost without attention. Soon, the EU will consolidate the successes achieved in Ukraine over the past 4 years, in the hope that the Association Agreement is a firm commitment of Ukraine to the right development vector, despite potential crisis moments during the election.

3.2 Implementation of international legal norms into legal system of Ukraine

Ukraine must be a full-fledged player in this not yet fully developed field, which, by the way, is undergoing certain transformations. Last but not least, the attitude of the state to its international obligations and the effectiveness of their implementation play an important role. The effectiveness of the law, including international law, depends on both the quality of preparation of the legal act and the proper organization of its implementation. The application of treaties as part of national law has a number of features and requires detailed regulation, which should become an integral part of modern legislation. Until 1990, the problem of the relationship and application of international law was mainly in the stage of theoretical development and therefore still not completed the formation of a holistic mechanism for its implementation.

After the Constitution of Ukraine of 1996 determined that a new component of a rather specific nature was included in the national legal system, the problem of the relationship between international and national systems of legal regulation underwent a rapid evolution of views and approaches in a relatively short period⁹⁰.

The issue of the procedure for applying the norms of international treaties has acquired a new quality, although so far many measures have not been taken to address it properly. The introduction of international law into national law and, moreover, its effective application is a very complex, laborious and long-term issue. It requires not only the adoption of a rule of law, or even the Constitution, but requires the creation of an appropriate mechanism that will ensure the implementation of international norms, taking into account the peculiarities of the national legal system. In determining the relationship between these two legal systems, one can agree with the view that domestic law should be harmonized with international law in such a way as to ensure the implementation of the latter. In this sense, we can talk about the primacy of international law.

⁹⁰ Chernichenko S.V. Theory of international law: In 2 vols. - Vol. 1: Modern theoretical problems. – M.: Ed. "NIMP", 1999. - p.147.

Since independence, the Verkhovna Rada⁹¹ of Ukraine has ratified, accepted or agreed to accede to more than 1,000 international treaties. These agreements concern issues of politics, economy, finance, obtaining international loans and credits, protection of human and civil rights and freedoms, activities of Ukraine within intergovernmental organizations, sending contingents of the Armed Forces of Ukraine to other countries, admission of foreign forces to Ukraine and more.

First of all, international agreements were concluded in order to establish common approaches to solving global problems, regulate cooperation with other states, their state bodies, international organizations, and not to perform regulatory functions within the country. An international treaty usually differs from a domestic legal act in structure, subject and subject of regulation. Its norms are created not in the state by its legislative bodies, but by the contracting parties, although taking into account national legislation.

Therefore, this array is mostly very difficult to systematize, contains a significant number of provisions that need to be clarified on the procedure for their application, may introduce or require the introduction of laws and procedures, and may sometimes contain conflicting rules. But it is a part, and quite significant both in the number of acts and the importance of issues to be resolved, the legal system of Ukraine.

In 1986, the Ukrainian SSR acceded to the 1969 Vienna Convention on the Law of Treaties (hereinafter referred to as the 1969 Vienna Convention), Article 53 of which states that an imperative norm of international law is a norm accepted and recognized by the international community as a whole. as a norm, deviation from which is unacceptable. The legal system of independent Ukraine, which began to take shape on the basis of the Soviet legal system, was not always ready to put into practice the principle of the priority of international law. This is due to the peculiarities of international law.

At the same time, the processes of globalization have necessitated the widespread use of international law by states to coordinate actions not only in traditional areas, but also in such areas that were previously the subject of their national legal regulation. The legal systems of most states are monist-oriented, but differ in that they recognize the rule of domestic law as equal to the rule of international law or has the supremacy of the rule of international law over by law.⁹² Only in 1991 did the Law of Ukraine “On the Effect of International Agreements on the Territory of

⁹¹ Verkhovna Rada – «Supreme Council of Ukraine» - the unicameral parliament of Ukraine.

⁹² Chernichenko S.V. Theory of international law: In 2 vols. - Vol. 1: Modern theoretical problems. – M.: Ed. "NIMP", 1999. – p. 148.

Ukraine” stipulate that international agreements concluded and duly ratified by Ukraine constitute an integral part of the national legislation of Ukraine and are applied in accordance with national legislation. In 1993, the Law on International Treaties of Ukraine already provided that if an international treaty of Ukraine concluded in the form of a law establishes rules other than those provided by the legislation of Ukraine, the rules of the international treaty of Ukraine apply.

The Constitution of Ukraine in 1996 enshrined one of the types of monistic concept, according to which international treaties approved by the Verkhovna Rada of Ukraine are part of the national legislation of Ukraine. The new Law “On International Treaties of Ukraine”, adopted in 2004, again stipulates: “If an international treaty of Ukraine entered into force in the prescribed manner, established other rules than those provided for in the relevant act of legislation of Ukraine, the rules of the international agreement apply”.⁹³ The Rules of Procedure of the Verkhovna Rada of Ukraine did not take into account the specifics of the adoption of laws on ratification of international treaties, which differs from the adoption of other laws of Ukraine. This specificity is disclosed in Article 18 of the 1969 Vienna Convention and is, inter alia, that if a state has agreed to be bound by a treaty before it enters into force, it will not unduly delay the entry into force of the treaty.

The existence of an external factor such as an obligation to another subject of international law requires an appropriate level of regulation of the ratification process of an international treaty in order to ensure a clear solution to the question of whether to commit to or remain free from such treaties. Delays often contradict the requirements set out in the text of the contract regarding the dates of entry into force of the agreements.

Yes, some of the credit or other financial agreements provide for a specific date of entry into force after their signing. If such an agreement does not enter into force within the specified period, the international financial organization has the right to terminate the agreement after considering the grounds for delaying the ratification of the treaty.⁹⁴ For example, non-compliance with the requirements of the Loan Agreement (Social Protection Support Project) with the IBRD for its ratification within the specified period has jeopardized the failure of the agreement reached.

At one time, the Loan Agreement (Housing Development Project), Loan Agreement (Treasury System Project), Counter-Guarantee Agreement (Pre-Export Guarantee Support Fund Project), Loan Agreement (Rural Restructuring Loan) were canceled. economy), the Loan Agreement (Treasury System Project), which were concluded by Ukraine with the IBRD, as well as a number of loan agreements concluded with the EBRD.

⁹³ Lukashuk I.I. Norms of international law in the legal system of Russia. - M.: Publishing house "Spark", 1997. -p. 30

⁹⁴ Mullerson R.A. “Correlation between international and national law “., 1982. - p. 29

Agreements with international economic organizations provide for certain safeguards against delays in their implementation. In particular, some loan agreements stipulate that 60 days after signing, the borrower is obliged to pay a commission on the amount of unused credit in the amount determined by the agreement.

Delays in the ratification of international treaties also significantly affect the implementation of the goals for which they were concluded. Thus, the short period of time between the entry into force of the Guarantee Agreement (Energy Market Development Project of Ukraine) between Ukraine and the EBRD and the final date of the loan set by this agreement made it impossible to implement the project on time. In addition, over the period since its signing, there have been changes in the structure of Ukraine's energy sector. Significant funds are spent on each project prepared by the IBRD.

As a result, such delays caused significant damage to the other party. Only in October 2010, the Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine" was amended, according to which the bill on consent to the binding nature of an international treaty of Ukraine is included in the agenda of the Verkhovna Rada without voting. In the contractual practice of Ukraine, there were examples when signed international agreements were submitted by the relevant bodies to the Verkhovna Rada of Ukraine with a significant delay.

Thus, the Agreement on the Establishment of the Interstate Eurasian Union of Coal and Metal was submitted to the Verkhovna Rada only one and a half years after its signing; The Guarantee Agreement (Energy Market Development Project of Ukraine) between Ukraine and the EBRD was signed on December 13, 1995, and received by the Verkhovna Rada on September 20, 1996, etc. The settlement of the problem was facilitated by the indication in the current Law of Ukraine "On International Treaties of Ukraine" that proposals for ratification of an international treaty of Ukraine are submitted by the Ministry of Foreign Affairs of Ukraine within 6 months from the date of its signing. Although Ukraine is generally attentive to its international obligations, consistent and painstaking work is needed to ensure the organic application of international law as part of national law⁹⁵.

3.3. Results of the implementation of the previous EBRD strategies in Ukraine until 2021

The process of Ukraine's cooperation with the EBRD is characterized not only by a wide range of industries and activities, but also by a rather positive dynamic in terms of the number of projects and the amount of funding. In recent years, Ukraine ranked third in terms of the Bank's investments (after Russia and Poland), which reached approximately 8.7% of the Bank's signed

⁹⁵ Lukashuk I.I. "International law". Special part, 1998. - p. 72

liabilities.

