



# **Policy for Loan and Project Financing**

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# **Overall Policy Framework for Loan and Project Financing**

The framework defines the basic principles for the selection and implementation of the CEB's investment projects. In particular, it sets forth the guidelines given in matters of project financing, on the one hand, by the Bank's Articles of Agreement<sup>1</sup> and, on the other hand, by the different Council of Europe Summits of Head of State and Government. Thus, it successively defines:

- the sectors of action;
- the financial means of action;
- the mechanisms for approving loan applications and for managing the stock of projects;
- the financing and monitoring of projects;

These provisions are completed by two implementation documents, namely the *"Handbook for the Preparation and Monitoring of Projects"* and the *"Loan Regulations"*.

The Handbook sets forth, notably for the attention of borrowers, the technical provisions for the implementation of projects, in particular the criteria used by the CEB in matters of project eligibility and nature of the checks carried out conditioning project financing.

The CEB's Articles of Agreement<sup>2</sup> stipulate that the general conditions governing the loans and loan guarantees granted by the Bank shall be defined by the Administrative Council within the framework of the Loan Regulations. Moreover, the Regulations state that projects must be in conformity with the provisions contained in the *"Convention for the Protection of Human Rights and Fundamental Freedoms"*<sup>3</sup> and the *"European Social Charter"*<sup>4</sup>.

## 1. SECTORS OF ACTION

The Bank and, where applicable, the CEB's Social Dividend Account or any other trust account, all contribute to the implementation of investment projects of a social nature. The CEB's actions are aimed at strengthening social cohesion in Europe through three sectoral action lines, namely strengthening social integration, managing the environment and supporting public infrastructure with a social vocation.

These action lines reflect both the CEB's specifically social vocation and the development logic underpinning all its activity:

Sectoral lines of action	Sectors of action
<b><i>Strengthening social integration</i></b>	<ul style="list-style-type: none"> <li>• Aid to refugees, migrants and displaced persons</li> <li>• Social housing for low-income persons</li> <li>• Creation and preservation of viable jobs</li> <li>• Improving living conditions in urban and rural areas</li> </ul>
<b><i>Managing the environment</i></b>	<ul style="list-style-type: none"> <li>• Natural or ecological disasters</li> <li>• Protection of the environment</li> <li>• Protection and rehabilitation of the historic and cultural heritage</li> </ul>
<b><i>Supporting public infrastructure with a social vocation</i></b>	<ul style="list-style-type: none"> <li>• Health</li> <li>• Education and vocational training</li> <li>• Infrastructure of administrative and judicial public services</li> </ul>

The guidelines relative to the eligibility of these projects are set forth in the *"Handbook for the Preparation and Monitoring of Projects"*.

<sup>1</sup> Cf. Articles II and XIII of the Articles of Agreement.

<sup>2</sup> Cf. Article VII, Section 5, of the Articles of Agreement.

<sup>3</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, 04/11/1950, CETS n° 5.

<sup>4</sup> European Social Charter, 18/10/1961, CETS n° 035.

The following economic sectors and activities defined by the NACE nomenclature of the European Union <sup>5</sup> shall be excluded from CEB financing:

- Agriculture, forestry and fishing (NACE A),
- Distilling, rectifying and blending of spirits (NACE C11.01),
- Manufacture of tobacco products (NACE C12),
- Processing of nuclear fuel <sup>6</sup> (NACE C.24.46),
- Manufacture of weapons and ammunition (NACE C25.4),
- Financial and insurance activities (NACE K),
- Gambling and betting activities (NACE R92).

Investments linked to pornography and to products regarded by European Union regulations to be harmful to the health and the environment <sup>7</sup> shall also be excluded.

## **2. FINANCIAL MEANS OF ACTION**

The CEB acts in the form of loans, guarantees and via trust accounts in order to finance bankable projects. To do this, it evaluates the debt sustainability of the borrower and, where applicable, of the guarantor.

### **Loans**

Loans granted by the CEB take one of the following forms:

- loans to members of the Bank;
- loans guaranteed by a member of the Bank granted to any legal person approved by that member;
- loans granted to any legal person approved by a member of the Bank, when the Administrative Council is satisfied that the loan requested is covered by adequate guarantees.

### **Guarantees**

Upon conditions to be fixed by the Administrative Council in each case, the Bank may grant guarantees to financial institutions approved by a member of the Bank for loans to further the realisation of the purposes set out in Article II of the Articles of Agreement.

### **Trust Accounts**

Upon conditions to be fixed by the Administrative Council in each case, the Bank may open and operate Trust Accounts.

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<sup>5</sup> The French acronym NACE refers to the “Statistical Classification of Economic Activities in the European Community”. Developed since 1970, NACE provides a framework for the collection and presentation, according to economic activity, of a wide range of statistics in the economic areas (for example: production, employment, national accounts) or others – Cf. Regulation (CE) No. 1893/2006 of the European Parliament and of the Council of 20/12/2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains.

<sup>6</sup> This does not apply to the purchase of medical equipment, quality control (measurement) equipment and any equipment where the CEB considers the radioactive source to be insignificant and/or adequately shielded.

<sup>7</sup> Production or trade in any product or activity deemed illegal under CEB member country laws or regulations or international conventions and agreements, such as unbonded asbestos fibers, pharmaceuticals, pesticides/herbicides, ozone-depleting substances, PCBs, wildlife or products regulated under the Convention on International Trade in Endangered Species (CITES).

### 3. MECHANISMS FOR APPROVING LOAN APPLICATIONS AND MANAGING THE STOCK OF PROJECTS

#### Approving applications for financing and guarantees

In compliance with Resolution 199 (1988) of the Governing Board, applications for project financing from borrowers or requests for guarantees are sent to the Secretary General of the Council of Europe. They must be accompanied by a Letter of Transmittal from the requesting member state concerning the project (and concerning the borrower if the borrower is not the requesting member state). The Governor receives a duplicate of the application file.

Where applicable, the Letter of Transmittal will indicate the ability and willingness of the requesting member state to guarantee the loan.

If the requesting member state approves a project in favour of a third party country, the latter will be asked to send a Letter of Consent to the Secretariat of the Partial Agreement allowing the CEB to monitor the project according to its procedures.

Details of the information required for drawing up such applications are given in the *“Handbook for the Preparation and Monitoring of Projects”*. In the preparation of their projects, borrowers may receive technical assistance from the CEB.

The Secretariat of the Partial Agreement examines each application with a view to preparing the Secretary General’s opinion as to admissibility based on the project’s conformity with the political and social aims of the Council of Europe. In parallel, the Governor draws up a Project Presentation Report concerning the technical and financial aspects of the project, which he transmits to the Administrative Council via the Secretariat of the Partial Agreement.

The Project Presentation Report drawn up by the Governor in particular describes:

<b><i>The borrower</i></b>	<ul style="list-style-type: none"><li>• Description</li><li>• Relations with the CEB</li><li>• Rating given by the rating agencies</li><li>• For moral entities, the nature of the guarantees received and the Management’s assessment of the credit risk associated with the project’s financial arrangements.</li></ul>
<b><i>The project</i></b>	<ul style="list-style-type: none"><li>• Logic of the action and added value of the project and of the CEB’s participation</li><li>• Description (location, total cost, share of the financing, beneficiaries)</li><li>• Provisions for implementation (financing, monitoring and management of the project)</li><li>• Specific provisions for monitoring</li></ul>

The Report contains the financial elements required to assess the credit risk linked to the borrower and, where applicable, to the guarantor.

