

Environmental and Social Sustainability Framework

Standard 10 – Cultural Heritage

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STANDARD 10: CULTURAL HERITAGE

INTRODUCTION

- 1 This Standard recognises that protecting and conserving cultural heritage, which is a source of valuable historical and scientific information, an asset for economic and social development and an integral part of people's cultural rights, identity and practices, is fundamental to environmental and social sustainability.
- 2 The Standard recognises that cultural heritage incorporates all the various aspects of a community's past and present that are identified as a reflection and expression of its constantly evolving values, beliefs, knowledge and traditions and which the community considers valuable, and desires to sustain and transmit to future generations.

OBJECTIVE

- 3 This Standard outlines the promoter's responsibilities with regard to identifying, assessing, managing and monitoring cultural heritage-related impacts and risks associated with the projects for which EIB financing is requested.
- 4 The objective of this Standard is to set out requirements applicable to EIB-financed projects that the promoter shall comply with. These requirements are intended to foster:
 - a. the application of a precautionary approach to the management and sustainable use of cultural heritage;
 - b. the protection of cultural heritage from the potential adverse impacts of project activities;
 - c. the equitable sharing with local communities of financial and/or socioeconomic benefits derived from the commercialisation of cultural heritage; and
 - d. awareness, appreciation and enhancement of cultural heritage.

SCOPE

- 5 This Standard applies to a specific project, when its relevance is determined during the Environmental Impact Assessment/Environmental Impact and Social Assessment (EIA/ESIA) process (as outlined in Standard 1) and specifically to EIB-financed projects likely to have impact on known cultural heritage regardless of whether or not is legally protected and/or previously disturbed.
- 6 This Standard also applies to projects under implementation that are likely to have a significant impact on cultural heritage but were not previously identified as such and for which chance find procedures shall be applied (see paragraph 22).
- 7 For the purpose of this Standard, cultural heritage includes both tangible and intangible heritage. Tangible cultural heritage¹ refers to monuments², individual buildings, groups of buildings³ and sites⁴. Intangible cultural heritage⁵ refers to practices, representations, expressions, knowledge and skills – as well as the instruments, objects, resources, artefacts and cultural spaces associated therewith – that rights-holders (communities, groups and, in some cases, individuals) recognise as part of their cultural heritage and which are transmitted from generation to generation.
- 8 This Standard applies to natural heritage⁶ recognised by the local communities and peoples as part of their history, values, beliefs, knowledge and/or traditions and which the communities and peoples consider valuable, and desires to sustain and transmit to future generations.

¹ The UNESCO 1972 Convention concerning the Protection of the World Cultural and Natural Heritage (<https://whc.unesco.org/archive/convention-en.pdf>).

² Architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of value to the local communities or peoples.

³ Groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of value to the local communities or peoples.

⁴ Works of man or the combined works of nature and man, and areas including archaeological sites which are of value to the local communities or peoples.

⁵ The UNESCO 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (<https://ich.unesco.org/en/convention>)

⁶ Natural heritage refers to natural features consisting of physical and biological formations or groups of such formations, natural features, geological and physiographical formations, delineated areas that constitute the habitat of threatened species of animals and plants and natural sites of value from the point of view of science, conservation or natural beauty (Art. 2 of the UNESCO 1972 Convention concerning the Protection of the World Cultural and Natural Heritage (<https://whc.unesco.org/archive/convention-en.pdf>)).

- 9 Where a project is likely to have significant impact on natural heritage, both cultural and biodiversity, ecosystem services aspects shall be considered and the requirements of Standard 4 shall apply in conjunction with the requirements presented in this Standard.