This achievement is very important, given that in previous years Ukraine ranked fifth in terms of funding commitments. As of March 31, 2017, the Bank has invested in 96 projects with a net cumulative volume of operations worth € 2,896 million, private sector projects account for 72% of net cumulative operations, and projects without government guarantees account for 67% of net cumulative operations⁹⁶. In terms of the Bank's distribution of financing by industry, 31% of the portfolio relates to infrastructure, approximately 21% to non-specialized industries, 20% to specialized industries (mostly agribusiness), 20% to financial institutions, and the remaining 8% are projects in energy. In terms of the number of projects, the largest number (32) are projects in specialized industries, there are also 23 projects in the field of financial institutions and from eight to 19 projects in each of the other industries. During the previous strategy, there was a steady upward trend in annual funding commitments.

According to the annual report EBRD: "Operating assets grew steadily from € 570 million at the beginning of the period to € 737 million at the end of 2016"⁹⁷. As a result of the addition of certain large low-cost infrastructure projects, the percentage of operating assets in the Bank's portfolio fell from 61% at the end of 2016 up to 44%. However, with the start of funding in 2006, this trend is expected to be reversed.

In the past, the EBRD's priorities in Ukraine have been to encourage foreign direct investment and risk sharing with such investors, as well as to invest in medium-sized projects in Ukraine in the field of production and agribusiness⁹⁸. This was done through the Bank's active participation in financing key foreign investors, such as Mittal Steel Ukraine, and through cross-border projects with sponsors from the Bank's countries, such as the Polish companies Cersanit and Barlinek.

Good examples of investments in medium-sized enterprises were the loan provided to the Ukrainian pharmaceutical company Farmak and the investment in the share capital of Ukrsnab, a leading manufacturer of refrigeration equipment. The focus on providing more equity and longer-term investment and credit financing, as well as facilitating syndication, has been fully implemented, and the share of equity in the Bank's portfolio has increased by 25% over the period under review, reaching 9.3% in the period under review as of April 30, 2017⁹⁹. The share of syndicated lending also increased significantly during the period under review.

⁹⁶ Titov, K. Social policy of the European Bank for Reconstruction and Development in Central and Eastern Europe. National University of Tax Service of Ukraine, 2010. Pg. 44

⁹⁷ Annual report EBRD, 2016, London, EBRD. – Pg.43

⁹⁸ Regulation of the National Bank of the Ukraine No. 89-P "On the procedure for calculating by credit organizations the size of market risks". September 24, 2009.

⁹⁹ Annual report EBRD, 2015, London, Litho tech Colour Printers Ltd. Pg. 40

Achieving the goals of increasing transparency and improving corporate governance in local projects in the private sector and supporting projects related to environmental protection and energy efficiency during the period under review was facilitated by the provision of significant credit for the Ecoenergy project at the Alchevsk Metallurgical Plant. This project will provide significant benefits for environmental protection and energy savings and is the first joint project with a large industrial group owned by Ukraine (the Donbass Industrial Union) and moving towards higher standards of corporate governance and transparency.

Regarding the indicators in the financial sector - as of October 30, 2017, the portfolio amounted to 1.745 billion euros, which represents a doubling of the portfolio during the period under review¹⁰⁰. The volume of operating assets reached 737 million euros, with the volume of non-profit assets - only 0.3% of total operating assets; although the total risk of the entire portfolio in Ukraine is estimated at 5.72, which is higher than the Bank's average of

5.49. In general, the funding ratio (external financing / EBRD financing) is 2.0. The rate of fundraising also improved significantly during the previous Strategy period, with an average annual gross disbursement of € 270 million and an average annual increase in net operating assets during this period of € 130 million. The level of cancellation of projects in the public sector also decreased significantly, and the share of operating assets also increased, which primarily reflects the improvement of coordination between the Bank and the Government of Ukraine through regular monitoring meetings agreed in accordance with the multi-annual Cooperation Program.

Attracting co-financing:

The level of commercial co-financing has significantly increased to 100% of the Bank's financing, compared to previous years. Cooperation with other IFIs and donors has also been successful, with € 16 million in donor funding received over the last three years to support EBRD investments, with a focus on the financial and infrastructure and energy sectors. The significant increase in co-financing reflects the growing role of Ukrainian enterprises in the syndication markets. The work of G. Eliseev has pointed that it was also due to the start of the EIB's operations in Ukraine and its co-financing of € 200 million for the M06 speedway project with the Bank¹⁰¹. Regarding the financial institutions sector, the Bank was also the lead co-lender in providing the first medium-term syndicated loan to Kreditprombank.

1) Banking - The Bank's activities during the period under review included a

¹⁰⁰ Annual report EBRD, 2015, London, Litho tech Colour Printers Ltd. Pg. 41

¹⁰¹ Eliseev, G. Projects Financing the Transport System of Ukraine. External Trade No. 10, 2018. Pg. 58

framework program for selected banks for the purpose of further lending to private sector enterprises, a syndicated loan from Kreditprombank and the provision of a mortgage credit line to Raffisenbank. P.Smirnov has identified that the transparency concerns and other negative corporate governance factors prevented the Bank from implementing new equity projects¹⁰².

2) Investment Funds - During the previous Strategy, the Bank increased its funding commitments to Euroventures and made new commitments to provide funding to the SigmaBleyzer Southeast European Fund, which operates mainly in Ukraine. In general, despite some increase in the activity of investment funds, the investment environment remains difficult, and significant further reforms are needed to develop a viable private equity sector.

3) Natural resources - The Bank's presence in this area was realized by providing two loans for the Balkan Gas Transit project and a loan to the company engaged in retail trade in petroleum products "Galnaftogaz", as well as the first investment in the share capital of the company engaged in oil exploration and production. and Cadogan Petroleum gas. These projects have achieved their goals, increasing financial transparency, improving the performance of enterprises, improving gas transportation, trade in petroleum products and the introduction of modern production technology¹⁰³.

4) Real Estate and Tourism - The real estate and tourism industry in Ukraine is characterized by a complex and non-transparent investment climate, and the Bank has participated in only a few projects, such as Heitman Central Europe Property Partners Fund II and Orco Aparthotels in Kyiv. For future activities, the real estate and tourism sector needs further legislative and regulatory reforms, better regulation at the local level and the expansion of best international practices.

5) Electricity - The Bank provided a loan to modernize and improve the safety of the second power unit of Khmelnytsky NPP (KhNPP-2) and the fourth power unit of Rivne NPP (RNPP-4), which has already had a significant impact on improving nuclear safety in Ukraine. The experience gained from this project is that delays in procurement and project implementation often lead to increased costs and contract disputes between the customer and the contractor.

6) Transport - two projects in the railway sector were aimed at the transformation of the state railway company "Ukrzaliznytsia" on the principles of commercialization, for

¹⁰² Smirnov, P. Actual Issues of Ukraine's Participation in International Financial Organizations. Money and Credit, No. 4, 2010. - Pg. 8

¹⁰³ Naumovsky, L. EBRD operates in Ukraine. Foreign Trade, No. 19, 2017. Pg. 11

example, the corporatization and separation of freight and passenger transport from infrastructure. The Bank's activities in the road sector included project implementation and political dialogue¹⁰⁴.

For example, the Ukravtodor project helps to improve the financing of the road sector and management financial reporting. Finally, the Bank continued to support the participation of a foreign strategic investor ("Austrian Airlines") in the aviation industry, which provided an opportunity to implement some transfer of skills and achievements in corporate governance. The other two joint projects with Ukrzichflot (providing funding for the purchase of two new cargo ships) helped to improve accounting and management standards.

3.4. EBRD Legal Reform Program in Ukraine

In addition to supporting individual investment-related projects, the EBRD's activities are aimed at improving the regulatory environment of recipient countries. In particular, it is necessary to focus on the Legal Reform Program (LRP). The Legal Reform Program is an EBRD initiative to improve the investment climate in Central and Eastern Europe by promoting an investment-friendly and transparent regulatory framework. LRP measures are aimed at both the development of legal norms and the formation of legal structures and culture on which a dynamic, market-oriented economy is based. Consider some areas of LRP in Ukraine.¹⁰⁵

1. Legal basis for derivative transactions

In 2007, in support of the Derivatives Market Development Project, the EBRD assisted a working group of the Ukrainian Parliament in drafting regulations governing the securities market in line with Ukrainian legislation. with the Objectives and principles of securities market regulation established by the International Organization of Securities Commissions (IOSCO). The purpose of the project was to support the draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning Regulated Markets and derivatives" dated 20.11.2015 № 3498 and development of bylaws on issues covered by law (the draft law was adopted in the first reading). The implementation of the proposed legislative changes will allow in the future get transparent prices for any asset for all market participants; the state will have representative exchange price indicators; price risk management will improve; the risks of non-performance of contracts by counterparties will be reduced; common infrastructure and unified approaches will stimulate investment and economic development.