It also provides for a list of technical indicators tailored to the specific nature of the project or the sub-projects financed, which shall serve as a basis for the evaluation during its implementation. A qualitative evaluation of the credit risk and the risks linked to the project’s implementation is presented in the conclusion to the Report.

The value added of the project and of CEB’s participation in the financing of the project will each be highlighted in the Report, on the basis of the following elements:

- financial additionality
- third party effects
- other non-financial benefits

Furthermore, the Opinion of Admissibility issued by the Secretary General of the Council of Europe insures the coherence of CEB's interventions with the orientations fixed at the occasion of Council of Europe Heads of State and Government Summits, in particular the strengthening of the social cohesion in Europe.

This Report, together with the Secretary General's justified opinion as to admissibility, is sent via the Secretariat of the Partial Agreement to the Administrative Council for examination and decision at least two weeks before the meeting of the Administrative Council or of its Executive Committee.

### **Managing the stock of projects awaiting financing**

Once approved by the Administrative Council or by its Executive Committee, applications for project financing are placed in the stock of projects awaiting financing.

As disbursements are made, the amount of the stock of projects diminishes correspondingly.

In the absence of any contrary provisions approved by the Administrative Council, a project may be **removed from the stock** in accordance with the terms defined in the Handbook for the Preparation and Monitoring of Projects<sup>8</sup>.

## **4. PROJECT FINANCING AND MONITORING**

### **Project financing**

The general conditions governing the loans and loan guarantees granted by the Bank are defined by the Administrative Council within the framework of the *Loan Regulations*, which are appended to the loan agreement signed with the borrower.

The projects are financed by the Bank according to the provisions contained in the contract drawn up between the CEB and the borrower/guarantor. These will take into account the elements contained in the CEB's "Environmental Policy" and in the "Principles for the procurement of goods, works and services"<sup>9</sup>.

As a general rule, the CEB's share of the financing may not exceed 50%, except in cases provided for in the "*Handbook for the Preparation and Monitoring of Projects*".

The Bank's reference currency is the EURO, which does not exclude recourse to other currencies according to borrower specifications and the CEB's refinancing possibilities on the capital markets.

The Bank raises funds on the best terms available on the capital markets. It passes these terms on to its borrowers, applying the lowest possible margin which takes into account the need to cover its operating costs. The mechanisms for disbursement are specified at the time of the project's approval by the Administrative Council and, in any event, must comply with the provisions contained in the "*Handbook for the Preparation and Monitoring of Projects*".

Disbursements may be suspended if the general conditions relative to the loan are not complied with, in particular the contractual provisions for project monitoring.

### **Project monitoring**

The purpose of the monitoring process is to ensure that the project is implemented in compliance with the provisions approved by the Administrative Council when examining the project and those contained in the "*Handbook for the Preparation and Monitoring of Projects*".

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<sup>8</sup> Handbook for the Preparation and Monitoring of Projects, Chapter 3, Section III. Point 1.1. General Rules.

<sup>9</sup> See Appendix A to the "*Handbook for the Preparation and Monitoring of Projects*".

Monitoring is carried out from the time of the project's approval up to its completion, including, where applicable, its evaluation by the CEB's Ex-Post Evaluation Department.

An Annual Monitoring Report is drawn up and sent to the Administrative Council in order to present an overall evaluation of the most significant projects while highlighting the problems encountered in the course of their implementation.

Once the project is completed, the borrower will submit a final report to the bank presenting of a review of the project's results.

The Secretariat of the Partial Agreement draws up an annual report on the social impact of the projects completed the previous year, which it transmits to the Bank's Administrative Council/Executive Committee. In order to facilitate the preparation of this report, the Governor informs the Secretariat of the Partial Agreement of the disbursement of the last instalment of each loan and periodically sends it duplicates of the completion reports.



# **Handbook for the Preparation and Monitoring of Projects**

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## PREAMBLE

The Handbook for the Preparation and Monitoring of Projects comes within the “Overall Policy Framework for Loan and Project Financing”, presented at the Administrative Council meeting on 24 January 2006. With the “Scope of Application of the Selective Trust Account”, the “Provisions for the administration of the Selective Trust Account” and the “Loan Regulations”, it constitutes one of four implementation documents

In accordance with the Overall Framework, the Handbook sets out the technical provisions for the implementation of projects, that is to say the rules and procedures underpinning their selection, financing and monitoring.

The Handbook successively defines:

- the CEB’s sectors of action and the criteria chosen for determining project eligibility in each sector;
- the financial means of action;
- the provisions for appraisal, presentation of applications and management of the stock of projects;
- the financing and monitoring of projects, in particular the nature of the verifications carried out by the CEB that condition the continuation of financing;
- the provisions for operating the Selective Trust Account.

## CHAPTER 1 – SECTORS OF ACTION AND ELIGIBILITY CRITERIA

The CEB contributes to the implementation of social investment projects in favour of social cohesion in Europe along three sectoral lines of action, namely strengthening social integration, managing the environment and supporting public infrastructure with a social vocation. Each of these action lines comprises a number of sectors of action presented below.

Its actions comply with the eligibility criteria specific to each sectoral action line, reflecting the CEB’s own specific social vocation and the development logic underpinning all its activity.

### I. **STRENGTHENING SOCIAL INTEGRATION**

To contribute to strengthening social integration and thus to attack the roots of exclusion means, at operational level, acting in favour of refugees, migrants and displaced persons, promoting social housing, job creation and preservation and improving living conditions in urban and rural areas.

#### **1.1. Aid to refugees, migrants and displaced persons**

Aid to refugees, migrants and displaced persons is one of the CEB’s two statutory priorities (Article II of the Articles of Agreement) together with aid to victims of natural or ecological disasters:

*“The primary purpose of the Bank is to help in solving the social problems with which European countries are or may be faced as a result of the presence of refugees, displaced persons or migrants consequent upon movements of refugees or other forced movements of populations (...).”*

The CEB also takes action in this sector in favour of populations regarded as vulnerable, such as:

- persons living below the poverty threshold (less than 60% of the national average income <sup>1</sup>);
- abandoned children, children in vulnerable situations and persons with disabilities;
- ethnic minorities.

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<sup>1</sup> Poverty threshold: in European comparisons, this threshold is fixed at 60% of the equivalent average income in the country of residence.

Projects in this sector are eligible, particularly when they involve the construction and repair of reception structures (such as reception centres, temporary and permanent social housing), programmes of preventive and curative medicine, education and vocational training, as well as the technical infrastructure and basic equipment necessary to meet the immediate needs of populations victims of exceptional situations.

Moreover, projects approved in favour of such populations may benefit from accelerated procedures for appraisal, approval and – if justified – disbursement.

## **1.2. Housing for low-income persons**

The CEB finances projects for the renovation, construction or refurbishing of housing and for the conversion of buildings into housing so as to provide decent housing for low-income persons, corresponding to social housing criteria whenever these are defined by the national legislation.