GENERAL REQUIREMENTS

10 All projects located in EU, EFTA, Candidate and potential Candidate countries shall comply with the applicable national and EU legislation. All projects located in the rest of the world shall comply with the applicable national legislation and this standard which reflect the core principles and essential procedural elements laid down by the EU legislation that the EIB considers relevant to the assessment and management of environmental, climate and/or social impacts and risks, particularly those contained in the EIA Directive, which are set out in the paragraphs 14 – 31 and the annexes of Standard 1. Projects that are likely to have significant cultural heritage impacts shall be subject to an Environmental and/or Social Impact Assessment (ESIA) process and should include considerations of potential human rights risks. All projects shall also align with the principles and standards set out in the international instruments concerning the protection of cultural heritage, as relevant:

- The UNESCO 1972 Convention concerning the Protection of the World Cultural and Natural Heritage⁷;
- The UNESCO 2001 Convention on the Protection of the Underwater Cultural Heritage⁸;
- The UNESCO 2003 Convention for the Safeguarding of the Intangible Cultural Heritage⁹;
- The Council of Europe 1985 Convention for the Protection of the Architectural Heritage of Europe¹⁰;
- The Council of Europe 1992 Valetta Convention on the Protection of the Archaeological Heritage¹¹;
- The Council of Europe 2000 European Landscape Convention¹²;
- The Council of Europe 2005 Framework Convention on the Value of Cultural Heritage for Society (the Faro Convention)¹³.

SPECIFIC REQUIREMENTS¹⁴

- 11 The promoter is responsible for locating and designing a project in such a manner that it will avoid significant adverse impacts on cultural heritage. When the promoter can demonstrate that impacts cannot be avoided for reasons other than cost considerations, the promoter shall adequately assess if any cultural heritage is likely to be significantly affected by the project and/or if there are indications of the likelihood of any chance finds (see paragraph 22). Where the project site may potentially prevent access to previously accessible cultural heritage, the promoter shall allow continued access to these sites or shall provide alternative access, during construction and operation.
- 12 In doing so, the promoter shall engage with relevant national or local regulatory authorities entrusted with the protection of cultural heritage, local communities and other relevant stakeholders as appropriate (see paragraph 20).

Projects located in EU, EFTA, Candidate and potential Candidate countries

- 13 The promoter shall assess potential impacts on cultural heritage throughout the whole EIA process, taking into account the views of key relevant stakeholders (see paragraph 19) and, if a cultural heritage impact assessment has been deemed necessary by the competent authorities, shall provide the following information prepared by professionals with appropriate expertise, experience and qualifications in cultural heritage:
- a. The baseline conditions with a focus on the need for a clear identification of all cultural heritage;

⁷ <https://whc.unesco.org/archive/convention-en.pdf>.

⁸ https://unesdoc.unesco.org/ark:/48223/pf0000124687_page=56.

⁹ <https://ich.unesco.org/en/convention>.

¹⁰ <https://rm.coe.int/168007a087>.

¹¹ <https://rm.coe.int/168007bd25>.

¹² <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/176>.

¹³ <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680083746>.

¹⁴ Specific requirements are applicable for all projects regardless of their location, unless specified otherwise.

- b. A baseline study compiling a comprehensive inventory of cultural heritage assets supported by a full description of their cultural significance within the proposed project area;
 - c. The prediction and evaluation of the significance of both direct impacts (direct loss, destruction or disturbance of an element of cultural heritage) and indirect impacts which may affect the preservation of cultural heritage;
 - d. The application of a mitigation hierarchy by identifying measures to avoid, prevent and reduce any significant adverse effects specific to the cultural heritage asset to be protected;
 - e. A management and monitoring plan to ensure that the proposed mitigation measures are properly implemented and that the cultural heritage asset is preserved in the desired state.
- 14 If the project is not subject to an EIA process, depending on the nature and context of the project and if there is reason to believe that there are existing cultural heritage assets in the proposed project area, the EIB may require the promoter to provide additional information on these assets by providing to the EIB the minimum information outlined in Annex 1. On the basis of this information, the EIB may require the promoter to provide a more detailed assessment.

