The European Investment Bank: Independence vs. Accountability?

By Maike Hiltner
The European Investment Bank (EIB) describes itself as "the European Union’s financial institution".\(^1\) It was founded by the Treaty of Rome in 1957, with the Member States of the European Union (EU) as its members. Its mission is to further the EU objectives by providing long-term financial support for specific projects, at the same time respecting strict banking standards. As part of the European Union, the Bank is expected to follow with its activities the developments in Community policies. Its current capital is 100 billion Euro, of which only 6% are paid in, the other 94% are subscribed capital. The Bank raises its financial resources on the capital market; it operates on a non-profit basis. Today, it is one of the largest financing institutions of its kind in the world. In 2000, the Bank granted loans of a total of 36 billion Euro; 30.6 billion went to the Member States (including the 2.9 billion to accession countries), which is an increase of the total lending of about 13%, and an 24% increase for the accession countries alone, compared to 1999.

Accountability of international financial institutions (IFIs) has become a more and more important issue in the last 20 years. While the World Bank (WB) and others were in the focus of civil society and non-governmental organizations (NGOs), the EIB passed mainly unnoticed and could increase its annual lending volume of credits over the one handled by the WB without any major external screening. During the last years, this has changed. While some critics argued that the EIB has long accomplished its original purpose to decrease the different development standards between the Member States, and to even out disadvantages due to imperfections in national banking sectors (i.e. the lack of long-term credits) and now at the best functions as shadow budget for national and EU level, without any specific public policy role, and at its worst leads to severe market distortions, and argued in favor of its abolition, civil society, also the European Parliament (EP) mainly protest against missing accountability structures, lack of transparency, with substantive negative impact on the environment, society and even regional development.

\(^1\) http://www.eib.org
As the Bank still exists, even recently got another increase of its subscribed capital\(^2\), and regularly gets called upon by the European Council to take up new aims, this paper takes a closer look at the criticism of civil society. My underlying question is whether the European Investment Bank has to reply to adequate accountability mechanisms. Accountability mechanisms that, on the one hand, seem to limit the Bank’s independence and thus good functioning, if one listens to the arguments stressed by the EIB. On the other hand, its financial basis relies on its Member States' Gewährträgerhaftung (guarantors liability) and paid-in capital, and as part of the European Union - even more regarding the well-known criticism of the Union’s overall "democratic deficit" - needs to be able to be held accountable for its actions. What do the current provisions look like, for which purpose, and how could they be improved? In short: What would an "adequate" accountability system for the EIB look like, neither hindering its proper functioning nor shading it entirely from any control mechanism?

Most of the examples quoted deal with environmental concerns. This is due to the focus of the NGOs monitoring the EIB, at the same time this seems to be the area where the EIB has the biggest shortcomings, because even in the Bank’s own evaluation reports, environment is a regular point of criticism.

Generally, it is difficult to find secondary literature on the EIB, if one disregards the pile of articles published e.g. by Philippe Tabary, who was working for the EIB’s information office at the time.\(^3\) This is why some parts of this paper are based on interviews I conducted with representatives from the European Parliament, Commission, of course the EIB, non-governmental organizations, and - to have a basis for comparison - the European Bank for Reconstruction and Development (EBRD). However, my interlocutors did not wish to be quoted by name. I tried to verify the information from other sources, but I did not always succeed. One of the reasons certainly is that the topic is relatively current, and discussions are going on. An

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example is the latest NGO campaign, "No Reform - No Money"\textsuperscript{4}, launched 7 February 2002, where an international group of non-governmental organizations tried to get the envisaged increase of EIB capital by this year’s meeting of the Board of Governors in June linked to concessions in its design, e.g. transparency and public consultation provisions.

2 THE BACKGROUND

2.1 Independence and accountability of non-majoritarian institutions

This paper recognizes the need for independence as a prerequisite for the proper functioning of institutions like the EIB, without omitting the obligation of accountability. The underlying concept is based on Giandomenico Majone's theoretical approach that explains how the notions of independence and accountability could be combined for non-majoritarian institutions\textsuperscript{5}. He shows that agency independence and public accountability are not necessarily antithetical values, but complementary and mutually reinforcing. Majone argues, the defects of regulation (his example of independent agencies) are not due to an excess of independence but to easy political interference: "With greater independence would go greater accountability."\textsuperscript{6} However, this implies more flexible forms of control\textsuperscript{7}.

For Majone, independence of non-majoritarian institutions means independence from partisan politics and party political influence. At the European level, this would correspond to autonomy from national influences. Fischer-Appelt defines

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\textsuperscript{4} cf. for example to the information on the CEE Bankwatch Network website, http://www.bankwatch.org
\textsuperscript{5} He characterizes non-majoritarian institutions as public institutions "which by design are not directly accountable to the voters or to their elected representatives" (in: Majone, Giandomenico: Europe's 'Democratic Deficit': The Question of Standards. In: European Law Journal, vol. 4, no. 1, March 1998, p. 15) as e.g. independent central banks, independent regulatory bodies, courts of law or the European Commission
\textsuperscript{6} Majone (1994), p. 6
independence in terms of independence from the respective Community institutions. She refutes the more concrete definition of independence from the Commission, as this implies that agencies are simply supporting instruments to the Commission, which is not the case.8

Following Majone's arguments, non-majoritarian institutions offer several advantages. This list is certainly not exhaustive, but includes the most important ones. In the following, they will be used to show the extent to which the independent status of the EIB offers advantages that justify this arrangement. Independent non-majoritarian institutions:

- have the means to offer the necessary expertise;
- favor public participation;
- free government administration from partisan politics and party political influence;
- offer greater continuity and stability;
- have more flexibility in applying a policy to particular circumstances;
- focus public attention on controversial issues;
- may further the integration of the EU.

As Majone and others have argued, independence has to be accompanied by several control mechanisms assuring adequate accountability of non-majoritarian institutions, organizational as well as political methods.9 In this paper, accountability is not limited to the financial dimension only, as this definition is far too narrow for its purposes. Following the principles established by the Development Assistance Committee (DAC) of the OECD, it does not focus on audit arrangements, but on accountability in a wider sense.10

Based on the American experience, independent institutions should answer to:

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8 Fischer-Appelt, Dorothee: Agenturen der Europäischen Gemeinschaft. Hamburger Studien zum Europäischen und Internationalen Recht, Bd. 19, Duncker & Humblot, Berlin 1999, p. 218, especially footnote 1


- substantive Judicial review; in the EU, already regarding the case study, this would comprise the Ombudsman, Court of Auditors, Court of Justice;
- clearly defined objectives;
- oversight by specialized Congressional committees; in the EU, e.g. the Economic and Monetary Affairs Committee, Budget and Budget Control Committees (only for Community funds administered/used by EIB), additionally, the Environmental and Development Committees of the European Parliament;
- presidential power of appointment; in the EU, this task could be fulfilled by the Council, possibly together with the European Parliament, combined with a transparent appointment procedure;
- strict procedural requirements (on environmental standards, application procedures, decision making, etc);
- obligation to justify the proposed regulations (or, more general, measures) in cost-benefit terms;
- professional principles (banking standards, staff) and expertise, in order to reduce the risk of arbitrary use of agency discretion;
- transparent decision making procedures, known to all parties;
- public disclosure, information and participation;
- a strong, balanced executive board, itself accountable to the governments/ voters represented;
- strengthened horizontal accountability mechanisms (e.g. through an independent evaluation office or an inspection mechanisms).

In addition, their mandate should not be extended without the adaptation of adequate accountability mechanisms.

In most of his papers, Majone focuses on regulatory agencies, but sees his conclusions of more general significance. In this paper, his views are complemented by the discussion on accountability of international financial institutions.

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Before the EIB will be examined on these points, it will be shortly argued why the bank should be answerable to mechanisms designed for non-majoritarian institutions like independent agencies.

2.2 The EIB as a non-majoritarian Institution

2.2.1 The status of the EIB

The European Investment Bank has a unique status in the European Union. It is the "European Union's financial institution", as the Bank puts it itself. Its members are the EU member states and it is supposed to implement EU policy. But when it comes down to respond to criteria of openness, for example, it is neither a European institution in the traditional sense nor a classical multilateral development bank, as the majority of the lending is made to the current member states and the accession countries.

The European Investment Bank was created by the Treaty of Rome in 1957. It has a separate legal personality, independent administrative structure, decision making bodies and financial autonomy, with the EU Member States as its members. In the strict sense of the Treaty, the Bank is not a body of the Community. It was decided that the majority of financing should be through the capital markets. The EIB is designed as a financial institution, a bank, not a Community fund, but not directed towards profit-making. This solution should provide for greater efficiency and its volume of credits is not limited by the resources of the national budgets. The subscribed capital currently amounts to 100 billion Euro, of which 6% has been paid in by the member states. The guarantors liability linked to this arrangement leads to an

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13 Treaty establishing the European Community (TEC), Art. 9, 266, 267
15 European Investment Bank Annual Report 2000 (CD-Rom), section Key Data
excellent credit rating (AAA)\textsuperscript{16} and thus advantageous refinancing conditions on the international credit markets.\textsuperscript{17}

"The task of the European Investment Bank shall be to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the common market in the interest of the Community."\textsuperscript{18} The Treaty lists the possible fields of intervention for the EIB: projects advancing the development of less-developed regions, projects contributing to the establishment of the common market as well as projects of common interest to several member states that cannot be financed by an individual member state. The Bank is not limited to any special sector of the economy.\textsuperscript{19}

It is not an intention of this paper to discuss in detail whether the EIB can be considered as a Community organ, whether it is completely separate, or where exactly in between.\textsuperscript{20} As a working basis, I will use the argument put forward by Advocate General Mancini before the European Court of Justice in the Case 85/86.\textsuperscript{21} He argues that the EIB is neither an institution nor an organ, but an instrument of the EEC. He dismisses the theory of an independent European Investment Bank: "The 'special nature' which is so often attributed to the Bank lies therefore - if not solely, certainly primarily - in the specific nature of the means by which it is called upon to carry out those objectives [the tasks described in Article 3 (j) and in Article 2, old numbering, MH]."\textsuperscript{22}