Eligible projects can be targeted to access to property ownership, rental housing or related infrastructure (such as water mains, electricity and gas supplies, collection and treatment of waste water and solid waste, commercial premises, playgrounds), and can also include rural housing (limited to the principal residence within the framework of family-run farming businesses).

The criteria that the CEB takes into account are income, the physical characteristics of the housing and the purchase and/or sale conditions applicable in each member country or in the region of the member country hosting the project, in compliance with the legal or regulatory provisions in force. In the absence of satisfactory regulations, the eligibility criteria can be based on the following principles:

- the income of the target population is limited to a percentage of a relevant income indicator selected according to statistical data available for each member state or region concerned <sup>2</sup>, namely 100% for projects involving access to property ownership, and 75% for projects involving rental housing;
- the floor space per person is limited to an average 75% of the national or regional level, subject to a maximum of 35 m<sup>2</sup> per person in the case of households comprising between 1 and 2 people and 23 m<sup>2</sup> for the others;
- in the case of projects involving access to property ownership, this must be for the principal residence, with a firm undertaking to occupy the premises for a minimum period of 5 years.

Projects involving the renovation and/or the rehabilitation and conversion of buildings into housing must meet the following criteria:

- housing units must belong to public or private entities lessors of social housing or to owner-occupants of assisted affordable housing;
- rented housing units must be controlled-rent properties;
- housing units must have a maximum total floor space of 92 m<sup>2</sup>, except those occupied by large families (more than 4 persons);
- the floor space of commercial or office premises may not exceed 20% of the total floor space of the building.

The renovation of housing for energy saving purposes may be financed according to eligibility criteria determined during project appraisal.

Moreover, projects in favour of priority or vulnerable populations can be financed according to specific criteria established for each project.

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<sup>2</sup> Other than GDP per inhabitant.

At the borrower's request, the Administrative Council/Executive Committee may, if it deems it to be justified, approve housing projects aimed at populations for whom special measures have been taken by the member state or a territorial authority.

### 1.3. Creation and preservation of viable jobs

The CEB provides support for productive investment projects (fixed assets) for the prime purpose of promoting the creation and preservation of viable jobs by facilitating access to credit. Such projects are aimed at micro, small and medium-sized enterprises (SMEs), as well as at entities exercising craft activities or family enterprises engaged in regular economic activity.

To be eligible for CEB financing, projects must involve fixed investments or investments in productive equipment, including in the form of leasing, aimed at the creation and/or preservation of permanent and/or seasonal jobs. The financing of working capital requirements is limited to the level of small enterprises as defined by the EU<sup>3</sup>. This is limited to € 50 000 by sub-project.

Eligibility is excluded for investments in the primary agricultural sector, weapons, nuclear energy, tobacco, production of spirits, gambling, pornography, and products considered by European Union regulations to be harmful to health and to the environment.

The CEB adopts the definition of SME of the European Union, which identifies, in particular, three different categories of enterprises:

<b>Category of enterprise</b>	<b>Workforce</b> <i>Annual work units (AWU)</i>	<b>Annual turnover</b>	<i>or</i>	<b>Annual balance sheet total</b>
Medium	< 250	≤ € 50 million		≤ € 43 million
Small	< 50	≤ € 10 million		≤ € 10 million
Micro	< 10	≤ € 2 million		≤ € 2 million

SMEs must be situated in regions with an unemployment rate equal to or higher than the average unemployment rate within the European Union<sup>4</sup>. Countries not members of the European Union and not in the Target Group are assimilated to the European Union regions.

The application of criteria for action related to the unemployment rate is nevertheless not applicable for the Target Group countries<sup>5</sup>.

The CEB also considers as eligible the financing of micro-credit programmes in favour of micro-enterprises<sup>6</sup>, irrespective of where they are located.

<sup>3</sup> See Recommendation 96/280/CE of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

<sup>4</sup> Statistical regions established by EUROSTAT.

<sup>5</sup> Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Hungary, Latvia, Lithuania, Malta, Moldova, Montenegro, Poland, Romania, Serbia, Slovak Republic, Slovenia, "the former Yugoslav Republic of Macedonia", and Turkey.

<sup>6</sup> Micro-enterprises have fewer than 10 salaried employees.

#### **1.4. Improving living conditions in urban and rural areas**

With regards to improving living conditions in urban areas, such projects must concern rundown neighbourhoods or urban areas lacking in urban infrastructure or in social and cultural amenities.

With regards to improving living conditions in rural areas, such projects must concern regions characterised by a (low) population density or activities in fields such as agriculture, forestry, aquaculture and fishing, defined by the national legislation.

The CEB finances projects involving the construction or rehabilitation of infrastructure in matters of urban rehabilitation and rural modernisation in favour of public entities at national or local level, such as:

- development of industrial estates;
- utilities such as water mains, electricity and gas supplies, sewers, treatment of solid and liquid waste;
- road network infrastructure and maintenance;
- local transportation networks in rural areas;
- basic educational and medical facilities;
- socio-cultural or sports centres such as playgrounds, green spaces, exhibition sites, theatres and libraries;
- irrigation networks in rural areas.

Irrigation projects involving the building of water-retaining dikes and related infrastructure are eligible if the following conditions are met:

- in the case of a water course of interest to several CEB member states, all the member states concerned must agree to the project;
- they may not involve any forced displacement of populations or any displacement of populations without adequate compensatory measures;
- environmental control measures must be provided for.

Infrastructure linked to dams not meeting these conditions is not eligible.

## **II. MANAGING THE ENVIRONMENT**

To contribute to managing the environment means not only systematically responding to emergency situations in the event of natural or ecological disasters, but also undertaking sustainable action in favour of disaster prevention, protection of the environment and preservation of historic and cultural heritage.

### **1.1 Natural or ecological disasters**

Aid to victims of natural or ecological disasters is one of the CEB's two statutory priorities (Article II of the Articles of Agreement), together with aid to refugees, migrants and displaced persons:

*"The primary purpose of the Bank is to help in solving the social problems with which European countries are or may be faced as a result of the presence of (...) victims of natural or ecological disasters".*

Projects in this sector are eligible when they involve the reconstruction or rehabilitation of destroyed or damaged public structures, in particular basic infrastructure such as water supplies, waste water and solid waste treatment, electricity and gas supplies. The provision of intervention materials and equipment can also be eligible for CEB financing.

The purpose of the actions undertaken is to provide national and local authorities with assistance in the reconstruction of the affected areas. They are also aimed at developing means for the prevention of natural or ecological disasters.

Moreover, projects approved in favour of the populations concerned may benefit from accelerated procedures for appraisal, approval and – if justified – disbursement.

The CEB also finances projects specifically targeted to the prevention of natural and ecological disasters, in particular in terms of floods, fire, avalanches, earthquakes and landslides.

Within the framework of projects for the prevention of natural or ecological disasters, projects aimed at the construction of water-retaining dikes are eligible if the following conditions are met:

- they may not involve any forced displacement of populations or any displacement of populations without adequate compensatory measures;
- environmental control measures must be provided for.

### **1.2. Protection of the environment**

The CEB finances projects that contribute to protecting and improving the environment, and thus to improving the living environment. In parallel to its specific action in this sector, the CEB also systematically takes into account the environmental aspects of all the projects that it appraises, irregardless of the sector concerned.