Also in 2008, the EBRD conducted a legal study, which detailed the provisions on the need to improve the efficiency of the regulator (NSSMC) and increase the disclosure requirements in the

¹⁰⁴ Eliseev, G. Projects Financing the Transport System of Ukraine. External Trade No. 10, 2018. Pg. 4

¹⁰⁵ Kolosova, V. P., Ivanova, I. M. "Finance of Ukraine" , 2004, P. 33–47

prospectus. This study was published in the law magazine “Law in Transition”, in which the Bank thoroughly covers quarterly trends in the development of law in the region, disseminates lessons learned and seeks to intensify discussions on legal reform in countries with economies in transition.¹⁰⁶

2. Consultations on e-reform policy procurement. Support in the final round of GPA negotiations

The project supports the development of a reform strategy within the framework of the implementation of a new e-procurement policy in Ukraine. Ukraine's accession to the World Trade Organization's Agreement on Government Procurement shows significant progress in public procurement reform. In addition, the example of Ukraine is very interesting for other countries that are currently undergoing similar changes. Following Ukraine's formal accession to the WTO GPA, which ended in May 2016, Ukrainian companies have been granted the right to participate in public procurement of 46 countries participating in the Agreement, including the EU, Japan, USA, Korea, Taiwan, Singapore, Hong Kong and Canada. The total volume of the WTO public procurement market is estimated at 1.7 trillion dollars.

The United States annually, which is more than 30 times the size of Ukrainian exports in 2014. WTO accession to the WTO is one of the areas of reform. This is the easiest way to export domestic goods, as public procurement does not require unnecessary costs for marketing or opening a representative office. Public tender procedures around the world are quite structured, which greatly simplifies participation in them. In addition to opening new opportunities for the state and business, public procurement reform performs another important function: it is a driver for structural change in Ukraine.

Thus, thanks to ProZorro, the state has already saved more than 1.7 billion UAH, and the number of tenders in the system has exceeded 100 thousand. EBRD LRP experts say that the ProZorro system is very interesting for EU countries. In April 2018, all member states had to switch completely to the electronic format of tenders, and the experience of Ukraine, which has become one of the world's innovators in this field, is valuable due to a unique combination of key reform principles (open source, open data and international standard open contracting).

The EBRD has already included the Ukrainian case in its guide as one of the best practices in e-procurement. International procurement standards, such as transparency and ease of access, equal rights and non-discrimination, have been a guideline for reform from the outset. It is on these principles that the ProZorro system is built, and it is on them that cooperation within the framework of the WTO GPA is based. Public procurement reform is exemplary in terms of high standards of

¹⁰⁶ Legal transition programme. Legal Reform Projects. 1996 to September 2015. EBRD

transparency and openness to society. To help businesses take advantage of new opportunities, the GPA Office has been established to support and advise Ukrainian exporters on GPA public procurement and importers from GPA member countries on their participation in public procurement in Ukraine.

3. Support of corporate governance of Naftogaz and Ukrtransgaz

The project aims to improve the corporate governance of Naftogaz and Ukrtransgaz in accordance with international standards, as well as to strengthen the legal and regulatory framework related to these companies.

The main provisions of the project are:

- bringing corporate governance in full compliance with the principles of corporate governance of state-owned enterprises (OECD);
- improving control over Naftogaz's management in order to ensure national interests;
- prevention of illegal political interference in the company's activities;
- creation of the Supervisory Board of Naftogaz and gradual expansion of its independence;
- introduction of the best modern practices of information disclosure, risk management, audit and management remuneration;
- separation of the gas transmission system operator - creation of a company with an independent (from Naftogaz and its governing bodies) corporate governance structure, in particular the Supervisory Board;
- changing the role of Naftogaz's corporate center - the transition to the time of reforms from non-transparent and inefficient "portfolio management" of assets to the role of "strategic controller" over subsidiaries (Ukrgezvydobuvannya, Ukrtransgaz, Ukrtransnafta, Ukrnafta, etc.)

Today, the National Joint Stock Company (NJSC) Naftogaz of Ukraine fully repaid the body and interest on the EBRD revolving loan of \$ 300 million. The revolving credit line operated until 2018, and the company expects to use the funds to inject gas during the next heating seasons.¹⁰⁷

4. Consultations on reforming relations in the field of concessions on implementation of infrastructure projects

Reforming concession legislation involves developing a new law on concessions by combining the best provisions of current laws of Ukraine, which regulate concession activities in various fields. These changes also provide for the harmonization of relevant relations with the law on public-private partnership, taking into account the best international experience, in particular

¹⁰⁷ Source: <https://www.vedomosti.ru/business/news/2015/10/23/614103-ebrr-naftogaz>
Date of access: 19.12.2021

model legislation on public-private partnership. The updated concession legislation will help attract strong international and Ukrainian investors to modernize and rebuild Ukrainian infrastructure. This will allow Ukraine to develop new road, port, energy and communal infrastructure facilities that meet international quality standards, create new jobs and boost economic growth. The selection of consultants was based on a tender announced by the EBRD in early June 2016. More than 20 leading international law firms participated in the competition. According to the results of the tender, the consortium identified a consortium led by the leading international law firm Hogan Lovells.

The project will be funded by technical assistance from international donors administered by the EBRD within the EBRD Special Shareholders' Fund and the Multilateral Donor Fund for Stabilization and Sustainable Development of Ukraine, established by the United Kingdom, Denmark, Italy, The Netherlands, Germany, Poland, the United States, Finland, France, Switzerland, Sweden and Japan.

5. Legal guidance on the draft law on electronic communications

The Bank conducts training and consultations for the staff of the National Commission for Communications Regulation of Ukraine on compliance of the legal framework with best legislative practice in competitive telecommunications markets, increasing the role of the regulatory body and transparency of pre-trial dispute resolution, as well as relative legal and regulatory risks. related to the activities of operators and providers of telecommunications services that invest in the telecommunications markets of their countries. As part of providing legal assistance to domestic lawmakers, the EBRD also raised the issue of the need for legislation to regulate the issuance of MFI bonds denominated in hryvnia in Ukraine and the further use of EBRD funds received from the placement of these bonds to finance resident projects in national currency.

In 2016, the issue of hryvnia-denominated bonds was not resolved, as a mechanism is needed to attract the national currency for long-term lending in it. To date, the NBU and the NSSMC have developed the necessary legislation: on July 4 2013, amendments were made to the Law of Ukraine “On Securities and Stock Market”, which allow the EBRD, IFC and other MFIs to issue bonds in national currency. MFIs may issue interest-bearing or discount bonds in the manner prescribed by the NSSMC only through public placement on Ukrainian stock exchanges, which were included in the list approved by the regulator as a result of competitive selection. The law stipulates that the funds raised will be used in the national currency in the country to finance the real sector. PFTS, Ukrainian Exchange and Perspektiva stock exchanges were given the right to place MFI bonds in public. Investors will be primarily domestic banks. Investment banks will

be able to buy bonds on behalf of clients. According to EBRD forecasts, the buyers will be local, not foreign players. At the same time, there are still a number of technical issues related to the distribution of risks, harmonization of international rules for issuing bonds with Ukrainian ones. Everyone fundamental issues have been resolved, but one important aspect remains: the issuance of bonds requires a corresponding market situation, which has not yet formed.

6. Initiative to support the use of national currencies and the development of national capital markets

This project is an important area of the EBRD's activities to intensify and deepen the transition process in the countries where it conducts investment activities. The initiative was launched in 2010 after the financial crisis and aimed at creating viable financing systems in national currencies and developing efficient and independent national capital markets that can mitigate major vulnerabilities in the EBRD's region of operations.