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  \item \textsuperscript{16} EIB Annual Report 2000, section: A Strong and Varied Presence on the Capital Markets, 1\textsuperscript{st} paragraph
  \item \textsuperscript{17} Dickertmann, Dietrich/ Gelbhaar, Siegfried: Die Europäische Investitionsbank – öffentliche Kreditwirtschaft im Schatten des Europäischen Haushalts. Arbeitspapier Nr. 51 der Studien schwerpunkte Finanzwissenschaft/ Betriebswirtschaftliche Steuerlehre/ Wirtschaftsprüfung und Controlling, Trier 1998, p. 6
  \item \textsuperscript{18} TEC, Art. 267
  \item \textsuperscript{19} TEC, Art. 267
  \item \textsuperscript{21} 61986C0085 Opinion of Mr Advocate General Mancini delivered on 24 November 1987. Commission of the European Communities v Board of Governors of the European Investment Bank. Tax withheld from the salaries and pensions of staff of the European Investment Bank. Case 85/86, section 10 ff.
  \item \textsuperscript{22} Case 85/86, opinion, section 10, 3\textsuperscript{rd} paragraph
\end{itemize}
This position can be found in the judgement, too. The ambivalent position of the EIB is not denied. "Nevertheless, the fact that the bank has that degree of operational and institutional autonomy does not mean that it is totally separated from the communities and exempt from every rule of Community law. It is clear in particular from article 130 of the treaty that the Bank is intended to contribute towards the attainment of the Community's objectives and thus by virtue of the Treaty forms part of the framework of the Community. The position of the bank is therefore ambivalent inasmuch as it is characterized on the one hand by independence in the management of its affairs, in particular in the sphere of financial operations, and on the other by a close link with the Community as regards its objectives."\(^{23}\) The Bank has accepted its double status and refers to it especially when control mechanisms are being discussed. This is how the EIB describes it: "The structure of the Bank's administration is geared towards providing operational autonomy within the terms of the general mandate defined by the Treaty and the EIB's Statute and thus completing the conditions for the functioning of an institution which is an European Community body and a bank alike."\(^{24}\) The EIB argues for autonomy only due to operational reasons, and accepts political influence on its public policy role within the EU.

\[2.2.2\] The EIB and European agencies

The EIB fulfills almost all criteria characteristic for European agencies\(^{25}\). Thus, the comparison of European agencies to the Bank is justified. If the ECB can be considered as a special case of European agency, although this institution is founded on primary law, not secondary one as in the case of the agencies, this justifies a comparable status for the EIB\(^{26}\), especially as some critics argue that the EIB claims too much for its "special status" and thereby operates with insufficient controls. The


\(^{24}\) EIB Information, no 97, 2-1998, p. 7

\(^{25}\) cf. Fischer-Appelt, p.38

\(^{26}\) Fischer-Appelt, p. 73; cf. Kreher, Alexander: Agencies in the European Community – a Step Towards Administrative Integration in Europe. In: Journal of European Public Policy, vol. 4, 2 June 1997, p. 227 - 228. To him, the main difference between European agencies and the EIB is the fact that the latter is explicitly mentioned in the EC Treaty.
Advocate General of the European Court of Justice, Mancini, described the EIB as comparable to "indirect administration", of which independent agencies are a part. "So the Bank is neither an institution nor an organ. How is it possible then to express in positive terms the conclusion which I have reached that the Bank is not a 'third party' and parallel vis-à-vis the Community? In my opinion, the answer is a simple one. The Bank has a functional connection with the Community; in other words, a similar relationship to the one which binds public bodies making up the so-called 'indirect administration' of the State and the State itself. This proposition - perhaps it is not brilliant but it is certainly closer than any other to the legal reality - is, moreover, supported by the case-law of the Court."\(^{27}\) His argument supports my approach in applying Majone's criteria of non-majoritarian institutions to the Bank.

2.3 The need for political accountability of the EIB

"[W]hereas the EIB's important position within the Union's institutional framework, the volume of lending that it manages (some of it derived from the Union's budget), the impact of its activities with regard to economic, regional and social cohesion and the environment, justify close monitoring by the Union's institutions in particular by the European Court of Auditors and OLAF, and by civil society, […]"\(^{28}\) stated the EP resolution based on the Lipietz report on the Annual Report 1999 of the EIB.

Within the system of the European Union, the EIB has an important independent status. Nonetheless, it is a public body and therefore needs to have some sort of democratic supervision. This manifests itself in the accountability of the EIB to democratically legitimated bodies. The discussion on the "democratic deficit" within the EU criticizes the European institutions for their shortcomings in this respect. Nonetheless, my focus is the EIB, which also reflects the problems mentioned in the Commission White Paper on European Governance.\(^{29}\)

\(^{27}\) Case 85/86, opinion, section 12
As the EIB sees its autonomy as one of its most important advantages, it makes sense to look at it with a more open concept of control and political accountability, as already mentioned. This does not change anything regarding the overall need for democratic control, but leaves room for more adequate forms of control while protecting the advantages offered by the institutional arrangements of the EIB. As the Bank shows several similarities to European agencies and can be considered a non-majoritarian institution, Majone’s concept is also applicable to the EIB.

### 2.4 Evaluation and accountability

"An evaluation is an assessment as systematic and objective as possible, of an ongoing or completed project, programme or policy, its design, implementation and results. The aim is to determine the relevance and fulfilment of objectives, developmental efficiency, effectiveness, impact and sustainability. An evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process of both recipients and donors."\(^{30}\) This is the definition used by the Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD). All of the Members States of the EIB are members of the OECD. Therefore, the DAC principles, to Axel Borrmann the standard of evaluation in aid agencies\(^{31}\), should be applicable to the EIB, too.

Majone justifies the relative independence of non-majoritarian institutions by their orientation towards efficiency.\(^{32}\) Therefore, evaluation results are an important criterion for justifying an agency's existence. It may be problematic that ex-post evaluation results in particular are only available after a delay of up to several years;

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\(^{29}\) COM (2001) 428 final  
\(^{30}\) DAC principles, paragraph 5  
\(^{32}\) Majone (1994), p. 23-24, see also Majone (1996), section 7, 3\textsuperscript{rd} paragraph
nonetheless, they provide a reliable basis for accountability, as the DAC principles state.  

Thus, evaluation has an important control function. "In fact, the relationship between evaluation and control is extremely close. On the one hand, in order to control any activity or organization, it is necessary to monitor and assess its performance with reference to a set of standards. On the other hand, evaluation modes and criteria have operational consequences for organizational and individual performance, since if people know that certain dimensions of performance are highly rated by the evaluators, they will tend to change their behavior accordingly." Majone links evaluation and control directly to public accountability. Accountability needs adequately defined standards of performance, because "the greatest problems of public accountability and policy evaluation are associated with the choice of criteria by which to measure success." The objectives on which an evaluation is based have to be defined before the evaluation can take place. The more general aid objectives have to be distinguished from the specific objectives of a project. "The general aims tend often to be competing - even conflicting - with no clear order of priority for the various objectives." At project level, the formulation of the objectives may be vague, they may be competing or contradictory, not explicitly stated or they may have changed throughout the project cycle. Ideally, the objectives set for aid intervention should already be formulated in the terms of reference.

Concerning the use of evaluation results, Bilinsky emphasizes the need for better consideration of the different uses for the information obtained through evaluation.

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33 DAC principles, paragraph 6
35 Majone (1989), p. 182
36 cf. DAC principles, paragraph 35; for the overall design of evaluations cf. section IX
38 Berlage/Stokke, p. 9
39 Berlage/Stokke, p. 13
In addition, depending on the type of evaluation, target audiences vary and should be identified early in the process.41

In this chapter, it has been shown that regarding non-majoritarian institutions, independence and accountability may go together and reinforce one another. As the EIB can be considered a non-majoritarian institution, there is a need for accountability. Evaluation contributes to the accountability of institutions and therefore has an important control function.

3 THE EIB AND ACCOUNTABILITY

The questions that will be considered in this chapter are, to what extent does the EIB demonstrate the advantages of independence, does it have to respond to a sufficient number of control mechanisms, and to what extent does evaluation effectively contribute to the Bank's accountability.

3.1 Independence

The EIB has a "special status" within the EU; its independence exceeds all of the other agencies which makes it a central question in the current debates. Following Majone, this independence should offer several important advantages that justify its non-majoritarian status.

3.1.1 Advancing European integration

A closer look at the history of the EIB shows that it has been well planned as an instrument to further European economic development and to contribute to the European Economic Community (EEC).\textsuperscript{42} The early interventions in particular were designed to reduce the shortcomings of the different national capital markets and to offer long-term credits necessary for the regional and industrial development, as well as trans-European infrastructure.\textsuperscript{43}

After an early focus on infrastructure (Trans-European Networks TENs) and industry, the Bank now finances a wide array of regional and sectoral structural policies of relevance to growth and competition policy within the EU, based on art. 267 TEC, where the Bank's task of contributing to the development of the common market is described. Even if the actual success of some of its interventions is open to challenge, the EIB invests more than 70\% of its individual loans to foster balanced and steady development within the EU.\textsuperscript{44}

The justification of loans to countries outside the EU territory is more difficult under this argument. Since the sixties, the EIB actively participates in the cooperation policy with about 150 partner countries. In 2000, it has lent a total of 2.4 billion Euro to third countries.\textsuperscript{45} To Kruppova, this activity is consistent with the objectives of Art. 267 c, TEC. External markets contribute significantly to the development of the Common Market, she writes.\textsuperscript{46} However, this argument needs thorough discussion and clear criteria to measure the success of the interventions.

The contribution to the European integration of a cooperation with the Accession countries is more clearly visible. Since 1990, the EIB grants loans to these countries under a Union mandate covering Central and Eastern Europe as well as under its own-risk Pre-Accession Facility. In 2000, the 2.9 billion Euro lent, "designed to facilitate the transfer of the 'acquis communautaire', are helping the economies of these

\textsuperscript{42} Kruppova, p. 6 - 8; TEC, Art. 267  
\textsuperscript{43} EIB-Information 2-1998, no 97, p. 7  
\textsuperscript{44} EIB Annual Report 2000, chapter: Lending Activities – Regional Development  
\textsuperscript{45} EIB Annual Report 2000, chapter: Lending Activities – Working Together with the Partner Countries; number does not include loans to CEE countries  
\textsuperscript{46} Kruppova, p. 144
countries to catch up with those of the Union as a prelude to accession". Regarding the enormous transition problems of the Eastern and Central European Countries, the amounts foreseen are modest and leave room for increase. The European Parliament thus welcomes the enhanced commitment of the Bank in this regard, but still "underlines, though, that these future member states must have access to loans on the same conditions and to the same extent as the present Member States". Here, the credits contribute directly to the preparation of future enlargement of the European integration. Thus, the EIB has been designed to assist further EU integration, either through directly focussed programs or via the economic development of external partners.