The CEB can finance projects concerned with:

- reduction and treatment of solid and liquid waste;
- clean-up and protection of surface and underground water;
- decontamination of soils and aquifers;
- protection against noise;
- production of renewable energy;
- energy saving measures (excluding energy production/distribution);
- reduction of air pollution;
- protection and development of biodiversity;
- cleaner transport means and networks.

Concerning the production of renewable energy, installations of an industrial nature shall be excluded.

In the case of private investments, those linked to protection of the environment are restricted to SMEs (as defined in Chapter 1 – I – 1.3 supra).

Investments in favour of enterprises targeted to creating infrastructure for the treatment of solid and liquid waste and waste water, not produced by the enterprises themselves, and for the production of clean, renewable energies are eligible, irrespective of the size of the beneficiary enterprise.

Lastly, these projects must concern populations defined at local or regional level.

### **1.3. Protection and rehabilitation of historic and cultural heritage**

The CEB can finance the restructuring and rehabilitation of historic and cultural heritage classified as such by UNESCO or by the member state concerned.

### **III. SUPPORTING PUBLIC INFRASTRUCTURE WITH A SOCIAL VOCATION**

An integrated approach to support the development of public infrastructure with a social vocation in the key sectors of health, education, vocational training and administrative and judicial public services in the long term facilitates more dynamic and more equitable economic and social growth promoting individual fulfilment and collective wellbeing.

#### **1.1. Health**

The CEB can finance projects concerning health and related infrastructure such as:

- construction and/or rehabilitation of public or private hospitals;
- creation and/or rehabilitation of public or private medical service infrastructure, including those specialised in assisting vulnerable populations;
- construction and/or rehabilitation of nursing homes for the elderly and welfare centres;
- alterations to premises in order to facilitate access both inside and outside;
- the purchase of health and health management materials and equipment;
- home help programmes;
- programmes involving the training of specialised staff in the social and health sectors.

Private establishments and infrastructure must be state-approved (in compliance with the criteria fixed by the state for this type of establishment).

Within the framework of health projects, financing can be granted for basic infrastructure such as:

- water supply;
- collection and treatment of waste water and solid waste, including toxic waste;
- electricity and gas supplies.

#### **1.2. Education and vocational training**

The CEB can finance projects involving education and vocational training as well as related infrastructure such as:

- construction and/or rehabilitation of school and university establishments, including sports and cultural equipment as well as those pertaining to university halls of residence;
- construction and/or rehabilitation of housing for school and university students;
- alterations to premises in order to facilitate access both inside and outside;
- construction and/or rehabilitation of vocational training centres;
- programmes providing assistance in the training of specialised staff in the social and education sectors;
- programmes involving training for the unemployed and in favour of disadvantaged populations;
- programmes for professional reconversion in declining economic sectors;
- programmes providing training in natural or ecological disaster prevention for members of the civil protection forces;
- programmes involving the training of magistrates, administrators, civil servants and government officials.

Private establishments must be state-approved (recognition of diplomas at national level, eligibility for government scholarships).

The CEB can also finance public or private investments involving research and development centres.

Within the framework of vocational training projects, the CEB can finance investments, fixed or otherwise.

Education-related infrastructure includes, in particular:

- water supply;
- collection and treatment of waste water and solid waste;
- electricity and gas supplies.

### **1.3. Infrastructure of administrative and judicial public services**

The CEB finances projects for the construction or rehabilitation of infrastructure as well as the conversion of buildings into premises intended for public service use, in particular the organisation and functioning of administrative and judicial public services<sup>7</sup>.

With regard to prison infrastructure in particular, the projects financed by the CEB must respect the principles of the Recommendations made by the Committee of Ministers of the Council of Europe concerning European Prison Rules (Approved by the Committee of Ministers on 11 January 2006, at the 952<sup>nd</sup> Meeting of the Ministers' Deputies)<sup>8</sup>.

Projects in this sector must be exclusively concerned with buildings intended to be connected to national, regional or local government, or to technical agencies in which these bodies have a majority interest as well as related infrastructure.

This could be the case, for example, of penitentiary infrastructures, fire/police stations, training centres or buildings connected to municipal/local/regional administrations.

## **CHAPTER 2 – FINANCIAL MEANS OF ACTION**

### **I. LOANS AND GUARANTEES**

The CEB grants loans to the following counterparties:

- its member states;
- any legal entity approved and guaranteed by a member state;
- any legal entity approved by one of the CEB's member states if the Administrative Council/Executive Committee deems the loan to carry sufficient guarantees.

The CEB undertakes actions in the form of loans, guarantees and via trust accounts in order to finance bankable projects. To do this, it evaluates the debt sustainability of the borrower and, where applicable, of the guarantor.

The CEB's loans are granted in order to provide financing for projects involving one or more sectors at the same time. They can be in the form of projects or programmes. The terms of their monitoring and financing must be explicitly defined, according to their specific characteristics, in the Project Presentation Report submitted to the Administrative Council/Executive Committee for approval.

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<sup>7</sup> In compliance with point 1.5. of the Action Plan of the 3<sup>rd</sup> Summit of Heads of State and Government of the Council of Europe held on 25 and 26 May 2005.

<sup>8</sup> Among others, Recommendation Rec (2006)2 of the Committee of Ministers of the Council of Europe to the Member States concerning European Prison Rules.

Where applicable, the CEB may propose the implementation of a “conditional financing instrument,” provided that:

- i. the CEB has previously funded similar projects in the country and sector concerned with the borrower,
- ii. these projects must have produced results deemed satisfactory by the Bank.

Financing is carried out in tranches, with disbursements contingent upon the funds being used in compliance with the project’s initial objectives<sup>9</sup>.

The CEB can also grant its guarantee to financial institutions approved by a member state for loans aimed at achieving the objectives set forth in Article II of the Articles of Agreement, according to conditions that are fixed on a case-by-case basis by the Administrative Council/Executive Committee. In such cases, as far as the execution of the programme and the other obligations of the loan agreement are concerned, the obligations of the bank receiving the CEB’s guarantee are exactly the same as those of a bank receiving a loan.

## **II. OTHER AVAILABLE RESOURCES: TRUST ACCOUNTS**

Upon conditions to be fixed by the Administrative Council in each case, the Bank may open and operate Trust Accounts.

## **CHAPTER 3 – APPRAISAL, PRESENTATION OF APPLICATIONS AND MANAGEMENT OF THE STOCK OF PROJECTS**

### **I. PROJECT APPRAISAL**

When a potential borrower shows interest in the CEB contributing to part-financing a project, the CEB first of all proceeds with the identification of the project in order to define in principle its social purpose and its eligibility as well as the financial quality of the borrower and/or, where applicable, of the guarantor. To this end, it establishes a Project Identification File (PIF) describing the main features of the project.

The PIF also makes a first evaluation of the problems relative to the project’s preparation and gives indications as to the need for the Bank to become involved in the process of drawing up the feasibility report (possibility of assistance with the project’s preparation, implementation of a “conditional financing instrument”).

Once the preparation phase is finished, the borrower sends the Feasibility Report on the project to the Bank together with a loan application according to the provisions described below (Chapter 3.II).