The NBU recently expanded the ability of MFIs to use hryvnia funds to finance projects in Ukraine. This decision was taken in response to an IFC request and enshrined in the NBU Board Resolution “On Amendments to Certain Legal Acts of the National Bank

Of Ukraine” dated 31.03.2016 № 225. The Resolution amends the Procedure for opening and using funds on MFI current accounts opened with authorized banks, approved by the NBU Board Resolution of May 19, 2014 № 286. The Instruction on the Procedure for Opening, Using and Closing National and Foreign Currency Accounts, approved, is also amended. Resolution of the NBU Board of November 12, 2003 № 492.¹⁰⁸

As a result, Ukraine will introduce a new, broader regime of current accounts, which MFIs open and use in authorized banks. From now on, MFIs will be able to use the hryvnia funds received by them as a loan from an authorized bank to lend to Ukrainian businesses. Previously, they were allowed to provide loans and borrowings only at the expense of hryvnia funds received from the sale of foreign currency on the domestic interbank foreign exchange market and the placement of their own bonds in Ukraine. The expansion of the MFI current account regime also applies to settlements in Ukraine on foreign investment transactions, insurance contracts, payment for products, services, works, etc. Thanks to this decision, the NBU MFIs will be able to increase credit financing in the hryvnia of domestic enterprises and, consequently, expand the access of domestic businesses to credit resources in the national currency. In order to stimulate economic development in the context of implementation priorities of cooperation between Ukraine and the EBRD are the priority attention of the Cabinet

Ministers of Ukraine should be given:

¹⁰⁸ Naumovsky, L. EBRD operates in Ukraine. Foreign Trade, No. 19, 2017. Pg. 12-14

- preparation of the EBRD's Strategy for Ukraine in the medium term 2017-2020, which would correlate with the program documents of the President of Ukraine and the Cabinet of Ministers of Ukraine, the Ukraine-EU Association Agenda, the Ukraine-2020 Strategy, the Coalition Agreement, as well as the Plan of Legislative Support of Reforms in Ukraine;

- implementation of the Strategy for Attracting, Using and Monitoring International Technical Assistance and Cooperation with International Financial Institutions for the Period after 2016, which would meet modern challenges and be based on ensuring national economic interests;

- implementation of the Public Finance Management System Development Strategy for the period after 2016 and the Medium-Term Public Debt Management Strategy after 2016, as well as ensuring timely preparation and implementation of projects, efficient use of borrowed resources by domestic borrowers and recipients, and improving the regulatory framework international financial and technical cooperation and the contractual basis of cooperation with international organizations, donor countries and the EU.

It is also advisable to adopt the Law of Ukraine "On International Technical Assistance", which defines the procedure for attracting and using ITD, in particular the implementation of relevant programs and projects, taking into account the goals, principles and provisions of national legislation and international treaties of Ukraine. The main purpose of the Law will be to attract financial resources in foreign and national currency, borrowing and exchanging experience for further development of relations in the field of ITD, as well as determining the range of benefits, privileges, legal guarantees for the protection of ITD. Thus, the study provides grounds to claim that Ukraine has been trying for 25 years to establish fruitful cooperation with a powerful donor - the EBRD. Based on the results of the analysis, it can be concluded that the relevant positive results have been achieved, but a number of issues remain that hamper relations with the Bank. Thus, on the one hand, cooperation with the EBRD is a reliable and stable source of long-term financing of priority development projects, allows to obtain credit resources on favorable terms for the development of strategically important sectors of economy and infrastructure, structural reforms, state budget financing and balance of payments. access to international best practice, standards and professional expertise of projects, and on the other hand, MFI loans create long-term debt dependence, although they provide assistance in the short term.

3.5. Strategic guidelines in accordance with the Program of Cooperation between the Government of Ukraine and the EBRD during 2017-2021

Today, considering the improvement of the economic and financial situation in Ukraine,

increasing demand for medium and long-term financial resources from business, we can say that the EBRD's strategic guidelines for Ukraine are changing for the better, namely increasing funding, investing in national and commercial projects.

The bank's priorities are, first of all ¹⁰⁹:

- promoting efficiency, competitiveness and diversification of the economy;
- raising corporate governance standards in the Ukrainian private sector and promoting foreign direct investment;
- promoting the further development of capital markets and providing ongoing support to micro, small and medium-sized private enterprises by providing targeted long-term credit lines together with partner banks; promoting energy efficiency and energy security, and the sustainable use of natural resources in all sectors of the economy;
- improving the efficiency and reliability of key transport infrastructure, production, transmission and distribution of electricity, utilities and oil and gas transportation systems of Ukraine.

In order to address the challenges of individual industries that are emerging today, the Bank offers additional products and develops new approaches in the public and private sectors by using its experience gained in working in countries that have advanced in the transition to a market economy¹¹⁰. In particular, the Bank will actively consider the possibility of financing without the use of state guarantees for those state-owned enterprises in the fields of transport, electricity, telecommunications and natural resources that have made significant progress in corporatization, restructuring and transparency.

As part of its national currency financing program, the Bank will offer hryvnia financing in the utilities sector, in the consumer and mortgage lending market, and to enterprises that have unhedged risks to national currency exchange rate fluctuations¹¹¹. A key element in providing financing for large infrastructure projects with a trans-European dimension will be the cooperation and co-financing of such projects with the EIB under the agreements reached between the EIB and the EBRD for the CIS region. The Bank will also seek to continue to attract and use grant funding from the EU and other donors to support infrastructure, utilities, energy efficiency and renewable energy projects, as well as coal mines safety projects.

In the private sector, the Bank will seek to further increase the share of equity in its

¹⁰⁹ Annual report EBRD, 2017, London, EBRD. Pg. 12.

¹¹⁰ Naumovsky, L. EBRD operates in Ukraine. Foreign Trade, No. 19, 2017. Pg. 1

¹¹¹ Annual report EBRD, 2017, London, EBRD. Pg. 49

portfolio and continue to expand syndicated lending opportunities in terms of loan terms and terms, and by introducing Ukrainian borrowers to more syndicated lending market participants¹¹². The Bank will also seek to support the diversification of the Ukrainian economy by identifying projects suitable for bank lending in the automotive, aerospace, media and telecommunications sectors.

The results that the Bank can achieve under the proposed Strategy at the end of 2019 depend on the progress of the reform process in the coming years. It is hoped that the Government of Ukraine, in addition to its ambitious program of investment in state infrastructure, will remain committed to reforms in the corporate sector, capital markets and tax and judicial reforms.

The Bank will continue to increase the priority of its activities in the regions by opening a second Representative Office in Dnipropetrovsk, which will support the expansion of the Bank's activities in the eastern regions of the country. Based on the experience of opening this Representative Office during the Strategy period, further expansion of activities in the western and southern regions of Ukraine will be considered.

Sectoral objectives and priorities: In implementing the Strategy Plan, the European Bank for Reconstruction and Development is trying to involve all areas of activity in Ukraine¹¹³. Ukrainian business comes to the fore - support of enterprises, modernization of production, increase of energy efficiency. No less important is the issue of energy. Europe is

one of the largest consumers of energy, so it is very important to support Ukraine in order to increase efficiency and reliability of supply, because it can eventually become the main supplier of energy to Europe.

A. Vodyanov has identified that the real estate in Ukraine is rising in price very rapidly than anywhere else in Europe. Therefore, a very important task is first the modernization and privatization of some real estate that is still state property¹¹⁴. After all, it is possible that one day it will be bought as real estate in the heart of Europe.

Tourism is also an integral part of the real estate business, because in Ukraine there are many hotels that need immediate modernization. This is especially true for cities where tourism is a source of income. All sectoral tasks can be divided into: companies, energy efficiency, energy, natural resources, transport, financial sector and financing of micro -, small and medium enterprises, microcredit and financing of small and medium enterprises,

¹¹² Sheinin, E. Will the EBRD Help Economic Reforms in Ukraine? Foreign Trade No. 22, 2018. Pg. 9

¹¹³ Annual report EBRD, 2017, London, EBRD. – Pg. 22

¹¹⁴ Vodyanov, A. The Dilemma of the State Investment Strategy. Ukrainian Economic Journal, No. 10. 2017. Pg. 14

agribusiness, real estate and tourism, telecommunications. Consider each of them in more detail.

1) Companies: the bank will continue to provide financing to Ukrainian and foreign companies. The main priority in the manufacturing sector will be to support Ukrainian enterprises in their efforts to improve energy efficiency, modernize and implement international environmental standards. This will include funding for some large Ukrainian companies that have made significant progress in improving transparency and corporate governance, with priority given to projects that include significant improvements in energy efficiency and environmental benefits in the metallurgical, chemical, engineering and automotive industries.

The Bank will also continue to increase the flow of foreign direct investment expected in agribusiness, consumer goods, metallurgy, capital equipment, building materials, real estate, oil and gas. Given that many European companies have begun relocating their production facilities further east in order to reduce costs, Ukraine will continue to be a good location for such facilities, given its proximity to the EU market and the availability of skilled labour¹¹⁵.

The Bank is particularly interested in supporting cross-border investments in Ukraine by enterprises from the Bank's countries neighbouring Ukraine, such as Poland and Russia, and investments by Ukrainian enterprises in the region.