3.1.2 Expertise

The granting of loans requires sound banking knowledge. The project selection and design, as well as the other stages in the project cycle, demand high levels of expertise. An independent institution can offer this with a concentration of experts in a long-term structure, with a regular updating of the necessary knowledge. One of the advantages of the EIB is the distinction between its operations and EU funds. As some of my interlocutors said, its efficiency and expertise are mainly due to its independence from the Commission bureaucratic structure. The continuing good credit rating (AAA) reflects the EIB's knowledge of its "private banking" side, as well as the accolade of winning Euroweek's Prize for best borrower of the year 2001.

Concerning its "political" role, a closer look at the different evaluation reports shows a more ambiguous situation, even if it cannot be proven that the shortcomings are solely due to lack of expertise. An evaluation report states under the heading "Contribution to EIB Objectives" on the environmental achievements of the projects that "[a]ll projects

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47 EIB Annual Report 2000, chapter: Lending Activities – Preparing the Accession Countries for EU Membership
49 Fischer-Appelt, p. 429
50 Speech of Philippe Maystadt at the EIB Annual Press Conference, Brussels, 7 February 2002
had some positive environmental impact”. However, the report continues "of the 5 projects eligible within the EU for their contribution to the environment, 3 have failed to reach their environmental objectives and the EIB has not sought to overcome the deficiencies." On the economic profitability and development effects, the report concludes: "At evaluation, 7 projects out of 17 appeared to be economically justified, of which 2 were irrigation projects. Data were available for proper recalculations in only 4 cases: 2 were positive and 2 negative. In the other cases, the appreciation remains subjective." The opinion on the sustainability of the projects expressed in the report is also negative: "Considering the poor performance of the sample against other criteria, it is not surprising that at best 1/3 of the projects was judged to be sustainable." Lastly, the rating: "None of the projects evaluated achieved a full compliance rating under all headings, although one project came close to [...] Overall, therefore, the performance of this group of projects has to be regarded as poor." However, one of the more recent reports clearly recognizes the overall strength of the EIB’s expertise in implementing EU policies. One of the areas of strength is listed as "[i]ts streamlined, cost-effective and business-like operations and its professional, competent, dedicated and diplomatic staff working in multi-disciplinary teams including the appropriate technical and economic expertise". The last EP report reads: "The European Parliament [...] congratulates the EIB on its overall conduct of lending operations[...]." Expertise is one of the main advantages this organizational form of the EIB offers. Concerning the banking side of its operations, the EIB has already reached a considerable level of expertise, while there is still room for improvements of its technical, especially social and environmental one. It is closely linked to evaluation, which is an instrument necessary for its development.

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52 p. 9
53 p. 10
54 p. 10
55 p. 10
57 Paragraph 1
58 Borrmann, p. 18
3.1.3 Continuity and stability

The EIB was founded in 1957. Its relative independence from elected politicians provides for important continuity in the Bank's project funding policy. The EIB certainly has to react to shifts in European policy and changing political preferences, due to its obligation to support EU policies. However, especially as most of the projects are long-term, the adaptation process is relatively slow. As Käser writes "where the Community proposes that a line of development finance or of internal Community assistance be provided through the Bank, the Bank makes its own formal decision whether or not to accept the mandate, although in practice it is unlikely that it should feel obliged to decline."\(^{59}\) Thus, only the EIB’s own decision-making bodies can commit the Bank. Its internal tripartition of government bodies may be seen as an internal checking mechanism so that only sound changes of financing programs will be accepted.\(^{60}\)

The relative independence from EU finances contributes to the Bank's stability. Although its creditworthiness is based on the subscribed capital of its members, the EU member states, it does not depend on financial transfers for its regular business, at the same time an obligation to finance only (financially) sound projects.

3.1.4 Free administration from partisan politics and national political influence

The European Investment Bank is not part of the European institutions in the sense of Art. 7 TEC; it has a strong autonomous status in the EU system that makes it relatively resistant to party, at EU level more exactly national political influence. The national representatives at the Board of Governors still reflect a desire for compatibility between EIB policy with their Member States' interests, but this does not represent undue influence. The same can be said of the Council influence. There is a certain


\(^{60}\) Izzo, p. 126 - 129, EIB-Information 2-1998, no 97, p. 7
action and reaction in between these two institutions concerning future policy design, but not to the extent that it endangers the EIB's independence.

Staff policy decisions are within the competence of the Management Committee and the employees of the Bank are under the authority of the President; they are responsible only to the Bank.\(^{61}\) This mitigates against undue political influence and favors decision making - at least theoretically. As I have been told during my interviews, in practice this is not always true and critics sometimes question the independence of EIB officials. In addition, the staff seems to see itself above all concerned with running a bank, not a European institution with a political mandate; in addition, their rewards are oriented on the financial performance rather than on compliance with any political mandate.

### 3.1.5 Favor public participation, and focus public attention on controversial issues

The EIB has historically been accused by its critics of being reluctant to open up and become more transparent. Regular public consultations are rare. NGO information meetings have been started a few years ago\(^{62}\), but the Bank still tends to restrict external access to documents. Unlike the EBRD for example, the EIB seems not to actively favor public participation in fulfilling its public policy role within the EU. This contradicts the Commission's opinion expressed in the White Paper on "European Governance". The issue will be referred to in detail under 3.2.9.

As the promotion of public participation has not been a priority, the Bank has had little incentive to focus public attention on controversial issues and projects. The Bank seems to rely on emphasizing its (partly) autonomous nature. A very provocative

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\(^{61}\) EIB: Statute of the European Investment Bank, version 1 July 1999 (electronic version), Art. 13

statement by a representative of the EIB, quite regularly quoted by NGOs, illustrates the potential problem: "We are accountable only to the market." 

The Bank has potential for greater transparency and external involvement. There are several possibilities for a much higher public profile, especially concerning the integration of inputs for civil society into Bank decision making. For example, I have been told that environmental specialists at the EBRD usually try themselves to get into contact with representatives of the directly affected population, via local NGOs or, most of the time, scientific institutions. The specialists claim to be always open to technically sound critique from public side, and a debate on controversial aspects of potential projects with civil society also seems possible. However, NGOs still see room for improving stakeholder participation at the EBRD, too. Apart from the Environmental Impact Assessment (EIA) preparation for category A projects, there are no other policy requirements for project sponsors; even under the EIA procedure, there remain obstacles to a completely satisfying stakeholder participation, e.g. when the project documentation does not get released in the national language of the country in which the project will be carried out. 

As long as the EIB values its confidentiality above its role as a European institution, its potential in this respect will not be used.

3.1.6 Flexibility of application policy to particular circumstances

The overall aims of the EIB are listed in the TEC (see above). Understandably, these provisions are kept quite general and leave room for elaboration. Thus, the Bank has the autonomy to choose clearly defined strategies, objectives and programs, together with the means to achieve them, to implement the overall aims. As shown below, clearly defined objectives are also necessary for effective project evaluation and

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accountability. 65 For a long time, the Bank has been hesitant to use this flexibility of defining its own policy within the overall EU framework, with the justification that it does not have the competence to do so but just implements EU policy. Nowadays however, it is more open to current political developments, e.g. the EU commitment to the Kyoto protocol, or enhanced support for SMEs, and has started developing coherent programs to achieve defined goals.

The Bank's considerable potential "to be flexible in its responses to changing country development priorities and needs" has been positively mentioned in a recent evaluation report.66 However, this is not intended to allow the Bank to "cherry pick" those projects that offer the best success at the expenses of developing coherent long-term strategies.

As this argument in favor of independent agencies shows, there is a huge potential for targeted action by the EIB, without infringing the overall EU policies.

The independent status of the EIB contains important provisions for an effective and optimal design of its programs and the distribution of loans. However, it does not profit from it as much as it could. Its expertise beyond financial questions, e.g. ecological ones, might be improved, and the rewards system might better not be oriented on its financial performance alone.

3.2 Accountability

The accountability of non-majoritarian institutions has to be guaranteed by a less traditional set of control mechanisms. Based on the American experience, Majone listed several aspects.

65 Fischer-Appelt, p. 451 - 452
66 EIB: Evaluation of the risk capital operations carried out by the EIB in four ACP Countries 1998-1999 (electronic version), p. 17
As already said, the list is not exhaustive, and a sufficient state of control can only be achieved by a combination of the largest possible number of criteria.

### 3.2.1 Substantive judicial review

The main judicial review of the EIB is carried out by the European Court of Justice (ECJ). The provisions can be found in article 237, TEC. The Court of Justice is competent for disputes concerning "the fulfilment by Member States of obligations under the Statute"\(^\text{67}\), as well as measures adopted by the Board of Governors, with the Member States, the Commission and the Board of Directors power to lodge a complaint, or measures adopted by the Board of Directors. In the latter case, proceedings can only be instituted by Member States or the Commission, "and solely on the grounds of non-compliance with the procedure provided for in Article 21 (2), (5), (6) and (7) of the Statute of the Bank".\(^\text{68}\) Article 21 of the Statutes contains the provisions for applications, acceptances and refusals for loans or guarantees by the Bank. Thus, the Court of Justice may decide in cases of formal disregard of the Statutes. It is not competent for complaints by any other party, or any other subject, except for all questions concerning EU funds administrated by the EIB.\(^\text{69}\) Those other disputes "shall be decided by the competent national courts".\(^\text{70}\)

The criticism put forward by Kruppova\(^\text{71}\) that extending the competence of the European Court of Justice (ECJ) to the EIB Statute may endanger the successful independence of the Bank, seems to be based on a view of accountability that undermines the advantages of independence. She refers to the fact that the EIB Statute is part of the Treaty and thus, according to Article 234 in conjunction with 311 TEC, could open the way for the competence of the ECJ to interfere with the actions of the Bank. Taking Majone's standpoint this opinion has to be opposed, especially as she stated herself a few pages earlier that only the decisions of the Board of Directors on

\(^{67}\) TEC, Art. 237 (a)  
\(^{68}\) TEC, Art. 237 (c)  
\(^{69}\) Kruppova, p. 76  
\(^{70}\) EIB Statute, Art. 29, 1st paragraph  
\(^{71}\) On page 81, she writes "daß die gerade beschriebene Erweiterung der Entscheidungsbefugnis des EuGH in bezug auf die Satzung der EIB negative Auswirkungen auf die Autonomie und somit generell auf die erfolgreiche und unabhängige Funktionsweise der Europäischen Investitionsbank haben kann."
the granting of loans or guarantees are contestable, excluding the ones concerning the Bank's financial autonomy. Thus, it does not seem sensible to argue that a possible extension of the rights of the ECJ may threaten the successful functioning of the EIB when its financial autonomy is not at risk.