The Feasibility Report must contain all the relevant technical data for achieving the project’s objectives in physical, socio-economic and environmental terms as well as the financing plan. It must also set out all the provisions for the project’s management, namely the administrative and accounting verifications, the technical monitoring and procurement procedures.

This Report is then submitted to the CEB’s services for evaluation within the framework of the project appraisal process. This results in the drafting of a Project Presentation Report on the technical and financial aspects of the project and on the loan application, which is then submitted to the Administrative Council for approval.

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<sup>9</sup> The provisions for the financing and monitoring of projects are detailed in Chapter 4 below.

The technical information contained in the Feasibility Report must be organised simply and concisely according to the following points:

- Name of the project
- Sector(s) of action
- Location
- Definition and purpose of the project from a technical and social point of view
- Value added of the CEB's participation
- Borrower (guarantor/collateral, where applicable)
- Project manager(s)/beneficiary(ies)
- Evaluation of environmental aspects linked to the project <sup>10</sup>
- Eligible costs and financing plan
- Implementation schedule
- Financing conditions
- Project risk

In parallel, the Secretariat of the Partial Agreement examines each application in order to prepare the Secretary General's Opinion on Admissibility based on the project's conformity with the political and social objectives of the Council of Europe.

The Project Presentation Report is transmitted by the Governor to the Administrative Council/Executive Committee via the Secretariat of the Partial Agreement, at least two weeks before the meeting of the Administrative Council/Executive Committee.

## **II. PRESENTATION OF APPLICATIONS FOR FINANCING AND GUARANTEES**

### **1.1. The applicant member state**

In compliance with Resolution 199 (1988) of the Governing Board, applications for project financing from borrowers or applications for guarantees must be sent to the Secretary General of the Council of Europe. They must be sent by means of a Letter of Transmittal from the applicant member state concerning the project (and concerning the borrower if the borrower is not the applicant member state). The Governor receives a duplicate of the application file. Where applicable, the Letter of Transmittal will indicate the ability and willingness of the applicant member state to guarantee the loan.

If the applicant member state approves a project in favour of a third party country, the latter will be asked to send a Letter of Consent to the Secretariat of the Partial Agreement allowing the CEB to monitor the project according to the procedures in force.

For the preparation of their projects, borrowers may receive technical assistance from the CEB.

### **1.2. The borrower**

The borrower may be the member state itself, a central or local government entity, a financial institution or any other public or private entity.

The borrower undertakes to:

- ensure the financial servicing of the debt according to the terms and conditions established in the loan agreement;
- meet the contractual conditions regarding the project's correct implementation and monitoring;

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<sup>10</sup> See CEB's "Environmental Policy".

- take into consideration the advantage obtained from the CEB's financings and to pass on that advantage to the final beneficiaries while taking into account the fact that an intermediation margin may be applied to cover risk and management costs.

Moreover, the borrower is responsible for giving adequate publicity to the project being implemented with the support of the CEB:

- the borrower must indicate to the beneficiary that the project is supported by the CEB;
- to do so, the means of communication best adapted to the specific nature of the project<sup>11</sup> will be defined jointly with the borrower and stipulated in the loan contract.

The Project Presentation Report must contain detailed information on the legal status, activities and financial quality of the borrower.

### **1.3. Project manager and final beneficiary**

Project manager means the entity in charge of implementing the project.

The final beneficiary is the moral or legal entity or social group that benefits from the social effects of a project.

### **1.4. Guarantees and collateral**

Wherever necessary, and at the request of the CEB, the borrower's commitments must be guaranteed by a third party. The guarantor may be a member state, a government entity, a financial institution or any other public or private legal entity approved by the CEB.

The guarantor must be clearly indicated in the loan application transmitted by the member state.

Detailed information about the guarantor's legal status, activities and financial quality must be provided within the framework of the Project Presentation Report on the project.

## **III. MANAGEMENT OF THE STOCK OF PROJECTS**

### **1.1. General rules**

Once approved by the Administrative Council/Executive Committee, applications for project financing go into the stock of projects awaiting financing. They must give rise to a contract, which must be signed within twelve months of the approval of the project. If the conditions justify it, the Bank may grant an additional period to the borrower for the signing of the contract.

As disbursements are made, the stock of projects is reduced accordingly.

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<sup>11</sup> For example: web page, leaflet, brochure, newsletter.

Except in the event of provisions to the contrary approved by the Administrative Council, a project can be **removed from the stock** as follows:

① Automatically

- in the event of cancellation of the remaining balance of the financing;
- in the event of early reimbursement of the loan.

② By virtue of the contractual provisions concerning the closing date:

- The closing date shall be fixed at six months after the anticipated project completion date, in order to allow borrowers to submit their final disbursement requests to the CEB;
- The closing date shall be specified in the loan contract or, in the event of any modification, in the contract amendments. It enables the CEB, through notification to the borrower, to terminate a borrower's entitlement to make any disbursement request to the CEB;
- In the event of a borrower being unable to respect the closing date, a 12-month extension may be granted by the CEB if it deems it to be justified. Any additional request for extension must necessarily be submitted to the Administrative Council for approval.

③ Under the Governor's proposal

A project that has not yet given rise to the signing of a framework contract may be removed from the stock at the proposal of the Governor to the Administrative Council, particularly when the circumstances under which the project was approved have changed radically, casting uncertainty upon the fulfilment of the future obligations of the borrower or guarantor.

## **1.2. Modification of projects during implementation**

The CEB must be informed of any substantial modification made to the project during its implementation. Notification can be given either via the Project Monitoring Report sent to the CEB by the borrower or by *ad hoc* notification by the borrower.

### **(a) Modification of the nature of the objectives**

Any substantial change in the nature of the physical and social objectives of a project, and thus in its ultimate purpose, requires the approval of the CEB's Administrative Council/Executive Committee. The modification request must be sent directly to the Governor, who transmits it to the Administrative Council/Executive Committee for approval via the Secretariat of the Partial Agreement.

### **(b) Cost overrun**

Cost overruns linked to conjunctural changes such as price increases cannot be covered by additional loans. As far as possible, provisions for price increases must be taken into account in the calculation of the cost of a project when it is presented to the Administrative Council/Executive Committee.

In cases where additional and unanticipated investments are required in order to achieve the initially planned objective and these cannot be covered by the borrower, an application for an additional loan must be sent to the Governor, who transmits it to the Administrative Council/Executive Committee for approval, via the Secretariat of the Partial Agreement

### **(c) Modification of the guarantee**

Any changes made in the nature or quality of the guarantee, security and/or collateral given to the CEB must be the object of a modification request addressed directly to the Governor, who gives his opinion and, where applicable, will submit it to the Administrative Council/Executive Committee for approval, via the Secretariat of the Partial Agreement.

In the event of the Governor giving a negative opinion on the new guarantees, and in the absence of any satisfactory alternative, the loan must be reimbursed.

### **(d) Delays in completion of the work**

In the event of any substantial delay, modifications in the works schedule must be indicated in the periodic monitoring report sent to the CEB by the borrower. The Report must present the main causes of the accumulated delays as well as the new financing schedule.

The CEB's Administrative Council/Executive Committee will be informed of any project that has experienced significant delays in advancement through the Annual Monitoring Report.