Projects located in the rest of the world

- 15 The promoter shall ensure that the impact on cultural heritage is duly considered in the ESIA process by taking into account the views of key relevant stakeholders (see paragraph 20) and engaging professionals with appropriate expertise, experience and qualifications in cultural heritage to assist in the preparation of the assessment.
- 16 The cultural heritage assessment as a standalone study or as part of the ESIA Report shall provide information on at least:
- a. The description of the project and the reasonable alternatives studied during the project preparation phases with an indication of whether the impact on cultural heritage was considered in the selection of the chosen option;
 - b. A baseline study compiling a comprehensive inventory of cultural heritage assets supported by a full description of their cultural significance using both desk-based research and field surveys;
 - c. The prediction and evaluation of the significance of both direct impacts (direct loss, destruction or disturbance of an element of cultural heritage) and indirect impacts which may affect the preservation of cultural heritage, including visual impacts;
 - d. The application of a mitigation hierarchy by identifying measures to avoid, prevent and reduce significant adverse impacts on cultural heritage, outlined in a cultural heritage management plan;
 - e. A cultural heritage management plan to ensure that the proposed mitigation measures are properly implemented and that the cultural heritage asset is preserved in the desired state.
- 17 When defining the mitigation measures, the following order should be considered:
- a. Minimise adverse impacts with appropriate technical and/or management measures specific to the cultural heritage asset to be protected;
 - b. When minimisation is not possible, restore in situ after the adverse impacts have occurred to ensure full restoration of the functionality and significance of the cultural heritage for the affected communities;
 - c. When the promoter can demonstrate that minimisation and restoration are not feasible for reasons other than cost considerations, remedy/compensate for loss of cultural heritage in ways that are acceptable and have been agreed with the affected communities before any works affecting the cultural heritage have started.
- 18 The proposed cultural heritage management plan (see paragraph 16, point e) shall be part of the promoter's overall Environmental and Social Management Plan (ESMP – as described in Standard 1). The promoter shall ensure that trained and qualified personnel are available to oversee the implementation of the plan, directly or through contractors working on the project, by applying internationally recognised practices for field surveys, documentation and protection of cultural heritage.
- 19 If the project is not subject to an ESIA process and depending on its nature and context, and if there is a reason to believe that there are existing cultural heritage assets in the proposed project area, the EIB may require the promoter to provide additional information on these assets by providing to

the EIB the minimum information outlined in Annex 1. On the basis of this information, the EIB may require the promoter to provide a more detailed assessment.

STAKEHOLDER ENGAGEMENT

20 The promoter shall carry out meaningful consultation with and provide timely and adequate information to affected communities who use or have used the cultural heritage within living memory for longstanding cultural purposes, with due attention to intangible cultural heritage. Consultation shall be carried out to identify cultural heritage of importance and incorporate the views of the affected communities on such cultural heritage into the project design, while assessing risks and impacts, applying the mitigation hierarchy and identifying opportunities for potential benefit-sharing arrangements with the community. Consultation shall also involve other relevant stakeholders, including national or local regulatory authorities entrusted with the protection of tangible and/or intangible cultural heritage. The engagement process shall be carried out and documented in line with the requirements of Standard 2 and in line with the requirements of Standard 7 in case vulnerable groups or Indigenous People are likely to be affected.

PROTECTED CULTURAL HERITAGE AREAS

21 Legally protected cultural heritage areas are important for the safeguarding and conservation of cultural heritage and therefore, additional measures are needed for any projects that would be permitted in these areas under the applicable national law. In circumstances where a proposed project is located within a legally protected area or a legally defined buffer zone, the promoter shall meet the following additional requirements:

- a. Ensure compliance with defined international, national and/or local cultural heritage regulations or the protected area management plans;
- b. Conduct meaningful consultation with the protected area sponsors and managers, local communities and other key stakeholders on the proposed project; and
- c. Take and implement additional programmes, as appropriate, to reduce the project's impacts, including visual impacts, and to promote and enhance the conservation aims of the protected area.