Since November 1999, the EIB has agreed to cooperate with the European Anti-Fraud Office (OLAF), especially regarding operations where it works with funds from the EU budget. The President of the EIB, Philippe Maystadt, admits "certain misunderstandings" concerning the modalities of control over the Bank by the OLAF. Nonetheless, the Commission has asked the ECJ to decide on the jurisdiction of the OLAF over the EIB.

There seem to have been "certain misunderstandings" concerning the cooperation with the European Ombudsman as well. Until now, there has only been one case filed concerning an EIB project.

According to Article 195 TEC, the Ombudsman conducts inquiries of maladministration in the activities of the Community institutions and bodies. The only exceptions are the Community courts acting in their judicial role. "Specifically, it does not provide for any exception relating to the EIB." The EIB did not share this point of view. "Moreover, the Bank was of the opinion that the complaint lodged and the request to investigate, did not fall within the scope of investigation into maladministration in the sense that it had been defined by the European Ombudsman's Annual Report for 1997 (section 2.2.1.). The Bank did therefore not find it appropriate to make any further comments in this particular matter." The Bank held out for more

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73 EIB-Informationen 1-2000, no 104, p. 3; original German ("gewisse Mißverständnisse"), translation by MH
74 EIB Informationen 1-2000, no 104, p. 3, 12
75 The EIB's financing of the construction of the northern part of the M0 ring road around Budapest, cf. Heinrich Boell Foundation/CEE Bankwatch Network, p. 22 ff.
76 The Ombudsman's letter to Sir Brian Unwin, President of the EIB, as quoted in Heinrich Boell Foundation/ CEE Bankwatch Network, p. 23
77 The Ombudsman's Letter to Mr. John Hontelez, European Environmental Bureau from the 24/01/2001, as reproduced in a paper by Barnes, James: An Inspection and Compliance Mechanism for the EIB?, March 2, 2001, for a Roundtable on "La Banque européenne d'investissement n'a-t-elle de comptes à rendre qu'au marchés financiers?", organized by Amis de la Terre in collaboration with the Heinrich Boell Foundation, Paris 2 March 2001
than a year before it accepted the Ombudsman's mandate to inquire in that case. After more than two years of inquiry, the Ombudsman concluded that "[o]n the basis of the Ombudsman's inquiries into this complaint, there appears to have been no maladministration by the European Investment Bank." The Ombudsman has generally the right to review EIB performance for questions of maladministration, the investigation, however, is relatively difficult and time-consuming. Therefore it is doubtful whether the Ombudsman can efficiently complement the judicial review of the EIB. However, to Woods, such a mechanism contributes to the strengthening of the horizontal accountability of an independent institution.

The European Court of Auditors (ECA) will only be mentioned briefly here, as the paper does not consider the audit arrangements of the EIB in detail. The ECA examines the EU budget. Its responsibilities towards the EIB only comprise the operations drawing on Community budgetary funds. Article 248 TEC foresees a right of access to the information linked to it.

The audit of EIB financing carried out using its own funds is carried out by the internal audit committee and an external auditor, currently Ernst & Young. There have been discussions about extending the powers of the Court of Auditors to all contracts with an authorized representative of the Community as a party, e.g. interest rate subsidies for EIB credits paid for by the Community budgetary funds. This would limit the independence of the Bank, but would be completely in line with the Bank's statement that "the Bank is keen to safeguard the Union’s financial interests". The European Parliament still "insists on the need to provide for prudential supervision of the EIB's activities, and calls upon the Council to consider authorising

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78 The Ombudsman’s Letter to Mr. John Hontelez
79 Barnes, p. 2
82 Kruppova, p. 70 - 71
the ECB to thus supervise the EIB[...]". The EIB would not object to such an institutional arrangement.

There are provisions for a limited judicial review, respecting the financial autonomy of the EIB. Cases of maladministration can be brought before the European Ombudsman by third parties, and the EIB now accepts cooperation with the OLAF. The control of funds from the Community budget could be improved, while the audit of EIB funds is similar to the one of private banks and does not involve any Community institutions.

### 3.2.2 Oversight by specialized parliamentary committees

The European Parliament is the only directly elected body of the European Union. Thus, it has a special significance with respect to the political accountability of the EIB.

At the moment, the European Parliament has no official influence on the EIB; the Bank is not accountable to the EP. An exemption is the power of the Budgetary Control Committee to report on the EU budgetary funds administered by the Bank. The report of the EP is usually based on a report prepared by the European Court of Audit.

The parliament or any of its members has the option of raising questions about the EIB with the Commission. "Before answering such questions, the Commission generally first consults the EIB." The Commission has refused to be used as "medium for influencing the conduct of the Bank's business". Still, the situation is quite special:

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86 Kruppova, p. 65; Käser, p. 316
87 Kruppova, p. 66; e.g. Special Report of the European Court of Auditors no. 3/1999 “über die Verwaltung und Kontrolle der Zinszuschüsse durch die Kommissionsdienststellen” (electronic version), European Parliament Resolution A5-0215/2001 (electronic version)
88 Käser, p. 316
89 Käser, p. 316
To a certain extent, the Commission is integrated into the decision making of the EIB, but without having the right (or the necessary time and capacity) to politically supervise the Bank and the detail of its operations. This institution, answerable to the Parliament, replies to the EP's questions concerning the Bank.\textsuperscript{90} Thus, the Commission may be answerable to the European Parliament; nonetheless, it does not officially have any political control over the Bank as shown in the chapter below.

In 2000, the Green/EFA Group in the European Parliament asked in the Economic and Monetary Committee (EMAC) for an own initiative report on the 1999 Annual Report of the EIB. This proposal was accepted by the President of Parliament, and the Green MEP Alain Lipietz was appointed rapporteur. The report was simple and effective and, I have been told during the interviews, it proved helpful to the EIB. At the time, the Bank found itself under pressure from two sides. On the one side, there were Conservatives questioning the overall need for a European Investment Bank, seeing its initial purpose fulfilled and arguing that it was now causing distortions on the private capital markets. On the other side, the protests from anti-globalization campaigners were growing and there had been clashes at the World Bank meeting in Prague. The EIB was anxious not to become a target alongside higher-profile IFIs such as the World Bank and International Monetary Fund.

The EP report offered protection against the Conservative arguments. It argued for control of the "private banking" side and proper prudential banking supervision, e.g. through the European Central Bank.\textsuperscript{91} However, it also acknowledged the role of the EIB within the EU. The EIB still seems to have an open mind to this question\textsuperscript{92}; but the ECB by contrast is hesitant to accept this responsibility. In return for that support, the EIB agreed to become more open and cooperate more closely with NGOs.

\textsuperscript{90} Käser, p. 316
\textsuperscript{91} cf. EP resolution on action taken on the EIB Annual Report 1999, paragraph 11 (ECB not mentioned by name)
\textsuperscript{92} Statement by Mr Philippe Maystadt, President of the EIB, at the EP Plenary Session on 15 February 2001 (electronic version), 9\textsuperscript{th} paragraph. Retrieved 20 December 2001 from http://www.eib.org/policy/news_1.htm
In the report\textsuperscript{93}, Lipietz criticizes inadequate evaluation procedures, shortcomings in project selection, welcomes the announced disclosure of information, asks for better NGO involvement and public debate, and raises several other issues. The overall tenor of the report is quite critical and was maintained throughout the votes in the Committee as well as in the Plenary, even after the introduction of several changes. The preparation of a report on the EIB Annual Report 2000 through the EMAC Committee reflects the importance the EP attaches to this means of ensuring the accountability of the EIB. This report has been prepared by the Liberal MEP Olle Schmidt.\textsuperscript{94} It recognizes first progress of the Bank to become more transparent and open, but continues to criticize existing shortcomings, especially concerning evaluation mechanisms, access to documents and the lack of an enhanced environmental policy. However critical these reports, it has to be borne in mind that the Bank is not officially accountable to the EP; the reports do not have any legal status. Thus it seems quite characteristic of the approach to accountability at the EIB when Henry Marty-Gauquié, Director of Communications at the EIB, states that the external democratic control takes place within the "political dialogue" with the EP, especially the EMAC report on the Annual Report with its main focus on the evaluation of the Bank's contribution to EU policies.\textsuperscript{95} EIB Information 2-1998 states that "[c]ontacts between the EIB and the European Parliament […] have been institutionalized over the years, including regular contacts at the very highest level as well as staff contacts."\textsuperscript{96} This external democratic control thus mainly depends on an "own-initiative" EP report which is neither binding nor institutionalized, and in addition, is a recent innovation.

Still, it has to be appreciated that the EIB is interested in good contacts with the Parliament. On the occasion of the discussion of the Report on the EIB Annual Report 1999, President Maystadt spoke for the first time at an EP plenary session; EIB officials participate regularly in Committee meetings. In his speech, Maystadt reflects this relative openness. He said that "the European Investment Bank is, as you know,"

\textsuperscript{93} Report on the Action Taken on the EIB Annual Report 1999
\textsuperscript{94} Report on the EIB Annual Report for 2000, A5-2001/392, Committee on Economic and Monetary Affairs, Rapporteur: Olle Schmidt
\textsuperscript{96} p. 8
unlike other banks. It was established to serve the objectives of the European Union. It is therefore only natural that it should be called upon to explain itself before the European Parliament. Some argue that even if there are no legal provisions for EP influence, the existing informal ones have gathered momentum and cannot be reversed without provoking considerable trouble. Regarding the difficulties and the time needed to change the Statute, the current status is already significant. But to speak of the EMAC report, for example, as an already well-established measure when the second one has only just been passed seems somewhat premature. The establishment of institutionalized measures should at least be envisaged in the long run, otherwise, the situation will remain unsatisfactory.