### **(e) Non-use of funds**

In the event of the borrower being unable to pay out the loan to the client/final beneficiary within the maximum timeframe stipulated in the loan agreement, he must notify the CEB's services, stating the reasons that prevented payment of the funds.

The CEB's services may request that the funds be reimbursed or re-allocated to other projects approved and eligible for additional disbursements or, in certain cases, grant an extension of the timeframe for use of the funds.

In the case of early reimbursement, the cost of the reimbursement will be charged to the borrower according to the provisions contained in the CEB loan agreement.

### **(f) Modification in the event of bids for tenders and contract awards**

In cases of bids for tenders and contract awards, any modification of the initial contract must be reported to the CEB's services by means of an *ad hoc* notification by the borrower.

In the course of the annual monitoring reports, the CEB's Administrative Council/Executive Committee are informed of any projects that have experienced significant cost overruns. Any such additional costs will be borne by the borrower.

## **CHAPTER 4 – PROJECT FINANCING AND MONITORING**

### **I. PROJECT FINANCING**

#### **1.1. General conditions**

The general conditions ruling the loans and loan guarantees granted by the CEB are set forth by the Administrative Council within the framework of the "*Loan Regulations*", which is appended to the loan agreement signed with the borrower.

Projects are financed by the CEB according to provisions approved by the Administrative Council/Executive Committee when examining the project.

The CEB's share of the financing may represent up to 50% of the total eligible cost of the project. This share may be higher in the case of:

- projects in favour of refugee populations, migrants and displaced persons;
- any project concerning reconstruction and/or rehabilitation of destroyed or damaged infrastructure in the wake of a natural or ecological disaster. Projects of this type may also involve the implementation of measures for the prevention of future natural or ecological disasters;
- projects implemented in the CEB's Target Group countries<sup>12</sup>.

The share of financing may be higher, but not more than 90%, subject to an assessment of all the other advantages granted and of the characteristics of the project. Furthermore, in the case of a subsidy through the Selective Trust Account, the scale applied would in principle be limited to 50% of the total eligible cost of the project.

The CEB's reference currency is the EURO, which does not exclude recourse to other currencies, according to indications given by the borrower and the possibilities of refinancing for the CEB on the capital markets.

The CEB raises funds on the best terms available in the capital markets. It passes on these terms to its borrowers, applying the lowest possible margin while taking into account the need to cover its operating costs.

Where applicable, a project financed by the CEB can, on the Governor's proposal, benefit from an interest subsidy through the Selective Trust Account, following case by case approval by the Administrative Council.

## **1.2. Eligible costs**

The costs eligible for CEB financing include:

- the cost of surveys or studies (technical, economic or commercial, engineering) as well as the cost of technical supervision of the project. These costs must not exceed 5% of the total cost of the project, unless duly justified;
- the cost of acquiring land at its purchase price, unless it has been donated or granted;
- preparation of the land;
- construction/renovation/modernisation or purchase of buildings directly linked to a project;
- the installation of basic infrastructure such as sewerage, water supply, electricity and telecommunications networks, waste disposal and waste water treatment, roads, etc;
- the purchase of materials and equipment and costs linked to the training of staff;
- contingencies for unanticipated costs (technical and/or price increases). These represent financial coverage in respect of possible changes in the quantity of work required, in the type and quantity of equipment to be purchased or in the method of carrying out the project. Depending on the sector of activity and the various components of the project, these contingencies may represent up to 10% of the total cost of the project.

Financial costs or investments (payment of debts, refinancing, interest charges, acquisition of interest in the capital of an enterprise, etc.) are not included in the estimated cost of the project and cannot be financed by the CEB.

VAT-related costs are taken into consideration on a case-by-case basis and their financing must be explicitly stated in the Project Presentation Report.

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<sup>12</sup> Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Hungary, Latvia, Lithuania, Malta, Moldova, Montenegro, Poland, Romania, Serbia, Slovak Republic, Slovenia, "the former Yugoslav Republic of Macedonia" and Turkey.

### **1.3. Provisions for loan disbursement**

The CEB's loans are disbursed in a minimum of two tranches, according (a) to the current and/or projected state of progress of the works; (b) according to the absorption capacity of the project/borrower.

#### **(a) Disbursement according to the current and/or projected progress of the works**

In this case, disbursement is made according to the state of progress of the works, defined as the ratio of already incurred expenditure to total eligible cost, on all the component parts of the project.

The borrower must also provide the most accurate possible estimate of the physical progress of the project at the time of each disbursement. The first disbursement may exceed the 50% limit if justified by the progress of the work and within the context of the CEB's two statutory priorities<sup>13</sup>.

The disbursement of each of the subsequent loan tranches can go ahead as soon as the borrower has used 90% of the previous tranche and will be effected pro rata to the state of advancement of the project and – if deemed appropriate – to the projected progress of the works over the forthcoming months, within a limit of one year.

The disbursed loan tranches must be allocated to the project within the timeframe stipulated in the CEB loan agreement, subject to a maximum limit of 12 months. Beyond this limit, the loan must be reimbursed to the CEB according to the provisions contained in the loan agreement, except in the event of the CEB agreeing to extend this maximum limit.

#### **(b) Disbursement according to the absorption capacity of the project/borrower**

In this case, disbursement is made in loan tranches, whose number is fixed according to the sector(s) concerned and to the social, technical and financial particulars of the project.

The first disbursement may not exceed 50% of the authorised loan amount, depending on the absorption capacity of the project/borrower.

Once the first tranche has been disbursed, each of the subsequent loan tranches can be disbursed as soon as 90% of the previous tranche has been allocated and notification to that effect sent to the CEB's services (Cf. infra – "Project monitoring").

In this context, the term "allocate" means to commit an established loan amount in favour of the component parts of the project (identified by means of the standard tables appended to the loan agreement) even if that amount has not yet been disbursed to the final beneficiaries.

Depending on the borrower's experience or on the specific circumstances of the project, the CEB may, if it deems it preferable, demand that the borrower first allocate all or a percentage of a tranche prior to its disbursement.

The disbursed loan tranches must be allocated to the programme within the timeframe defined in the loan agreement, subject to a maximum limit of 18 months. Beyond this limit, the loan must be reimbursed to the CEB according to the provisions contained in the loan agreement, except in the event of the CEB agreeing to extend this maximum limit.

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<sup>13</sup> See Chapter 1: "Aid to refugees, migrants and displaced persons"; "Natural or ecological disasters"

## **II. PROJECT MONITORING**

### **1.1. General principles of project monitoring**

The CEB loan agreement provides for the Bank to carry out technical and administrative monitoring of projects from approval to completion, including their evaluation, where applicable, by the CEB's Ex-Post Evaluation Unit; it also defines the practical provisions for this.

The borrower is responsible for the implementation of the project. The borrower must also monitor the projects in compliance with the rules set forth in the loan agreement.

Monitoring consists in ensuring that the project is carried out in accordance with the provisions approved by the Administrative Council/Executive Committee when examining the project.

Within the framework of disbursements, the purpose of the monitoring process is, in particular, to check:

- the state of progress of the project, based on information provided by the borrower or observations made during on-site missions;
- depending on the structure of the project, the allocation of the disbursed tranches (on-site verifications by means of a sampling of project managers and final beneficiaries selected by the CEB).