2) Improving energy efficiency: improving energy efficiency is a key priority of the Bank's activities for the period of the Strategy until 2019. Ukraine is one of the most energy-intensive countries in the world and has a huge potential for improvement¹¹⁶. Rising Russian gas prices and persistently high oil prices on world markets have led to gradual tariff increases and created stronger incentives for energy consumers to address efficiency problems, particularly in the industrial sector. This is an important opportunity for the Bank to make a significant impact on the transition in the economy through the implementation of energy efficiency projects with a large-scale demonstration effect. Improving energy efficiency offers a powerful mechanism for achieving the Bank's goals of transition to a market economy in Ukraine. First, increasing energy efficiency will reduce energy costs, thus increasing the competitiveness of enterprises and directly increasing the welfare of Ukrainian consumers (in particular, in the context of rising energy prices). Second, reducing energy demand will reduce energy security concerns by reducing Ukraine's dependence on imported fuel. Third, improving

¹¹⁵ Schrepler, H. International Economic Organizations. Kyiv, University of International Relations, 2018. Pg. 132

¹¹⁶ Corzine, R. EBRD to continue involvement in Ukrainian energy deals. Financial Times. August, 1995. Pg. 22

energy efficiency benefits the environment and promotes new services and jobs¹¹⁷.

Energy efficiency is of great importance for Ukraine's national security. Ukraine is heavily dependent on energy imports as a source of supply for most of its primary energy resources. For instance, R. Corzine has considered that given that most primary energy resources come from the Russian Federation, Ukraine is vulnerable to the political situation in the neighbouring country¹¹⁸. Reducing energy consumption through more efficient use is likely to help reduce this dependence.

One of the Bank's goals for the transition to a market economy will be to continue its initiatives aimed at improving energy efficiency in all sectors of the economy: through direct lending in the corporate sector and by expanding lending through intermediaries through credit lines to improve energy efficiency. This involves providing not only financial resources but also technical advice to identify and implement a wide range of investments to improve energy efficiency, particularly in the industrial sector.

The main priorities for energy efficiency activities will be the following¹¹⁹:

- Increased investment in energy efficiency in industries;
- The Bank will encourage its customers to assess energy efficiency opportunities as part of any joint project with the Bank. Technical assistance resources will be provided for energy audits and training in energy management;
- The Bank will actively promote energy efficiency opportunities to attract new customers for whom energy savings are part of their corporate strategy;
- Financing small and medium-sized energy efficiency and renewable energy projects under targeted credit lines - the Ukrainian Energy Efficiency Program for Banks (€ 100 million);
- Improving dialogue with donors by participating in the Working Group on Energy Efficiency and Renewable Energy;

Facilitate the purchase of carbon credits from customers under the Netherlands Carbon Fund and the Multilateral Carbon Credit Fund. The Bank will work with the Ministry of Fuel and Energy and the Ministry of the Environment to develop the institutional capacity to approve the sale of carbon credits and to assist clients, particularly in the energy and utilities sectors, in identifying and preparing carbon credit agreements¹²⁰.

¹¹⁷ Annual report EBRD, 2018, London, EBRD. Pg. 31

¹¹⁸ Corzine, R. EBRD to continue involvement in Ukrainian energy deals. Financial Times. August, 1995. Pg. 24

¹¹⁹ Annual report EBRD, 2018, London, EBRD. Pg. 43

¹²⁰ Corzine, R. EBRD to continue involvement in Ukrainian energy deals. Financial Times. August, 1995. Pg. 29

3) The Energy: Ukraine can become an important player in meeting Europe's energy needs. With one of the Bank's highest levels of energy intensity in the region, Ukraine needs investment in all sectors of the sector to improve efficiency and security of supply¹²¹. Without significant investment, which will eventually require the participation of the private sector, Ukraine may face a threat of energy shortages in the medium term.

Goals of the transition to a market economy¹²²:

- Completion of the liberalization process, including reform of the tariff formation system, in order to attract investment;
- further development of legislation related to the Concept of the Wholesale Electricity Market, in order to enable the use of bilateral contracts;
- strengthening the independence of the regulatory body;
- restructuring of large amounts of debt in the industry that have accumulated over the past periods; and

Priorities of activity¹²³:

- assisting the Government in resuming the privatization process and readiness to provide pre-privatization and post-privatization financing to enterprises in the industry;
- until the beginning of the next stage of privatization, financing the modernization of distribution assets in state-owned companies in order to increase the efficiency, quality and reliability of supply, as well as improve corporate governance. Subject to the creditworthiness of state-owned enterprises, the provision of financing without state guarantees, in order to encourage sound financial practices and achieve a significant demonstration effect;
- The Bank will promote the implementation of renewable energy projects as an alternative to fossil fuel projects, and will engage in policy dialogue and technical assistance funding to implement renewable energy tariff structures to support such projects;
- Participate in political dialogue with the Government and coordinate with other donors and IFIs to facilitate the necessary structural and regulatory reforms in line with the above-mentioned Market Economy Goals.

4) Natural resources: Ukraine is a net importer of oil and gas and provides only 18% of current oil and gas consumption from its own production resources. Ukraine has large coal deposits, estimated at 6.5 trillion tons, with proven reserves of 117 billion tons, but the industry remains largely unreformed. Ukraine's main role in the field of natural resources is the transit

¹²¹ Corzine. R. EBRD to continue involvement in Ukrainian energy deals. Financial Times. August, 1995. Pg.31

¹²² Annual report EBRD, 2019, London, EBRD. Pg. 26

¹²³ Annual report EBRD, 2019, London, EBRD. Pg. 28

of oil and gas to Europe from Russia and the Caspian region¹²⁴. However, this important resource artery is based on the operation in many cases of a 30-40- year pipeline, low-power and energy-inefficient compressor stations, inadequate storage, and weak control and measurement function due to obsolescence and inefficiency of measuring equipment and insufficient metering equipment in the main points of entry into and exit from the territory of Ukraine.

Goals of the transition to a market economy¹²⁵:

- Reconstruction and modernization of transit infrastructure to ensure energy security, promote energy efficiency, and improve the control and measurement system to ensure transparency and governance;
- Improving the management and transparency of the system of NJSC "Naftogaz of Ukraine" and promoting the commercialization of NJSC;
- Assist in financing private sector investment through more open government policies and increased regulatory transparency;
- Increasing the use of domestic oil and gas and clean coal technologies, such as modern coal gasification technology, and modernizing power plants to replace technologies with cleaner ones.

5) Transport: The Bank will continue to play a key role in the development of Ukraine's transport infrastructure. A key change in strategy will be the gradual transition to funding without government guarantees in the transport sector: for example, the Ukrzaliznytsia projects, the Air Traffic Control Center and possibly the Ukrposhta.

Goals of the transition to a market economy:

- Completion of the corporatization of the Ukrzaliznytsia and continuation of reforms in the railway sector, including simplification of access for private operators;
- adoption of modern legislation on road concessions, which would create an opportunity to invest in the road sector using public-private partnership (PPP) mechanisms;
- development of sectoral strategies for regional airports and sea and river ports of Ukraine in order to eliminate bottlenecks, increase the efficiency of passenger and freight traffic, improve air navigation;

Priorities of activity¹²⁶:

- completion of the modernization of the M06 road connecting Kyiv with the EU

¹²⁴ Sheinin, E. Will the EBRD Help Economic Reforms in Ukraine? Foreign Trade No. 22, 2018. Pg. 25

¹²⁵ Annual report EBRD, 2019, London, EBRD. Pg. 28

¹²⁶ Annual report EBRD, 2018, London, EBRD. Pg. 31-32.

border, as well as financing of projects on other important international transport corridors;

- supporting the process of modernization of the Ukrainian aviation industry and improving air safety, creating the necessary infrastructure, including through the consolidation of the aviation industry.

6) Financial sector and financing of micro, small and medium enterprises: the process of Ukraine's cooperation with the EBRD is characterized not only by a wide range of industries and activities, but also by a rather positive dynamic in terms of funding. According to the Annual report EBRD: "Total financial commitments for projects for the entire period of the EBRD's activity in Ukraine exceeded 1.7 billion euros. Of this amount, a significant percentage falls on small and medium enterprises"¹²⁷.

Goals of the transition to a market economy:

- Supporting the development of domestic capital markets;
- encouraging foreign investment in the banking sector as a means of strengthening the capital base of Ukrainian banks, as well as strengthening competition;
- leasing and pension funds.

Priorities of activity:

- supporting the growth and institutional development of banks with Ukrainian owners by investing in their capital and providing long-term financing to the banking system in the form of subordinated loans, syndicated loans, credit lines for SMEs or to improve energy efficiency;
- search for new medium and small partner banks, especially in the regions;
- participation in the political dialogue on the strategy for two state-owned banking institutions (the Ukreximbank, the Oschadbank);
- development of financing instruments in the national currency based on the approach that has already been used in Russia and other countries;
- active participation in the creation of new sectors of health insurance, leasing, pension funds and consumer lending.

Also, one of the newest projects that can help Ukrainian legal system is «Online-courts».

The European Bank for Reconstruction and Development has announced the launch in Ukraine of a pilot project to provide assistance in the creation of online courts

¹²⁷ Annual report EBRD, 2017, London, EBRD. Pg. 55

for considering claims of low cost: from 5 to 10 thousand euros, which is then planned to be extended to other countries.