To fulfill Majone's vision of an ideal non-majoritarian institution, at the same time independent and accountable, the control mechanisms of the EP should be strengthened. The European Parliament could provide for selective control, especially through the reports on the EIB Annual Reports. These could contain very detailed comments on the EIB evaluation procedures or even on single projects. However, as long as the EP does not have its own _corps d'experts_, not only to allow it to deal with questions concerning the EIB and other agencies, the institution does not have the capacity to ensure comprehensive accountability. The question of whether such a corps would be desirable remains unresolved; this would mean an extended bureaucracy, a heavy load for the Parliament. One possibility would be an extended Commission bureaucracy, representing indirect Member State control over the EIB, as one possible long-term option. At the moment, with the existing institutional structures, some of my interlocutors favor enhanced accountability through civil society and NGOs, e.g. the ones organized in the CEE Bankwatch Network. This provision does not entail an augmentation of the EU bureaucratic structure; the NGOs represent control through the civil society. Nonetheless, one should not overlook an important problem of this solution: Control without any possibility of sanction is not likely to be effective; institutional provisions for an appeal mechanism need to be put in place. In addition, the legitimacy of NGOs is contentious.

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97 Last paragraph
The competence of the Parliament to appoint an Ombudsman, reporting to the EP, has already been mentioned. He has the right to conduct inquiries concerning instances of maladministration in the activities of Community bodies, the EIB included. However, he checks that the Bank respects its own procedures, not that their substance is appropriate. 99 Thus, his control function alone is not sufficient.

3.2.3 The European Commission

The European Commission does not have a representative on the Board of Governors. "Even the General Directives and decisions taken on loans outside Member States' European territories were and are adopted without formal participation of the Community."100 On the Board of Directors, the Commission is represented by one Director and one Alternate Director, who "shall be responsible only to the Bank", as is the case with all Directors.101 During my conversations, I have been assured that, despite their obligation to confidentiality, those Directors still stay in their positions at the Commission (at the moment the representatives are the Director-Generals of the General Directorates (DGs) for Economic and Financial Affairs (ECFIN) and for Regional Policy and Cohesion (REGIO)). Thus, they are expected to inform their colleagues of Commission views that may be important in the context of Board of Directors' decisions; their influence is informal and based on superior knowledge and informal persuasion. At the same time, they provide an unofficial feedback channel to the Commission for information on EIB plans.

Art. 21 of the Statute states the right of the Commission to deliver an opinion on applications for loans or guarantees made to the Bank. If the Commission's decision is unfavorable, the Board of Directors has to take a unanimous decision, with the director

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99 cf. the Special Report by the European Ombudsman to the European Parliament Following the Own Initiative Inquiry into Public Access to Documents (16/PUBAC/F/IJH), (electronic version) part C 3 (p. 7)
100 Käser, p. 313
101 Statute, Art. 11
nominated by the Commission abstaining.\textsuperscript{102} This could contain the potential for political control of the EIB by the Commission. However, the Commission's opinion is limited to the compliance of the proposed project with the Community policy and the acquis communautaire. The working group "Groupe Interservice BEI (GIB)", consisting of members of all DGs and coordinated by the Unit F-3 of DG ECFIN, only gets a very short project sheet from the EIB. Additional information can be requested, but the Commission does not have as a right access to all documents. The exceptions are the representatives, in their personal capacity of Director at the Board. The time to submit an opinion cannot exceed a two-month time limit. For procedural reasons, favorable opinions with conditions (which the Bank officially does not have to take into account) or the very rare unfavorable opinions may take longer. It has to be kept in mind that the College of Commissioners is responsible for each decision; should the GIB agree on an unfavorable opinion, the College of Commissioners has to agree in pleno before Commissioner Solbes can transmit the decision to the Bank. Where there are cases of delay, the EIB is informed and awaits the Commission opinion. The Commission usually follows the GIB's advice; there is said to be a good cooperation between the different DGs of the Commission.

There are limits to the Commission's influence on the EIB. First of all, the Commission would officially only get to issue an opinion on projects in EU member states as foreseen by Art. 21 Statute, although an agreement with the EIB assures that all the project proposals are submitted to the Commission for an opinion. Furthermore, there are time and staff limits; the Commission does not always have the necessary resources for detailed control. In addition, the inter-service coordination role of DG ECFIN is quite weak. Agreements are made between the EIB and the concerned Commission services, and the formal internal Commission consultation is often too late to influence the outcome.

Nonetheless, some DGs cooperate directly with the Bank, for example the EIB may carry out certain activities on behalf of the Commission. In that case, as well as when the EIB is financing under Community mandate, the DGs have full access to

\textsuperscript{102} Statute, Art. 21 (6)
documents, and the Commission can influence the details of the projects (require more evaluation reports, etc.). Sometimes it carries out its own evaluation studies.103

When working with Community funds, the Bank is also responsible to the European Court of Auditors. These agreements on actual programs have to be differentiated from merely "political" cooperation activities, e.g. i2i-Audiovisual. They do not constitute control mechanisms, being intended to provide for mutual support, exchange of experience and coordination of future activities. Some commentators suggest that the Bank tries to fit the relatively routine projects into the new cooperation framework to gain additional support for them. Thus, the potential of these agreements to substantively influence the Bank's project selection policy remains to be proven.

In a recent EIB Newsletter, President Maystadt said that the EIB should aim at a closer cooperation with the Commission, especially at the stage of project design. 104 This is seen as a wish to intensify the political cooperation with the Commission, aimed at getting better endorsement/support for the Bank's activities.

The main changes noticed during the last two years are smoother and more open provision of information, and more efficient communication from the Bank staff towards the Community institutions.

The European Commission is responsible for providing regular information to the EP and the Council regarding EIB loans guaranteed by the Community budget. 105 However, this information is merely technical, without any evaluation, due to the lack of resources and time already mentioned.

Thus, the Commission has neither the necessary resources, information, and accountability mechanisms, nor the political interest to exercise more control over the EIB. Its current influence is limited to the control of the eligibility and project criteria;

103 e.g. COM (2001)86 final, 15 February 2001, Report from the Commission to the Council and the European Parliament Concerning Interest-Rate Subsidies
104 EIB Informationen 2-2001, no 108, p. 3: "Um die an politischen Zielsetzungen orientierte Finanzierungstätigkeit zu stärken, sollte die Bank unserer Ansicht nach eine engere und tiefere Zusammenarbeit mit der Kommission anstreben, so dass die EIB insbesondere umfassend in die Aufstellung von Programmen einbezogen wird."
limited accountability exists only via cooperation agreements. However, the working relationships between DGs and the EIB staff mean that there is always an element of informal two-way influence. The degree of closeness varies depending on the DG. The Commission still has informal influence. It has inspired a great number of new projects and there are working relationships with several DG services.

Interestingly, the Bank agrees with this point of view. The Art. 21 procedure is seen more as an effective, quick check, rather than overall control of a single project. In addition, there is not seen to be any significant potential for developing this control mechanism.106

As long as the Commission structure is not adequately organized, this Community body cannot provide for better control and accountability of the European Investment Bank, even if this was desirable. On the other hand, some fear that it would not be progress if the Bank were more directly responsible to the Commission, becoming a sort of second DG REGIO, on the contrary. As it is the Member States who own the EIB, there are limits beyond which the EC control should not go, as long as there is the general feeling that everything is in order and especially if Art. 211, TEC107 is not concerned. One possible way to change the situation would be to change the Statute and introduce the Commission as an equal shareholder of the Bank.

The advantages and disadvantages of more control of the Commission over the EIB have to be carefully considered, especially as the Commission is comparable to a national administration; more direct accountability automatically reduces the advantages of its independent status. The Commission is one of several accountability mechanisms applying to the EIB, but its role should be clearly defined.

107 Art. 211 TEC states that “in order to ensure the proper functioning and development of the common market, the Commission shall: -ensure that the provisions of this Treaty and the measures taken by the institutions pursuant thereto are applied […]”
3.2.4 Presidential power of appointment

The President of the EIB and seven Vice-Presidents form the Management Committee. They are appointed for a period of six years by the Board of Governors. The Board of Governors consists of the Ministers designated by the Member States, mostly the Ministers of Finance; they are responsible for the overall direction of the Bank. However, their influence and potential for an extensive control is limited by the fact that in general, there is only one meeting per year. It has been argued that the composition of the Board of Governors is quite similar to that of the Council, both being a collegial body representing all EU Member States.\(^{108}\)

The Board of Directors is composed of representatives of the member states and one from the Commission, appointed by the Board of Governors according to national/Commission nominations; this body is supposed to consist of specialists, independent from national interests.\(^{109}\)

The Board of Directors is insofar different from the executive boards of other IFIs as it is non-resident; the members meet about ten times a year, which leaves only very limited time for the examination of every project decision.\(^{110}\)

However, the Board of Directors proposes suitable candidates for the Management Committee.\(^{111}\)

The Governors cannot necessarily fully replace control by the Council. As Shapiro states: "The continuing force of this argument depends upon the degree to which the expert staffs and advisers of the highly specialized 'informational', 'technical' agencies co-opt the boards so that they become conveyers to the member states of the policy consensuses arrived at by communities of expertise rather than member state controllers of that expertise."\(^{112}\)

Regarding the Board of Directors, Fischer-Appelt argues that behind those representatives of European agencies are a variety of different national ministries and administrative bodies that have themselves only indirect democratic legitimacy, through national executive bodies to parliaments. Due to the mode of appointment of the Board of Directors, there is no commitment towards a

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\(^{109}\) EIB Statute, Art. 9, 1st paragraph, Art. 11, 2nd paragraph; Kruppova, p. 13

\(^{110}\) Heinrich Boell Foundation/CEE Bankwatch Network, p. 14

\(^{111}\) EIB Statute, Art. 13, 1st paragraph

single body, as it would be in case of an appointment by the Council.\textsuperscript{113} There is no clear line of accountability to a body that could exercise external, uniform and effective control. Thus, an external appointment of the President of the EIB could effectively contribute to enhanced legitimacy.

In the United States, the President appoints the heads of the independent agencies. His direct election provides for a strong democratic link; at European level one could imagine an appointment by the Council, together with an approval of the European Parliament, the body with the strongest democratic legitimacy at EU level. This would provide the Council with a formal means of influencing the Bank beyond the proposal of potential areas for financing.

With reference to the very weak control mechanisms the European Parliament has over the EIB, its participation in the appointment of the head of the Bank would institutionalize its relations with the EIB. A direct line of accountability between President and Parliament might result in closer contacts. At present, the institutionalized links result from the EP's budgetary authority over Community funds administered by the EIB. They are a very weak control mechanism for the only directly elected body at EU level.

A combination of Council and EP decision-making power would balance the main political influences at Community level and thus could represent a decision based on expertise.