### **1.2. Monitoring missions**

At least once in the project life cycle, an on-site project monitoring mission is organised by the CEB's competent services, taking into account the cost of the project, the sectors of action concerned and the geographical location. Where "conditional financing instruments"<sup>14</sup> are concerned, the monitoring missions shall be adjusted according to the results of the monitoring reports produced by the borrower. In certain cases, approved external consultants may be called in to assist in the monitoring.

These missions enable the CEB to check the eligibility of the projects visited, to evaluate the social effects achieved and to confirm full allocation/use of the funds disbursed. If one of the project's component parts is deemed to be ineligible, the borrower must either reimburse that portion of the loan or replace it with another.

The borrower must therefore ensure that the CEB is provided with all the relevant information for evaluating the projects visited and their component parts.

Within the framework of procurement, a mission to verify procedures, on a sampling basis, can be organised at any time during the project's implementation. The CEB carries out regular updates on an internal summary report on public market procurement procedures. This document also provides models of provisions to include in the loan agreement concerning procurement according to the procedures accepted by the CEB.

For each mission a Mission Report is drawn up, whose conclusions may be communicated to the borrower.

### **1.3. Monitoring reports**

The borrower must provide monitoring reports at least once a year and prior to any disbursement, with the exception of the first tranche. This report prepared by the borrower (or by the project manager, depending on the case) is drawn up using the standard tables appended to the loan agreement.

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<sup>14</sup> See Handbook for the Preparation and Monitoring of Projects, Chapter 2. Financial means of action.

In addition, an Annual Monitoring Report prepared by the CEB is presented to the CEB's Administrative Council/Executive Committee, highlighting the following points:

- the results of the technical missions carried out in the course of the previous year. For projects rated from "*not very satisfactory*" to "*unsatisfactory*", the project evaluation files will be attached to the Annual Monitoring Report;
- a global analysis of the project monitoring and completion reports provided by the Borrowers (directly or indirectly);
- proposals for improving project management.

This Report is completed by the annual report on the project's social impact drawn up by the Secretariat of the Partial Agreement in Strasbourg.



# **Council of Europe Development Bank**

## ***Loan regulations***

**CHAPTER 1**

**Object of the Loan Regulations**

**ARTICLE 1.1**

***Object of the Loan Regulations***

The present Loan Regulations lay down the general conditions governing loans granted by the Bank and guarantees thereof.

**ARTICLE 1.2**

***Conflict between the Loan Regulations and provisions of loan and guarantee agreements***

The Bank may provide for exceptions to the conditions laid down in these regulations. In the event of conflict between the provisions of these regulations and one or more provisions of loan agreements or guarantee agreements, the latter provisions shall prevail.

**CHAPTER 2**

**Conditions governing loans granted by the Bank and guarantees thereof.**

**ARTICLE 2.1**

***Purpose of the loan***

Loans granted by the Bank shall finance projects approved by the Administrative Council, eligible under the Bank's Applicable Rules.

**ARTICLE 2.2**

***Loans and guarantees***

Loans granted by the Bank in accordance with Article VII, 1 of the Articles of Agreement shall be covered by adequate guarantees as provided for in Article VII, 2 of the Articles of Agreement.

A guarantor shall be released from his obligations by execution thereof, but only in so far as he has fulfilled them.

Such obligations shall not be subject to any demands upon or action against the guarantor; they shall, however, be subject to a notice from the Bank to the guarantor informing the latter of the failure of the borrower to fulfil his obligations vis-à-vis the Bank.

The obligations of the guarantor shall not be affected by any extension of time, forbearance or concession granted to the borrower, nor by any assertion of, or failure to assert any right or remedy against the borrower or in respect of any security for the loan, nor by any failure of the borrower to comply with any requirements of any law, decree or regulations of the guarantor or of any political or administrative authority under the guarantor.

**ARTICLE 2.3**

***State Guarantees***

The State Guarantee may be given by special contract between the Bank and the guarantor or by the endorsement of the loan agreement by the guarantor.

**ARTICLE 2.4**

***Loan Agreement***

For each project approved by the Administrative Council the Bank shall enter into a framework loan agreement. Each disbursement shall be separately documented and requires the conditions set out in the framework loan agreement to be met.

**CHAPTER 3**

**Suspension and cancellation of undisbursed loans; early reimbursement of loans; voluntary early reimbursement of loans**

**ARTICLE 3.1**

***Suspension or cancellation by the borrower of undisbursed loans following the signature of a loan agreement***

Following the entering into a loan agreement between the Bank and the borrower, were this latter to cancel or suspend all or part of a loan before it has been fully or partly disbursed, the borrower shall be required to compensate the Bank for the loss sustained as a result of such cancellation or suspension by paying a single commission at a rate to be fixed by the Bank in relation to the proportion of the loan cancelled or suspended. This provision shall also apply to the guarantor.

**ARTICLE 3.2**

***Voluntary early reimbursement of disbursed loans at the request of the borrower***

A borrower may be authorised by decision of the Bank to reimburse a loan in advance of maturity. The conditions of such reimbursement shall be decided by the Bank.

**ARTICLE 3.3**

***Early reimbursement of disbursed loans***

The Bank may demand early reimbursement of disbursed loans in the following cases:

- (a) where the borrower or guarantor fails to repay the principal or pay the interest or any other sum due under a loan agreement or guarantee agreement between the Bank and the borrower or under a loan agreement or guarantee agreement between the Bank and the guarantor, whether their default relates to the agreement in question or to any other agreement between the Bank and the same borrower or guarantor;
- (b) where the borrower or guarantor fails to fulfil an obligation arising out of any other stipulation or clause in these regulations or in a loan agreement or a guarantee agreement, whether the default relates to the agreement in question or to any other agreement between the Bank and the same borrower or guarantor and where the interests and objectives of the Bank are prejudiced thereby;
- (c) where an exceptional situation arises which makes the fulfilment of the borrower's or guarantor's obligations uncertain;
- (d) where the borrower or guarantor takes or authorises any measure or institutes or allows to be instituted any proceedings whereby any property belonging to him is or may be assigned, transferred, or delivered in any way whatsoever to an official receiver, assignee, liquidator or other person, whether that person be appointed by the borrower, a court, or the guarantor, or be acting

## Council of Europe Development Bank – Loan regulations

in pursuance of any law, and where the said measure or proceedings result in, or provide for, the distribution of such property among the creditors of the borrower or guarantor;

- (e) where the guarantor or any competent governmental authority takes any action to dissolve or to put an end to the activities of the borrower or to suspend its operations;
- (f) in the case of loans granted to a member of the Bank, where the borrower or the guarantor ceases to be a member of the Bank;
- (g) (i) in the case of misprocurement, corruption, fraud, or money laundering, where the borrower has not taken timely and appropriate actions to prevent or remedy the situation arising from such misprocurement, corruption, fraud, or money laundering;  
  
(ii) where the implementation of the project financed by the Bank leads to a violation of the Bank's Environmental Policy;  
  
(iii) where the implementation of the project financed by the Bank leads to a violation of the European Convention on Human Rights and the European Social Charter;
- (h) where any other event specified in the loan agreement or the guarantee agreement occurs, giving rise to the application of this article.