The project starts in Ukraine, where 49% of companies surveyed in Kiev reported that the courts are the main or very serious obstacle to their activities. As explained by the EBRD, online courts involve a remote dispute resolution procedure, from filing a claim and ending with a decision. These courts are available directly to litigants and their representatives, and are complemented by services and tools to facilitate access to justice and participation in the trial.

As a first step, the EBRD is launching a comprehensive assessment of court performance and performance standards based on the best international, European and national commercial court practices. These standards will set performance targets for the concept and development plan for online courts, which will be developed in the second phase, highlighting the necessary legal, technical and budgetary prerequisites for their creation. The concept and roadmap developed at the second stage for Ukraine can be replicated in other economies where the EBRD invests, the message explains.

For the pilot project, we chose the category of low-cost cases, since in this case the cost of court costs and delays in proceedings are disproportionate and are unfair obstacles to justice. At the same time, these barriers can be removed through online courts, which will improve access to justice for small and medium-sized businesses. The EBRD indicates that according to the World Bank, the cost of resolving a commercial dispute through the local court of first instance in Serbia averages 39.6% of the cost of a claim, while in Ukraine this figure reaches 46.3%, and in the Kyrgyz Republic - 47%.

As the bank notes, the pandemic has increased the relevance of the issue of accessibility of ships in the countries where the EBRD operates. This is explained by the overload of the judicial system with cases, as well as the cost and duration of the process, and the high level of its complexity.¹²⁸

At the same time, in such developed economies as Canada, the United Kingdom or the United States, online courts have shown impressive results, the EBRD notes. The EBRD pilot project aims to develop a system based on the experience of these countries

¹²⁸ Source: <https://sud.ua/ru/news/publication/218720-v-ebrr-khotyat-integrirovat-onlayn-sudy-v-ukrainskuyu-esits>
Date of access 20.12.2021

and make it available to the countries of the Western Balkans, Eastern Europe, the Caucasus and Central Asia.

3.6. Issues of cooperation between the EBRD and Ukraine

Today, unfortunately, there are obstacles to successful cooperation between Ukraine and the European Bank for Reconstruction and Development, some of which are related to the problems of obtaining a loan for a specific project, and some to general problems related to the level of the economy.

Common problems include:

1) The state of the investment environment - to date, the volume of foreign investment in Ukraine has not yet reached a high level. Results of analyses in the work of E. Sheinin have showed that the level of future investments of the Bank will directly depend on the extent to which our country will be able to improve the investment environment through real changes towards consistent improvement of the tax regime, proper management of regulatory processes and the creation of a truly independent judiciary¹²⁹. Also, today there is the problem of corruption and the problem of non-compliance of Ukrainian companies with world standards of corporate governance and financial transparency.

1) Effectiveness of EBRD assets in Ukraine - the fact that with the overall, rather dynamic growth of EBRD project commitments in Ukraine, the share in the portfolio of so-called "working assets" (ie selected and actually placed in projects) (less than 40) is worrying %) is lower than the average for the Bank's countries of operations (57%).

The Bank has identified the main causes of this phenomenon, which are inherent, first for projects in the public sector¹³⁰, namely:

a) delays in the fulfilment by the Ukrainian side of the project conditions, especially regarding counterparty financial obligations;

b) delays in the ratification of projects by the Verkhovna Rada;

c) administrative changes that led to a change in the borrower, the volume and other parameters of projects;

c) errors in the preparation of some projects, especially regarding the selection of foreign sponsors, etc.

It is obvious that successful cooperation with the EBRD depends on accelerating the growth rate of the Bank's "working assets", which will depend on the elimination of the above

¹²⁹ Sheinin, E. Will the EBRD Help Economic Reforms in Ukraine? Foreign Trade No. 22, 2018. Pg.21

¹³⁰ Smirnov, P. Actual Issues of Ukraine's Participation in International Financial Organizations. Money and Credit, No. 4, 2010. - Pg. 22

reasons.

2) VAT refund - another problematic issue of Ukraine's cooperation with the EBRD, which complicates the implementation of some Bank projects, is the late refund of value added tax to these and other enterprises. This question has been raised by investors and the EBRD management on many occasions.

As for the problems of granting a loan for a project, one of the problems is the term of obtaining a loan, when most entrepreneurs need funds urgently. Today, the procedure for obtaining a loan from the EBRD lasts from three months to a year, and the time of execution of documents in any case does not depend on the size of the desired loan - in principle, a loan of 50 thousand dollars and \$ 2.5 million require the same time and registration costs¹³¹.

The main obstacle to the requirements for the project is the strict requirement of the EBRD when using a loan, which can be used only for the purchase of foreign goods and services. Not to mention that such a restriction stimulates Western exporters and puts domestic producers in the appropriate dependence on raw materials, components, etc. It is unclear why Ukrainian entrepreneurs should buy only imported goods if they can buy domestic ones at a lower price¹³².

The EBRD's environmental requirements also cause a lot of trouble for Ukrainian entrepreneurs who want to get a loan from the Bank. Projects submitted to the EBRD for approval are divided into categories 1, 2 and 3 according to environmental risks. Further, V. Elizarov has considered that the most complex are the projects of the 3rd category, which provide for the construction of the production cycle. This requires many papers and permits (sanitary epidemiological station, fire department, architects), and most importantly - independent environmental expertise from the organization or person who has the appropriate license and experience of at least five years¹³³. It should be emphasized that there is a shortage of such specialists in Ukraine.

It's a well-known fact that, the loan amount should not exceed \$ 2.5 million.

However, if a few years ago there were almost no entrepreneurs able to dispose of such an amount, today the figure is 2.5 million dollars.

The EBRD's requirements for Ukrainian potential clients are problematic for them.

There are three main obstacles:

1) Prior to the start of the project, the ratio of debt (including the EBRD loan) and

¹³¹ Vodyanov, A. The Dilemma of the State Investment Strategy. Ukrainian Economic Journal, No. 10. 2017. Pg. 13

¹³² Smirnov, P. Actual Issues of Ukraine's Participation in International Financial Organizations. Money and Credit, No. 4, 2010. - Pg. 24

¹³³ Elizarov, V. Environmental dimension of investment policy of the European Bank for Reconstruction and Development. 2006. Pg. 39

equity should not exceed 70:30.

2) During the project implementation, the entrepreneur must be able to maintain the value of the debt service ratio of not less than 1:3.

3) The entrepreneur's own contribution to the project must be at least 30% of the project cost.

To secure the loan, a pledge of liquid property or property of third parties in the amount of not less than 130% of the loan amount is provided¹³⁴. If not so long ago guarantees of some banks could act as collateral for the loan, recently it has become almost impossible. All EBRD projects were backed by government guarantees. Working capital may not be used as collateral. In addition, the pledge is also subject to compulsory insurance: due to this

restriction, numerous projects for the purchase of vehicles for international transport have not been implemented - transport, which was exhibited as collateral, was subject to insurance in Western insurance companies, but banks without international insurance practice. were in no hurry to undertake similar projects¹³⁵.

It is the EBRD's requirements for potential clients and loan security that often become an insurmountable obstacle to working with the EBRD. However, Ukrainian banks are willing to cooperate with the EBRD, as they understand working with the EBRD is a unique opportunity to teach their own specialists how to lend to Western banks, as well as a business card for foreign partners and international financial institutions.

The misuse of loans is, unfortunately, one of the problems that calls into question the further effective cooperation of the EBRD with Ukraine. To eliminate such an obstacle, it is necessary to legislatively improve the mechanism of cooperation of our state with international financial organizations.

In general, Ukraine's cooperation with the European Bank for Reconstruction and Development can be assessed positively, but the role of the EBRD, as well as the activities of other IFRS, in the restructuring of Ukraine's economy should not be exaggerated. Constant lending only from IFRS, of course, is not a way out of our country's difficult economic situation. Right now, we need to think carefully about whether Ukraine can afford numerous projects from the EBRD, for the implementation of which the Bank requires additional guarantees from the government and the National Bank of Ukraine¹³⁶. Because otherwise the funds will be paid from the state budget.

¹³⁴ Annual report EBRD, 2018, London, EBRD. – Pg. 17

¹³⁵ Krasavina, L. European Bank for Reconstruction and Development. National University of Tarasa Shevchenko. Kiev, 2017. Pg. 58

¹³⁶ Vodyanov, A. The Dilemma of the State Investment Strategy. Ukrainian Economic Journal, No. 10. 2017. Pg. 18

For instance, P.Smirnov has consider that the country's external debt is so huge: according to the Cabinet of Ministers, the debt of enterprises on loans that were attracted under the state guarantee is 987 million dollars, including loans to the industrial complex - 419 million dollars, industry - 351 million dollars, health care - 114 million dollars, in oil refining - 48 million dollars, for other needs - 55 million dollars. Last year alone, this debt increased by \$ 249 million¹³⁷. Of course, the problem is not with the EBRD, which requires money back guarantees (every lender wants to get their money), but with the fact that Ukraine has not yet created favourable conditions for capital, so you must pay for the risk.