### 3.2.5 Clearly defined objectives

In this section, the influence of the European Council on the political objectives of the EIB will be explored in more detail. The importance of clearly defined objectives is now widely accepted as the basis for the effective direction and control of public

\textsuperscript{113} "Durch den Ernennungsmodus des Verwaltungsrats besteht keine Bindung an eine einheitliche Instanz, wie sie im Falle der Ernennung durch den Rat zumindest bestünde, sondern nur eine Beziehung
undertakings. The EIB’s overall aims can be found in the TEC and the Statute. In addition, the EIB adopts proposals made by the Council. Within the Bank, the Board of Governors is responsible for "lay[ing] down general directives for the credit policy of the Bank, with particular reference to the objectives to be pursued as progress is made in the attainment of the common market."\textsuperscript{114} In addition, the Board of Governors has to ensure their proper implementation. One of the main documents, containing the mid-term objectives and priorities of the Bank, is the Common Organisational Plan (COP).

The justification for the majority of the EIB lending is based on Art. 158, in conjunction with Art. 159 and the Protocol No 28. Art. 158 TEC specifies the objective of economic and social cohesion of the Community: "In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion. In particular, the Community shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least-favoured regions or islands, including rural areas." In the following article, the European Investment Bank is one of the instruments listed as a means for attaining those aims: "The Community shall also support the achievement of these objectives by the action it takes through […] the European Investment Bank[…]." This is emphasized by the Protocol No 28 on Economic and Social Cohesion\textsuperscript{115}. There, the High Contracting Parties "reaffirm their conviction that the European Investment Bank should continue to devote the majority of its resources to the promotion of economic and social cohesion, and declare their willingness to review the capital needs of the European Investment Bank as soon as this is necessary for that purpose". Following that logic, the EIB argued for several years that all credits for projects in areas profiting from the structural or cohesion funds automatically contribute to the development of less developed regions of the European Union. This practice has led to the following recommendations in an EIB evaluation report on regional development: "By giving priority in its lending to objective 1 regions the EIB contributes to regional development, but the EIB could

\textsuperscript{114} Statute, Art. 9 (1)
\textsuperscript{115} Protocol annexed to the Treaty establishing the European Community
better fulfil its potential by a more precise definition of its regional development objectives when selecting projects." The report continues: "There is a need to define in more detail the EIB's role in regional development [...] and to build an internal consensus around this." 116 Thus, one of the main conclusions of the report is that the Bank could increase its potential if it could rely during project selection on a more detailed definition of the regional development objectives. An internal consensus on how best to define the criteria should be agreed upon. According to the evaluation report, the EIB has accepted the criticism and will introduce appropriate changes. 117 In his statement on Action taken on the EIB Annual Report to the European Parliament, President Maystadt responded to the criticism of the Lipietz Report. Among other issues, he recognized the need for a more refined methodology for the selection of projects promoting regional development. He also announced a cooperative project between the EIB and DG REGIO to develop a battery of performance indicators for loans for regional projects, as well as global loans. 118

An example of goal setting through the Council is the Innovation 2000 Initiative. The EIB is not directly subordinate to the Council; however, as an "instrument" of the European Union, it translates the current political strategies into feasible projects. In the Conclusions of the Presidency of the Lisbon European Council, a new strategic goal for the European Union is identified: "to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion." 119 To realize this aim, the Council "welcomes the contribution that the EIB stands ready to make in the areas of human capital formation, SMEs and entrepreneurship, R&D, networks in the information technology and telecom sectors, and innovation. With the 'Innovation 2000 Initiative', the EIB should go ahead with its plans to make another billion euro available for venture capital operations for SMEs and its dedicated lending programme of 12 to 15 billion euro over the next 3 years for the priority areas." 120 This is a good

117 p. 24 - 27
118 Statement by Mr Philippe Maystadt, President of the EIB, at the EP Plenary Session on 15 February 2001, 9th paragraph
119 Lisbon European Council Conclusions (23 - 24 March 2000), paragraph 5
120 Lisbon European Council Conclusions, paragraph 41
example of the European Council setting an ambitious goal, still in relatively broad terms. It lists several areas for action (an Area of Research and Innovation, SMEs, economic reforms, efficient and integrated financial markets, macro-economic policy coordination, etc.). It does not give any details, the responsibility for which lies with the European institutions called upon. The "dialogue" between the Council and the EIB has been continued with the Stockholm Council Conclusion, which asked the Bank to strengthen its support for research and development. The continuation of the Innovation 2000 Initiative and its extension to the Accession Countries is welcomed. This illustrates that, even though the Bank is not directly accountable to the Council, the Council makes regular statements that assign areas of priority investment to the Bank. The legitimacy of the EIB would certainly be called into question should it not be willing to cooperate.

The "Lisbon Strategy" has been developed through a wide-ranging dialogue between the Portugese presidency, the Member states and the different institutions, including the EIB. The Bank identified the main areas where it felt it could usefully intervene, and the instruments it would use. It proposed to start the "Innovation 2000 Initiative" (i2i), which has been officially welcomed by the Lisbon Council meeting. The EIB Board of Governors then agreed upon "Framework and Implementation Guidelines", which had been prepared at an earlier meeting of the Board of Directors. They list the main areas of implementation as well as criteria for the project selection.

There is a clear need for a detailed set of criteria for project selection by the EIB. The overall aims of the Bank listed in the Treaty need to be complemented by Bank procedures, and are not in themselves a sufficient working basis for everyday business decisions. There is some progress towards more clearly defined objectives (i2i), but major shortcomings are apparent regarding the important objective of regional development. Thus, there is clearly room for further improvement by the Bank.

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121 Stockholm European Council Conclusions, 23 - 24 March 2001, paragraphs 39, 41
123 The Innovation 2000 Initiative, p. 2
There is an obvious link to chapter 5. Without clearly defined objectives, an effective evaluation is impossible and criteria already have to be followed during the ex-ante project evaluation.

3.2.6 Strict, transparent procedural requirements

The procedural requirements are found within the Statute. For example, Art. 18 to 21 contain provisions for the granting of loans within and outside the EU Member States. Loans are granted within the framework of Art. 267 TEC to the Bank's members, private or public undertakings; under certain conditions, loans outside the EU are possible. Loans other than to a Member State are conditional on a guarantee and additional sources of finance have to be involved in the project. The interest rates are linked to the capital markets; the Bank does not provide for any reductions. Its funds have to be employed as rationally as possible in the interest of the Community; the interest and amortization payments have to be assured, and the projects have to help raise economic productivity and promote the attainment of the common market. Depending on the project and its application route, the Member State concerned and/or the Commission can deliver an opinion. The details of the necessary approvals from the different participants in the decision making process are listed in Art. 21.124

Part of the regulations concerns the subsidiarity of its grants, which means "[…] that funds are not available from other sources on reasonable terms." Meyer suspects that the low priority given to the subsidiarity principle leads to considerable Mitnahmeeffekte. Where loans to the industrial sector are concerned, he stated in 1984 that the Bank generally finds a way around this principle, at least for the larger industries.126 Initiatives such as the recent ones emphasizing SME access to EIB loans

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125 EIB Statute, Art. 18 (1)
had not been started at the time. His perception is supported by some of the evaluation reports. The Evaluation of 10 Operations in the Telecommunications Sector in EU Member States found that "if 'subsidiarity' means that the project would not have been financed without the EIB, this can be demonstrated for only one of the 10 operations." The Economic and Social Council criticized the funding of big TEN and energy infrastructure projects in some of the most developed Member States for the same reasons. Here again, the Bank did not follow the subsidiarity principle. Thus, although the EIB is especially strong on the private banking side and generally follows the procedural requirements for granting loans, there are doubts as to whether the EIB follows the strict rules governing its operations in all respects.

In addition to the strict procedural requirements, the decision-making process should be transparent and known to all parties. Fixed procedures are a prerequisite for transparency and openness. The official procedure is described in the Project Cycle brochure and gives a good overview of the necessary data and the different decision-making stages within the Bank. The environmental procedures are mentioned and environmental impact assessment is clearly identified as a regular part of the project appraisal, but they are not as detailed as those of the EBRD and are regularly criticized by NGOs.

In the view of several NGOs, there are still severe deficits in the Bank’s approach to transparency generally, and this will be discussed in the section below.

127 p. 10; cf. An Evaluation Study of 17 Water Projects Located Around the Mediterranean financed by the European Investment Bank. EIB, Luxembourg February 1999, p. 13. The report mentions that probably the projects would have been carried out without the participation of the EIB.
128 "Il est peu vraisemblable que ces projets (ainsi que d'autres projets similaires) n'auraient pas pu être mis en chantier sans le concours de la BEI." In: ECO/038; CES 1001/2000 ad, Avis du Comité économique et social sur Le rôle de la Banque européenne d’investissement (BEI) dans la politique régionale européenne (electronic version), point 3.10
129 EIB: The Project Cycle at the European Investment Bank (electronic version), dated 12 July 2001
3.2.7 Professional principles and expertise

Strict professional principles and expertise reduce the risk of arbitrary use of the Bank’s discretion. "A professional, if given total autonomy and insulated from external pressures, can be counted upon to behave in a manner characteristic of his type. That is what true professionalism is all about." Banking standards and staff guidelines contribute to these standards of professional conduct. The proper conduct of its financial activities and the "private banking" role of the EIB are guaranteed by the Statutes, which allow for sufficient autonomy in that respect.

Expertise is one of the main justifications for non-majoritarian institutions. Therefore, high standards of expertise provide additional accountability for the EIB, in addition to direct political influence on single decisions. The Project Cycle brochure of the Bank provides details about the standards for project selection, implementation and evaluation. The competence of the EIB in these activities must obviously be respected, since it is asked by some of the Commission DGs to select and evaluate projects for them. Its knowledge of how to select financially sound projects is also reflected in its excellent credit rating. However, this financial expertise does not justify the public policy role of the Bank.