### **ARTICLE 3.4**

#### ***Time Allowed***

In case of loans to one of the members of the Bank, early reimbursement pursuant to article 3.3 above is conditional upon

- (a) any of the contingencies set forth in Article 3.3 (a) having prevailed for more than thirty calendar days;
- (b) one of the contingencies set forth in Article 3.3(b) of the same article has prevailed for more than sixty calendar days.

### **ARTICLE 3.5**

#### ***Suspension by the Bank of undisbursed loans***

If any of the contingencies described in Article 3.3 should arise, the Bank may at any time suspend all or part of the disbursement of further tranches of the loan by giving notice to the borrower and to the guarantor.

Suspension shall end on the date on which the Bank notifies the borrower and the guarantor that the cause of suspension is no longer operative.

### **ARTICLE 3.6**

#### ***Cancellation by the Bank of undisbursed loans***

If any of the contingencies described in Article 3.3 arises, the Bank may also, by notifying the borrower and the guarantor, cancel permanently all or part of the undisbursed loan. Such a decision to cancel a loan may also be taken after a suspension.

**ARTICLE 3.7**

***Commission applicable to cases set out in Article 3.1***

Should the Bank sustain a loss as a result of suspension, cancellation or early reimbursement, as provided above, the single commission specified in Article 3.1 shall also be payable.

**CHAPTER 4**

**Settlement of disputes in respect of loans from the Bank  
or guarantees pertaining thereto**

**ARTICLE 4.1**

***Arbitration***

Any dispute between the parties to the loan agreement and, where applicable, the guarantee agreement in respect of the interpretation or execution of such agreements or in respect of a claim by one of the said parties against another arising out of the loan agreement the guarantee agreement, or these regulations, which has not been settled by agreement between the parties shall be submitted for arbitration in the manner prescribed below.

**ARTICLE 4.2**

***Commencement of arbitration proceedings***

Arbitration proceedings may be instituted by any one of the parties specified in the preceding section by means of a request notified to all the other parties; the request shall state the nature and subject of the dispute and set forth the claims to be submitted for arbitration.

**ARTICLE 4.3**

***Appointment of the arbitral tribunal***

In any arbitration proceedings instituted in pursuance of this article, the borrower or the guarantor (if any) may be a party alongside the guarantor or the borrower as the case may be.

For any dispute submitted for arbitration in pursuance of this article, an arbitral tribunal shall be set up. It shall consist of three arbitrators appointed as follows:

- (a) one arbitrator shall be appointed by the Bank;
- (b) a second arbitrator shall be appointed by the borrower or, where applicable, by agreement between the borrower and the guarantor or, failing such agreement, by the guarantor;
- (c) a third arbitrator, called the umpire, who shall act as President of the arbitral tribunal, shall be appointed by common consent between the parties or, failing such consent, by the President of the European Court of Human Rights or, should the latter have the nationality of the guarantor or be of the same nationality as the borrower, by the Vice-President of the Court or, if the latter is in the same situation, by the senior of those Judges of the Court who neither have the nationality of the guarantor nor are of the same nationality of the borrower;
- (d) the procedure described in the preceding paragraph shall take place, at the instance of one of the parties to the dispute, if, within one month after notice has been given of the request for arbitration, no agreement has been reached regarding the appointment of an umpire;
- (e) where one of the parties appoints no arbitrator, the umpire shall appoint the said arbitrator.

**ARTICLE 4.4**

***Place of arbitration***

The arbitral tribunal shall hold its first sitting on such date and at such place as shall be appointed by the umpire. Thereafter, the tribunal shall decide itself where and when it shall sit.

**ARTICLE 4.5**

***Law applicable to arbitration proceedings***

The arbitral tribunal shall decide all questions relating to its competence. It shall lay down its own rules of procedure and shall choose the law which shall be applicable, unless that law is specified in the contracts or in the arbitration agreement, bearing in mind the provisions of Article 1 (3) of the Third Protocol to the General Agreement on Privileges and Immunities of the Council of Europe. All decisions of the tribunal shall be by majority vote.

Domestic law may apply in a particular case provided that it does not derogate from the Third Protocol to the General Agreement on Privileges and Immunities of the Council of Europe and from the Articles of Agreement.

**ARTICLE 4.6**

***Award of the arbitral tribunal***

All awards of the arbitral tribunal shall set out the grounds for the decision. They shall be final and binding upon all the parties referred to in Article 4.3. They may be rendered in default of submissions.

**ARTICLE 4.7**

***Cost of arbitration***

The party against whom the award is made shall bear the costs of the arbitration proceedings unless the arbitral tribunal decides otherwise or the parties have agreed otherwise by a clause in the loan contract or the guarantee contract. The arbitral tribunal shall give a final ruling on any dispute in respect of costs.

**ARTICLE 4.8**

***Enforcement of arbitral awards***

The loan agreement and the guarantee agreement shall contain whatever provisions are required to ensure, in respect of the Bank and in respect of the borrower and the guarantor, compliance with any awards made in pursuance of this chapter.

If, within one month after the originals of the award have been delivered to the parties, the award has not been complied with, any of the parties specified in Article 4.3 may institute proceedings for the enforcement of the award. The court which shall have jurisdiction for such proceedings shall be that designated by the rules of civil procedure of the State concerned.

**CHAPTER 5**

**Miscellaneous provisions**

**ARTICLE 5.1**

***Entry into force***

The date of entry into force of a loan agreement or a guarantee agreement shall be specified therein. It may be specified subject to a condition, in which case the contract shall not come into force until that condition has been fulfilled and the Bank has been duly notified by the Borrower and/or the Guarantor.

Should the condition governing the entry into force of a loan agreement or a guarantee agreement not be fulfilled, the borrower or the guarantor shall, if the Bank has sustained a loss, be required to pay to the Bank a single commission at a rate to be fixed by the Bank in relation to the amount specified in the loan contract.

**ARTICLE 5.2**

***Discharge of obligations***

The loan agreement and the guarantee agreement and the obligations of the parties thereunder, save for those regarding the ex-post evaluation of the project as provided for in the loan agreement shall cease as soon as the whole of the loan principal as well as interest and any other charges in respect of the loan or the loan guarantee have been paid.

**ARTICLE 5.3**

***Notices***

Any notice or request which must or may be given or made under the terms of these regulations or loan agreements or guarantee agreements shall be given or made in writing.

**ARTICLE 5.4**

***Copies***

Loan agreements and guarantee agreements may be drawn up in more than one copy, each of which shall be regarded as an original.

**ARTICLE 5.5**

***Language of Loan Regulations***

These regulations have been drawn up in English and in French, both versions being equally authentic.

CHAPTER 6

**Definitions**

**Applicable Rules** means the Third Protocol to the General Agreement on the Privileges and Immunities of the Council of Europe, the Articles of Agreement of the Bank, the Bank's Overall Policy Framework for Loan and Project Financing and its implementing documents including the present Loan Regulations, and the Bank's Environmental Policy.

**Bank** means the Council of Europe Development Bank.

**European Convention on Human Rights** means the Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950, CETS n° 5.

**European Social Charter** means the European Social Charter, 18 October 1961, CETS n° 035.

**State Guarantees** means guarantees given by a member state of the Bank to the benefit of the Bank with respect to loans granted by the Bank to any legal person in a member state.