Vibrant lending to the Ukrainian economy by the EBRD is not a guarantee of improving the economic situation in Ukraine, because for only possible lending we must first follow numerous recommendations, then agree on strict lending conditions, and then pay for losses - from the state budget.

Unfortunately, it's not just about money. The EBRD's promises to provide funds which are accompanied by conditions, the most odious of which are: to increase the collection of payments in the energy sector, to privatize natural monopolies, to liquidate small banks¹³⁸. Unfortunately, advisers categorically do not try to realize:

1) that the increase in tax collection in the Ukrainian context turns into an increase in fiscal arbitrariness;

2) that the liquidation of small banks is contrary to the interests of their owners and the preservation of the competitiveness of the financial market as a whole;

3) that excessive enthusiasm for privatization in the field of natural monopolies, on the one hand, poses a threat to economic security, and on the other - does not leave the still weak domestic capital a chance to fully participate in the same privatization.

Ukraine must maintain lively relations with international credit and financial organizations, and especially with the EBRD, because without the participation of the state in the IFRS, its organic integration into the world economy is impossible¹³⁹. However, in order to improve the economic situation in our country, the leading role should be played by attracted investments from foreign companies, and not from IFRS. Thus, Ukraine should successfully take advantage of cooperation with the EBRD, while expanding cooperation with other foreign investors.

¹³⁷ Smirnov, P. Actual Issues of Ukraine's Participation in International Financial Organizations. Money and Credit, No. 4, 2010. - Pg. 18-19

¹³⁸ Naumovsky, L. EBRD operates in Ukraine. Foreign Trade, No. 19, 2017. Pg. 12

¹³⁹ Vodyanov, A. The Dilemma of the State Investment Strategy. Ukrainian Economic Journal, No. 10. 2017. Pg. 15

Conclusion

The analysis of the structure, functions, and priorities of the EBRD conducted in Section 1 allows us to draw the following conclusions:

- The creation of the EBRD as a credit institution in the early 90's was due to the inability of many countries to overcome the crisis in the economy, to combat inflation and high unemployment, which was caused by the unstable political situation in Europe and the world in the late 80's early 90- x years. The creation of the EBRD was necessary not only to provide financial assistance to the countries of Central and Eastern Europe, but also to strengthen integration processes on the continent. It was assumed that the creation of the EBRD was to be the basis of a single European structure, which should further lead to the creation of a confederation.

- The EBRD is a combination of a commercial bank and a development bank. The main task of the Bank is to finance projects that promote economic development, however, the Bank operates on the principle of self-sufficiency. It should also be noted that the bank lends to various industries, except for the defence and tobacco industries, as well as gambling projects.

- The EBRD's political orientation distinguishes this Bank from other international credit and financial institutions, but in addition, environmental issues play a significant role. The main goals of the EBRD are to create a shadowless market economy, transparent governance and promote environmental development without negative consequences in the long run.

- All the functions of the EBRD are aimed at solving a dual task: to promote the transition to democracy and a market economy and to encourage entrepreneurship in the CEE countries, including the CIS and the Baltic countries. The current goals and functions of the EBRD and other IFRS's are essentially similar in many ways: lending, advisory assistance, investing in member countries, guaranteeing loans, and raising living standards. Regional development banks, including the EBRD, aim to develop the economies of member countries in the region.

- In lending, the EBRD uses two methods - direct and through intermediaries. Through direct financing, the EBRD provides funding for specific projects through the private sector, restructuring and privatization, and finances the infrastructure that provides these activities. The main recipients of the bank's loans are joint ventures, especially with the participation of foreign sponsors. It should be noted that the EBRD prefers to finance the

development of private enterprises. The Bank offers a wide range of financial

instruments and is flexible in developing project financing schemes. The minimum project amount must be at least 5 million euros.

A significant difference between the EBRD and other regional development banks is that the European Bank for Reconstruction and Development is designed to facilitate the transition from a command-and-control system for managing the economies of post-socialist countries to an open, market-oriented model. The most important and historically new task of the Bank was to assist in creating new economic conditions in countries during the period of change in the political system.

The analysis of the EBRD's project mechanism conducted in Section 2 allows us to draw the following conclusions:

- The project cycle is the basic mechanism for cooperation with the EBRD. Each project goes through a project cycle, which continues until the end of the project, or, in case of refusal of funding, until the Board of Directors decides.

- The sequence of the project cycle is as follows:

1. Identification (study) of the project;
2. Stage of preparation;
3. Approval of the project;
4. Execution of the loan.

- The advantage of the EBRD is that the main emphasis of the bank is on the quality of its projects, as well as on the possibility of improving their efficiency, which significantly affects the criteria for evaluating projects.

- All projects are evaluated considering the relevant strategy for the individual country. At all stages of the evaluation process, special attention is paid to the environmental impact assessment of the project.

- Project evaluation is an important process, as it is an indicator of the activity and efficiency of the whole bank. So, this is an assessment of transactions after the investment.

- The main task of project evaluation is to gain experience for the implementation of new projects in the future.

- Project evaluation is based on a number of factors, namely: evaluation of the project's impact on the transition processes in the economy, evaluation of environmental activities, evaluation of the rational use of finances, implementation of project objectives, evaluation of investment implementation, EBRD project development.

- Most of the EBRD projects in the period 1996-2007 were assessed as good and excellent, which indicates the effectiveness of the experience gained in the evaluation of

previous projects.

The analysis of the mechanism of Ukraine's cooperation with the EBRD conducted in Section 3 allows us to draw the following conclusions:

- Ukraine's cooperation with the EBRD is characterized by a wide range of industries and activities, but also a positive trend in the number of projects and funding.
- The EBRD lends in Ukraine: banking, small and medium enterprises, investment funds, natural resources extraction, industry, real estate, tourism, electricity, energy efficiency, transport.
- In the private sector, the EBRD will seek to further increase the share of equity and continue to expand syndicated lending opportunities in terms of loan terms. Moreover, by introducing Ukrainian borrowers to more syndicated lending market participants.
- The EBRD is the largest investor in Ukraine. The total number of EBRD-financed projects is 184 projects, for a total of € 7,964.9 million.
- Since 2000, there has been a positive trend in raising funds. The EBRD attracts the most funds to the corporate sector, 40% of the total.
- The stage of cooperation with the EBRD in 2010 is characterized by positive dynamics. Since the beginning of 2010, 6 projects have been signed.

Bibliography:

1. Actual problems of the activities of international organizations. Theory and practice. 2002.
2. Avdokushin, E. International Economic Relations. Marketing, Moscow. 2010.
3. Agreement on the establishment of the European Bank for Reconstruction and Development. Concluded in Paris May 29, 1990.
4. Alternative sources of financing for small and medium-sized projects in Central and Eastern Europe and the former Soviet Union. EBRD, 2006.
5. Amendments to the Agreement Establishing the European Bank for Reconstruction and Development: adopted September 30, 2011.
6. Anisimov, L. International legal means of resolving interstate disputes. Odessa, 2015.
7. Annual report EBRD, 2015, London, Litho tech Colour Printers Ltd.
8. Annual report EBRD, 2017, London, CTD.
9. Annual report EBRD, 2018, London, EBRD.
10. Annual report EBRD, 2019, London, EBRD.
11. Anulova, G. International Monetary and Financial Organizations and Developing Countries. BEK Publishing House. Moscow. 2016.
12. Akhmetgaraeva, A. History and basic prerequisites for the creation of the European Bank for Reconstruction and Development. Basic facts about the European Bank for Reconstruction and Development. A.S. Dnipropetrovsk, 2009.
13. Akhmetgaraeva, A. International legal personality of the European Bank for Reconstruction and Development. Tomsk State University Journal No. 8, 2009.
14. Artyukh, K. Legal status of the European Bank for Reconstruction and Development. K. Artyukh, 2004.
15. Bekyashev, K. International public law. Moscow, 2010.
16. Blishchenko, I. Issues of International Law: International Organizations. Kyiv, 2004.
17. Blueprint. Annual meeting special issue the newsletter of the European bank. July, 1993.
18. Bobin, M. Interstate financial and economic organizations of Europe: Legal aspects of the institution and activities. Kyiv, 2011.
19. Bondarenko, I. Bank as an element of the economic system. 2007.
20. Borodulina, L. Regional Credit and Financial Institutions. Textbook 2nd edition: International Economic Relations. Moscow, 2011.