In several publications, the EIB is criticized for allowing collateral or shadow budgets by financing public or semi-public undertakings, while disbursing money against relatively unfocused and unselective targets or objectives. In addition, it is sometimes argued that the EIB has largely achieved its purpose. "While it would be a gross oversimplification to state that the market imperfections which led the founding fathers to create the EIB have disappeared, it is certainly true that they have been very much reduced." Honohan does not see a "specifically public

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133 Dickertmann/Gelbhaar, p. 35-36 (the EIB is called a “verlängerter Arm des EU-Haushalts”), 45 - 47; Meyer, p. 251 (missing objectives), 256 - 257 (shadow budget for Member States)
135 Dickertmann/Gelbhaar, p. 39 - 40, Honohan, p. 327 - 329
policy role within the EU"\(^{136}\) for the EIB. However, the purpose of this paper is not to caste doubt on the justification for a continued, refocused existence of the Bank; it supports the EP’s opinion that the EIB can contribute to the further development of the EU.\(^{137}\)

Apart from this criticism, there remains the need for enhanced expertise in some area concerning the nature of projects. NGOs argue that the EIB lacks "the will and the staff to evaluate the economic, environmental and social impacts of its projects", as quoted in the Lipietz report.\(^{138}\) The EIB has only one tenth of the World Bank staff while handling more credits. "While the WB has more than 300 people who work on environment in some way, the EIB has one or two."\(^{139}\) To them, this raises questions of quality; the EP report "[c]alls on the EIB to strengthen its project evaluation staff and to establish in its structure a department responsible for environmental impact screening and assessment of projects during the course of their appraisal and during their implementation in order to ensure enforcement of local legislation and to foster the benefits for the environment".\(^{140}\)

Thus, while the EIB in general has relatively strict and well-known procedural requirements, the quality of their application also has to be assured. Professional principles and expertise are part of this. Shortcomings include, for example, insufficient application of project appraisal and evaluation standards listed in the Project Cycle brochure.

### 3.2.8 Obligation to justify proposed regulations in cost-benefit terms

The obligation for independent agencies to justify the proposed regulations in cost-benefit terms contributes to greater accountability.\(^{141}\) He explained this obligation by

\(^{136}\) Honohan, p. 330  
\(^{137}\) cf. Schmidt, Lipietz reports  
\(^{138}\) considerant R  
\(^{139}\) Boell Foundation/CEE Bankwatch Network, p. 12; cf. Roslycky, Lada/Spanjaard, Jolanda: The European Investment Bank: A European Institution Subject to EU Policy? Amsterdam International Law Clinic, final draft 20 December 2001 (electronic version), chapter 4.6, p. 24  
\(^{140}\) paragraph 13  
\(^{141}\) As I have already mentioned, Majone mainly focused on regulatory agencies, but did not limit his findings solely to this area of policy.
pointing to the necessity for agencies to consider all possible costs. The agency should be forced to look beyond the expected benefits, to include side-effects and unintended costs.

For the EIB, this demand is consistent with NGO criticisms: When selecting projects, the Bank has to go far beyond its financial considerations and banking standards, and include social, environmental, and wider economic impacts of its interventions. Recent NGO protests focus especially on the necessity for in-depth environmental impact studies; they argue for a wider responsibility of the Bank, to compensate e.g. for shortcomings in local environmental legislation for projects outside the EU.

Environmental impact is a part of the Bank's project appraisal. Within the EU, and to a great extent already in the Candidate Countries, the interventions have to respect all EU environmental legislation, as well as national ones. In other regions, the projects must be in accordance with national law; the application of EU legislation depends on the local situation. Special consideration should be given to the fact that "the promoter is responsible for legal compliance"; the EIB is not responsible. The NGO community sees this as a big disadvantage, especially when global loans are granted, as the Bank does not have direct influence on specific projects selected by the financial intermediaries. The EIB states that it supports the intermediary banks in strengthening their capabilities to finance environmentally friendly projects, but gives no details. However, there is an example of the EIB directly financing a controversial project within the European Union. In the "Oil Drilling in Val d’Agri" case, the EIB granted a loan to a private company in order to develop two oilfields in the region. The project promoter infringed European environmental law as well as national one; environmental impacts were not assessed and monitored adequately, without any consequences from the Bank’s side, Joroslava Colajacomo argues. To the author, "[t]he Val d’Agri case proves that EIB lending practices are still mostly in support of large-scale infrastructure projects and turn out to be environmentally and socially

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143 EIB Umweltbereich, p. 7
unsustainable.\textsuperscript{145} The project clearly violates the EIB’s obligation to actively support the reduction of green house gas emissions, an objective of the EU, as e.g. fixed in the Kyoto Protocol. However, shortcomings in national ministries contributed to the shortcomings of the project; according to the Bank, all environmental requirements have been met.\textsuperscript{146}

The Bank argues that it "attempts to estimate, where practical, the economic value of any environmental external costs and benefits that are likely to have a major influence on the project financing decision."\textsuperscript{147} The necessity for stronger consideration of this point is emphasized by a look at EIB evaluation reports. The Evaluation Report on Contribution of Major Road and Rail Infrastructure Projects to Regional Development for example found that "whilst the environmental impact of the construction stage of individual infrastructure projects has been carefully investigated, their overall impact does not seem to have been the subject of a comparative analysis."\textsuperscript{148} Another report concludes: "The EIB currently has no set of regional impact indicators that would be calculated ex-ante at appraisal and verified ex-post. This is a recurrent issue within the Bank and it is recommended to put more effort in the definition of such indicators."\textsuperscript{149} The evaluation reports show that there are failings in the EIB’s broad consideration of the cost and benefits of potential projects.

In a recent campaign, NGOs criticize the fact that there are no detailed and compulsory regulations that would guarantee a minimum protection of the environment and the societies affected by projects financed by the EIB.\textsuperscript{150}

\textsuperscript{145} p. 6
\textsuperscript{146} cf. http://www.eib.org/policy/top_agip.htm, retrieved 14 March 2002. This example illustrates once again problems due to unclear definition of criteria: The EIB writes that the project is eligible under Art. 267 E, point a), regional development, as the concerned region is an Objective 1 region; Colajacono quotes Greenpeace Italy saying that a national park in the same region could create more employment than oil activities in the area, being a more sustainable development approach. (p. 5)
\textsuperscript{147} EIB Environmental Statement, p. 7
\textsuperscript{148} p. 8
\textsuperscript{149} EIB: EIB Contribution to Regional Development, p. 21
All comparable IFIs, e.g. the World Bank, have detailed mandatory clauses that assure a minimum protection of the environment and societies affected by their projects, but not the EIB. In addition, the NGOs condemn the common EIB practice of granting project loans before the environmental impact studies have even been conducted, thereby making it impossible to consider these external costs when taking a decision.\textsuperscript{151} This example clearly illustrates the point that there are some discrepancies between EIB official statements and common practice. A detailed cost-benefit analysis could help to support the Bank’s statements and contribute to high standards of professional conduct for staff.

The obligation to consider all aspects of a potential project, far beyond mere banking standards, is due to the position of the EIB as an instrument of the European Union. Its duty is not a maximization of profits, but a maximal contribution to EU policy.

### 3.2.9 Public disclosure, information and participation

Transparency is of great importance in democratic theory. On the one hand, it facilitates the control by bodies that have democratic legitimacy; on the other hand, it is necessary for the development of participatory structures, Fischer-Appelt writes.\textsuperscript{152}

Unlike other IFIs, the EIB did not start raising its public profile until recently. The change of mind is due mainly to increasing NGO protests, complemented by EP interest in the Bank. First of all, public participation and transparency need some further explanation and discussion as to which standards should be followed. The Bank should respect at least the minimum European agency standards, as it could be considered a special case of an agency. Given that it has a special task, the distribution of credits and funds, there is justification for an even stricter control because this goes far beyond the duties of an information or regulatory agency. Therefore, the EIB could

\textsuperscript{151} WEED Pressemitteilung vom 7.2.2002
\textsuperscript{152} “Zum einen erleichtert Transparenz die Kontrolle demokratisch legitimierter Organe und reduziert damit die Risiken von unerwünschtem Verhalten der Agenturen. Zum anderen hat Transparenz aber auch eine Bedeutung für die Herausbildung demokratischer Strukturen im Sinne des Partizipations-Modells.” In: Fischer-Appelt, p. 452
be compared to other IFIs (or more appropriately, MDBs), e.g. the World Bank, which
is said to have been a model for the creation of the EIB. These institutions were
confronted much earlier than the EIB with demands for adequate standards of
transparency and public participation.

There are no clear Treaty provisions governing public access to European agencies'
documents; Article 255 only applies to Parliament, Council and Commission. Nonetheless, the European Ombudsman argued: "Recalling that the Court of Justice is
the highest authority on questions of Community law and taking into account the case-
law of the Court, the Union's commitment to transparency and the existence of a single
institutional framework for the Union, the Ombudsman concluded that failure to adopt
and make easily available to the public rules governing public access to documents
could constitute an instance of maladministration." The Ombudsman considered
whether such rules existed for the EIB and the European agencies, but he made no
draft recommendations concerning their substance.

To emphasize the status of the EIB as part of the EU system, and to have a basis for
deciding the appropriate content of the EIB's transparency and public participation
commitments, the declarations of intent of the White Paper on European Governance
will be taken into account. This paper does not have any legally binding power, but
contains several ideas on how to reform the system of governance in the European
Union. In short: "The White Paper proposes opening up the policy-making process to
get more people and organisations involved in shaping and delivering EU policy. It
promotes greater openness, accountability and responsibility for all those involved." "The Commission cannot make these changes on its own, nor should this White Paper
be seen as a magic cure for everything. Introducing change requires effort from all the
other Institutions, central government, regions, cities, and civil society in the current

153 Case 85/86, opinion, section 11, 1st paragraph; Kruppova, p. 12
154 Fischer-Appelt, p. 333
155 Special Report by the European Ombudsman to the European Parliament Following the Own
Initiative Inquiry into Public Access to Documents (16/PUBAC/F/IJH), (electronic version) part A (p. 3)
156 Ombudsman, part C 3 (p. 7)
428 final, Brussels, 25.07.2001, p. 4
and future Member States and the White Paper is primarily addressed to them.\textsuperscript{158} Among others, the Commission puts a strong emphasis on the role played by civil society; openness, accountability and responsibility are the main topics. As all European institutions on all levels have to combine their efforts, this includes the EIB as well. Therefore, the conclusions of this paper will be applied to the Bank - as future standards.