CHANCE FIND PROCEDURES

22 The promoter shall ensure that provisions for managing chance finds, defined as cultural heritage encountered unexpectedly during project implementation, are in place and included in contracts, as appropriate. Such provisions shall include: notification of relevant competent authorities of found objects or sites; delivering training to the project personnel, including contractor and sub-contractor employees, on the procedures to follow if chance finds are discovered; and securing the area of finds to avoid any further disturbance or destruction. The promoter shall not disturb any chance finds until an assessment by a designated and qualified specialist is made and actions consistent with national legislation and this Standard are identified.

PROJECT'S USE OF CULTURAL HERITAGE

23 Where a project proposes to use, for commercial purposes, a local community's cultural resources, knowledge, innovations or practices that embody traditional lifestyles, the promoter shall disclose all relevant information in a timely and context-specific manner, in an accessible place, and in a form and language(s) understandable to the community. The information provided shall include as a minimum: (i) its rights under national law; (ii) the scope and nature of the proposed commercial development; and (iii) the potential consequences of such development.

24 The promoter shall proceed with such commercialisation only when it:

- a. Enters into a good faith negotiation with the affected local communities;
- b. Documents their informed participation and the successful outcome of the negotiation; and
- c. Provides for fair and equitable sharing with the affected local communities of benefits derived from commercialisation of such knowledge, innovations or practices, consistent with their customs and traditions.

25 Where a project proposes to use the cultural resources, knowledge, innovations or practices of Indigenous Peoples, the requirements of Standard 7 also apply.

ANNEX 1 – MINIMUM INFORMATION TO BE PROVIDED ON CULTURAL HERITAGE ASSESSMENTS

- 1 A description and map of the project area, including information on overlaps with or close proximity to any site/feature protected at international, national or local level because of its importance in terms of cultural heritage (e.g. UNESCO World Heritage Site).
- 2 Any landscape features contained in the project area such as:
 - a. Monuments¹⁵,
 - b. Groups of buildings¹⁶ and
 - c. Sites¹⁷.
 - d. Evidence of other human-made alterations to the natural landscape (such as trails, boundary or way-finding markers, mounds, earthworks, cultivation, non-native species, etc.).
 - e. Prominent natural features that could have special value to people (such as waterfalls, rocky outcrops, large specimen trees, caves, etc.);
- 3 Evidence from documentary sources (e.g. local history, a local recognition programme, research studies, previous heritage impact assessment reports, etc.) or local knowledge that associates the project area with historically and/or culturally significant places, events, activities or persons.
- 4 The presence of intangible cultural heritage such as practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups or individuals from the project area recognise as part of their cultural heritage and which are transmitted from generation to generation.
- 5 Potential impacts resulting from the proposed undertaking/project, including:
 - a. The destruction, removal or relocation of any, or part of any, heritage attribute or feature;
 - b. The alteration of any, or part of any, heritage attribute or feature (which means a change in any manner and includes restoration, renovation, repair or disturbance);
 - c. Shadows created that alter the appearance of a heritage attribute or change the exposure or visibility of a natural feature or plantings, such as a garden;
 - d. The isolation of a heritage attribute from its surrounding environment, context or a significant relationship;
 - e. The direct or indirect obstruction of significant views or vistas from, within or to a built or natural heritage feature.
 - f. A change in land use such as rezoning;
 - g. Soil disturbance such as a change in grade, or an alteration of the drainage pattern, or excavation, etc.
- 6 Information provided on the proposed project to the competent authorities for the protection of cultural heritage sites/features.
- 7 Description of prevention and mitigation measures as agreed with the potentially impacted stakeholders, including any rules an indigenous people or community have about disturbance to any aspect of their cultural heritage.
- 8 A description of the specific approval/permit process the project had to undergo in relation to cultural heritage sites/features.
- 9 Description and documentary evidence of consultation of relevant stakeholders (communities, groups or individuals) potentially affected by the project.
- 10 If the project area has been subject to a cultural heritage assessment in the past, provide a copy of the document or reference to the source if applicable.

¹⁵ Architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of value to the local communities or peoples.

¹⁶ Groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of value to the local communities or peoples.

¹⁷ Works of man or the combined works of nature and man, and areas including archaeological sites which are of value to the local communities or peoples.