21. Bronstone, A. The European Bank for Reconstruction and Development: The Building of a Bank for East Central Europe. Manchester University Press, 1999.
22. Chan, E.P. European Bank for Reconstruction and Development as a participant in international monetary relations. E.P. Chan, 2018.
23. Chudnovets, A. The Establishment of the European Bank for Reconstruction and Development. National University of Lugansk, 2014.
24. Convention Establishing the Multilateral Investment Guarantee Agency. World Bank, 1991.
25. Corzine. R. EBRD to continue involvement in Ukrainian energy deals. Financial Times. August, 1995.
26. Davydov, O. External Debt of Russia and the Commonwealth with International Financial Organizations. USA, No. 10. 2012.
27. Driscoll, D. What is the International Monetary Fund. IMF, 1997.
28. Evdokimova, E. The role of the European Bank for Reconstruction and Development (EBRD) in the modernization of the economy of the Eastern European countries of the European Union. Moscow State Institute of International relation. Moscow, 2016.
29. Egorov, A. International financial infrastructure. Moscow - Linor, 2009.
30. Eliseev, G. Projects Financing the Transport System of Ukraine. External Trade No. 10, 2018.
31. Elizarov, V. Environmental dimension of investment policy of the European Bank for Reconstruction and Development. V.N. Elizarov, 2006.
32. Eremeeva, I. European Bank for Reconstruction and Development. Minsk, 2012.
33. Fedyakina, L. World External Debt: Theory and Practice of Settlement. Moscow, Business and Service, 2008.
34. Ganyushkin, V. Diplomatic law of international organizations. Moscow, 2012.
35. Gerchikova, I. European Bank for Reconstruction and Development. Kiev, 2012.
36. Gorshkov, A. Participation of Central and Eastern European Countries in the IMF and IBRD. Foreign Trade, No. 6. 2012.
37. Holman, C. The Europa Directory of international organizations. London, 2001.

38. Ibrahim F.I. Shihata. The European Bank for Reconstruction and Development: Comparative Analysis of the Constituent Agreement. Springer, 1991.
39. Jone, C. A new central Europe. The Banker. April, 1995.
40. Kadatska,
A. International legal status of the European Bank for Reconstruction and Development. National Legal University of Ukraine. Kharkiv, 2016.
41. Karavaev, V.
From London to Kyiv: a new stage of vaginal financial cooperation with the West. Finance, No. 5. 2012.
42. Khalevinskaya, E. Eurobank: Political Structure, Development Bank, Commercial Bank. Odessa, Finance and Statistics, 2012.
43. Krasavina, L. European Bank for Reconstruction and Development. National University of Tarasa Shevchenko. Kiev, 2017.
44. Lebedeva, P. European Bank for Reconstruction and Development: legal issues of activity. St. Petersburg State University, 2003.
45. Migun, I. EBRD lending activities in the markets of Central and Eastern Europe. National University of Finance. Odesa, 2005.
46. Mironova, I. Universal and regional interstate financial development organizations: a comparative analysis of functioning. St. Petersburg State University, 2005.
47. Moiseev, A. European Bank for Reconstruction and Development. Moscow State University, 2006.
48. Moiseev, A. International credit financial organizations. Moscow, MNIMP, 2009.
49. Morozov, D. The EBDR. Money, No. 6, 2006.
50. Naumovsky, L. EBRD operates in Ukraine. Foreign Trade, No. 19, 2017.
51. Paul A. Menkveld. Origin and Role of the European Bank for Reconstruction and Development. London, Dordrecht, Boston: Graham & Trotman, Ltd., 1991.
52. Regulation of the National Bank of the Ukraine No. 89-P "On the procedure for calculating by credit organizations the size of market risks". September 24, 2009.
53. Schrepler, H. European Bank for Reconstruction and Development (EBRD). H.A. Schrepler. Kiev, 2008.
54. Schrepler, H. International Economic Organizations. Kyiv, University of International Relations, 2018.
55. Sheinin, E. Will the EBRD Help Economic Reforms in Ukraine? Foreign Trade No. 22, 2018.

56. Smirnov, P.
Actual Issues of Ukraine's Participation in International Financial Organizations. Money and Credit, No. 4, 2010.
57. Strenina, M. European Bank for Reconstruction and Development (EBRD): features of creation, organizational structure, credit and investment policy. Moscow State University, 2017.
58. The European Bank for Reconstruction and Development.
Key documents of the European Bank for Reconstruction and Development. London, 2013.
59. The European Bank for Reconstruction and Development. Transition Report, 1995: Investment and Enterprise Development. European Bank for Reconstruction and Development, 1995
60. The European Bank for Reconstruction and Development.
The EBRD: The role and activities. European Commission. London, 2000.
61. Titov, K.
Social policy of the European Bank for Reconstruction and Development in Central and Eastern Europe. National University of Tax Service of Ukraine, 2010.
62. Valeev, P. Control in modern international law. Kazan, 2011.
63. Vodyanov, A. The Dilemma of the State Investment Strategy. Ukrainian Economic Journal, No. 10. 2017.
64. United States Congress Senate Committee. European Bank for Reconstruction and Development (EBRD), Creative Media Partners, LLC, 2015.
65. Weber, S. Origins of the European Bank for Reconstruction and Development. S. Weber, 1994.

Anhang

Das Projekt wurde geschrieben, um den historischen Hintergrund der EBWE aufzuzeigen, die Entstehungsgeschichte dieser Institution, ihre Fälle, ihre Entstehung und ihren Einfluss auf die Europäische Union und den Rest der Welt darzustellen.

Es beschreibt auch den Einfluss dieser Institution auf die Gestaltung des Rechtsrahmens der Europäischen Union. Außerdem ist das die Beschreibung der EBWE als internationale Organisation, die von einer Reihe von Ländern gegründet wurde.

In dieser Arbeit habe ich die Entwicklung und Verbesserung dieser Organisation aufgezeigt.

Die Unterstützung der Institution bei Projekten wurde mit der Ukraine demonstriert, die einen unermesslichen Einfluss auf die wirtschaftliche und rechtliche Struktur des Staates hatten. Diese Hilferfahrung half der Ukraine, nicht stehenzubleiben, sondern den Prozess der Integration in die Europäische Union zu beschleunigen.

Dieses Projekt berichtet auch die wichtigsten Aktionen, Projekte und Ausschreibungen, die einen kolossalen Durchbruch in den Bereichen Recht und Wirtschaft auf dem Territorium der Ukraine hatten. Das ermöglicht der Ukraine und vielen Menschen, von der Richtigkeit der Entscheidungen der Behörden zur Änderung der postsowjetischen Strukturen vollständig zu überzeugen.

Zu aller letzt hilft das großen ukrainischen Unternehmen, zuversichtlicher in die Zukunft zu werden. Alle großen europäischen Unternehmen konnten jedoch ein Signal erhalten, dass die Investitionsrichtung in die Ukraine auch mit der Einhaltung der Demokratie und aller europäischen Rechtsnormen verbunden sein würde.

Ich hoffe, dass diese Projekt in der Lage sein wird, die Funktionsprinzipien der wirtschaftlichen und rechtlichen Strukturen sowohl der Europäischen Union als auch der Strukturen der Ukraine zu erklären. Ich bin sicher, dass dieses Projekt zum Lesen nützlich sein wird, um zu verstehen, wie kooperative Aktionen zwischen der Ukraine und europäischen Organisationen und Institutionen verbessert werden können, und auch dazu beitragen, Fehler aufgrund der Erfahrungen aus früheren Fällen zu vermeiden.

Annexes

The work was written to show the historical background of the EBRD, show the history of the creation of this institution, its cases, formation, and influence on the European Union and the rest of the world. It also describes the influence of this institution on the formation of the legal framework of the European Union. Description of the EBRD as an international organization that was formed by a number of countries.

In this work, I showed the development and improvement of this organization. The assistance of this institution in projects with Ukraine was also demonstrated, which entailed an immeasurable impact on the economic and legal structure of Ukraine. This assistance experience helped Ukraine not to stand still, but to accelerate the process of integration into the European Union.

This work also indicated the main actions, projects, and tenders that had a colossal breakthrough in the fields of law and economics on the territory of Ukraine. This allowed Ukraine and many people, it seems to me, to be wholly convinced of the correctness of the decisions on the part of the authorities to change the post-Soviet structures.

Last but not least, it also helped large Ukrainian businesses to be more confident in the future. However, all big European companies were able to receive a signal that the direction of investment toward Ukraine would also be associated with compliance with democracy and all European legal standards.

I hope that this work will be able to explain the principles of operation of the economic and legal structures of both the European Union and the structures of Ukraine. I am sure that this work will be useful for reading in order to understand how cooperative actions between Ukraine and European organizations and institutions can be improved, and also help to avoid mistakes based on the experience of past cases.