The proposed reforms are based on the principles of openness, participation, accountability, effectiveness, and coherence. One of the main concerns of the Commission is more effective involvement of the various parties. An important prerequisite is access to reliable information on European issues and the ability to scrutinize the policy process at all of its various stages.\textsuperscript{159} To the Commission, openness is especially important to improving the confidence in complex institutions, as those at the European level.\textsuperscript{160}

The Commission clearly states the importance of civil society: "Civil society plays an important role in giving voice to the concerns of citizens and delivering services that meet people’s needs."\textsuperscript{161} Non-governmental organizations are recognized as an important part. They "play an important role at global level in development policy. They often act as an early warning system for the direction of political debate."\textsuperscript{162} Nonetheless, "with better involvement comes greater responsibility. Civil society must itself follow the principles of good governance, which include accountability and openness."\textsuperscript{163} One of the possibilities for improved participation is more public consultation. "Participation is not about institutionalising protest. It is about more effective policy shaping based on early consultation and past experience."\textsuperscript{164} "What is needed is a reinforced culture of consultation and dialogue; a culture which is adopted by all European Institutions […]".\textsuperscript{165} Just as openness, participation is likely to lead to more confidence in the results of EU policy making, as long as it takes place.

\textsuperscript{158} COM (2001) 428 final, p. 5
\textsuperscript{159} COM (2001) 428 final, p. 15
\textsuperscript{160} COM (2001) 428 final, p. 14
\textsuperscript{161} COM (2001) 428 final, p. 18
\textsuperscript{162} COM (2001) 428 final, p. 19
\textsuperscript{163} COM (2001) 428 final, p. 19
\textsuperscript{164} COM (2001) 428 final, p. 20
throughout the whole policy chain.\textsuperscript{166} Therefore, the European Commission accepts NGOs as part and representatives of the civil society. As it is very difficult for individuals to combine the necessary expertise, spare time and influence, I will concentrate on organized civil society, i.e. NGOs as actors in the process of public participation.

MDBs as well as independent agencies have to face questions on the adequacy of their accountability mechanisms. Just as expressed in the Commission paper, more transparency is a key issue to overcoming the existing shortcomings. This means first of all publication and public access to documents, recognizing the problems of the cost of collecting, editing and publishing the information, and the possibility of selected data distorting decision-making. Transparency also applies to its promotion within the countries with which the MDBs work. The IMF, for example, releases its agreements with governments concerned and also goes beyond that: "in some cases the IMF and World Bank now require governments to consult more and to be more actively accountable to their own people."\textsuperscript{167} However, as Ngaire Woods states: "Transparency provides the most important and necessary, but not the sufficient, means for the international financial institutions to be held accountable."\textsuperscript{168} Where public participation is concerned, the World Bank and the IMF recognize non-state actors and non-governmental organizations. In 1982, the World Bank had already established a NGO-World Bank Committee. Consultations are organized with lobbying organizations in Washington, D.C., and with grassroots organizations in member countries, leading to contacts at all levels. Those groups have no formal control or participatory role in decision-making, but "considerable informal power and influence".\textsuperscript{169} Their growing influence is not unchallenged. To whom are NGOs themselves accountable? This question, however, is much more important in the case of northern and transnational NGOs than southern ones, the latter representing groups that are directly affected by IFI policies. "The devil with TNGOs [transnational NGOs, MH] lies not so much in the detail as in the objectives, priorities and constitutions of

\textsuperscript{165} COM (2001) 428 final, p. 21
\textsuperscript{166} COM (2001) 428 final, p. 14
\textsuperscript{167} Woods, p. 91
\textsuperscript{168} Woods, p. 91
\textsuperscript{169} Woods, p. 96
the organizations. Some TNGOs working on and with the IFIs are fully aware of the risks mentioned and steer clear of them by prioritizing multilateralism, local accountability and capacity-building in developing countries. In so doing such groups are implicitly respecting the claims of more directly affected stakeholders to have priority in holding the institutions to account. TNGOs that do not so delimit their priorities, it is argued here, are wrong to claim that their stake in the institutions gives them a right of account."170 Thus, as the Commission paper stated, NGOs generally improve public participation, as long as they also respect a minimum of accountability standards for themselves. Improving transparency is a key issue in enhancing the accountability of IFI as well as in the EU.

Now the disclosure procedures of the EIB will be considered; they essentially determine the access to documents, and adequate access to information is a prerequisite for public participation. Following the Ombudsman's inquiry171, the European Investment Bank adopted rules on public access to documents; however, he did not comment on their substance, solely their existence. Unfortunately, these rules have been under review for several months now. The question of access to documents of the Bank is crucial. The Bank refers to its dual identity to support its claim that only limited access is possible.172 "[T]he majority of the EIB's clients are private commercial companies and obviously do not want the confidentiality that is standard practice in commercial negotiations not to be observed in relations with the EIB."173 A first step is the start to publish a project list on its website. In the 1999 paper by CEE Bankwatch and the Boell Foundation, a press release on the signing of the loan, after the Board approval, is listed as the only project related information available from the EIB.174 Compared with the much more extensive information policy of the World Bank and the EBRD, the EIB had plenty of scope for introducing changes. Now, the Bank publishes a list of projects being considered for financing before the Board of Directors' approval. In principle, all projects and their summaries are included.

170 Woods, p. 99
171 616/PUBAC/F/IJH
172 EIB: Informationspolitik. EIB, Luxemburg September 1997, p. 4
173 Speech Maystadt at the EP Plenary session, 15 February 2001
174 Boell Foundation/ CEE Bankwatch Network, p. 13
However, the project promoter can request exclusion "on the basis of confidentiality"; likewise, "[a]t the request of the project promoter, certain information may be excluded, for instance contract details".175 This practice is explicitly criticized by NGOs. They argue that all projects, including global loans, should be included in the list with basic information.176 Acknowledging these criticisms, the EIB's move to publish projects in pipeline is still a huge step towards greater transparency.

The Bank has not yet published criteria and procedures for public consultation, although they exist, for example, at the EBRD.177 The publication "Environmental Statement" contains the statement that the EIB is involved in a dialogue with the civil society. "The EIB also maintains a dialogue with representatives of civil society [...] on its approach to general environmental issues and addresses matters that they raise on individual projects as they arise."178 However, as projects can be exempted from publication in the project list, civil society does not necessarily know about every project and thus cannot comment on them. The EBRD also foresees the possibility of commercial confidentiality considerations. However even in these cases, the issue of public consultation is addressed. "Where a private sector client demonstrates, to the satisfaction of the Bank's Operations Committee, that the comfort of a Board decision to fund an operation is necessary prior to any disclosure about the operation, the legal documentation will not be signed until the necessary public participation is completed."179 I was not able to find out how this question is handled by the EIB. However, the EIB still has shortcomings in the matter of access to information, transparency and public participation.

Provisions regulating public access to environmental information are especially well provided for. In 1985, the EU directive on Environmental Impact Assessment has been

177 NGO Comments on the Main Elements of the new EIB Information Policy; EBRD: Environmental procedures. Annex 1: Consultation with the public, p. 18 - 19
178 p. 8
179 Environmental procedures. Annex 1: Consultation with the public, p. 18; NGOs criticize, however, deficits in the EBRD’s transparency policy, e.g. non-compliance of the Bank with its Public Information Policy, or withholding of information under the guise of commercial sensitivity. Cf. CEE Bankwatch Network: Empowering People, p. 3
adopted; it states that the public should have access to the information and be allowed to comment on it before a project is initiated. The Council Regulation (EC) 722/97 covers environmental measures in developing countries for sustainable development.\textsuperscript{180} Of special interest is the European Community’s signature of the UN/ECE (United Nations Economic Commission for Europe) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, also called the Aarhus Convention, where it has been signed in 1998. It allows the public, including NGOs, access to environmental information in the possession of public authorities. Roslycky/Spanjaard argue in detail that "the EIB can be understood as a public authority in the meaning of article 2 (d) of the Aarhus Convention"\textsuperscript{181}, thus it applies to the Bank, too.

Throughout my conversations with professionals, a theme has been the recognition of the potential importance of the control function of NGOs.\textsuperscript{182} As neither the Commission nor the Parliament are currently able to enhance their control, one possibility would be to accept improved accountability of the Bank through screening of its activities by civil society.

Apart from the well-known arguments about the internal structure of NGOs and possible democracy deficits, this would only be possible if public access was given to all documents. In addition, the public cannot impose any sanctions; thus, one would be speaking of a control without any mechanism for forcing change, unless one includes negative publicity and media coverage. "[T]he mechanism depends largely upon the organization itself to correct any errors that are brought to light."\textsuperscript{183} This would need an additional redress mechanism, comparable to the ones strengthening the horizontal accountability mechanisms within other IFIs. As an example, Ngaire Wood lists the Inspection Panel at the World Bank. Nonetheless, she warns that such an institution can easily be abused in pursuit of larger political agendas.\textsuperscript{184} The Ombudsman only

\textsuperscript{180} Roslycky/Spanjaard, 5.1.1., p. 26
\textsuperscript{181} Roslycky/Spanjaard, 5.1.2., p. 28
\textsuperscript{182} Peters is very hesitant to agree to the effectiveness of control by public pressure groups; to him, there are too many factors limiting their control impact. p. 261
\textsuperscript{183} Peters, p. 255
\textsuperscript{184} p. 93 - 94
provides for "a very light form of indirect enforcement"\textsuperscript{185}, thus adding little horizontal accountability.

### 3.2.10 Extension of mandate only with adaptation of control mechanisms

Chapter 3.2 has illustrated the variety of accountability mechanisms that the EIB has to respond to. Apart from assessing their adequacy, it has to be clear that an extension of the Bank's mandate has to automatically entail enhancing these mechanisms.

During the meeting of the Board of Governors on 4 June 2002, an increase of the Bank's subscribed capital from 100 to 150 billion Euro was decided upon\textsuperscript{186}, "on the objective of maximising the value-added of Bank operations, by identifying clear criteria to that effect, and by reducing the Bank's overall lending to large corporates with easy access to capital markets".\textsuperscript{187} A group of NGOs launched a campaign in February, asking for the linkage of the increases to acceptance of reforms, e.g. improved access to information, better transparency, and the establishment of clear environmental standards.\textsuperscript{188} This point of view is supported by the EP report on the EIB Annual Report 2000. The European Parliament "[d]eclares its support for an eventual increase of EIB capital[...]; expects at the same time an enhanced transparency policy, public access to documents as a general rule, as well as clear objectives and performance indicators in order to facilitate an in-depth evaluation of the EIB's lending operations".\textsuperscript{189} These demands mirror Woods argumentation that problems with accountability are magnified when the mandate of a financial institution expands and transforms, but without an adequate adaptation of its accountability mechanisms.\textsuperscript{190} For the EIB, this was e.g. the extension of its mandate to countries

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\textsuperscript{185} Woods, p. 94
\textsuperscript{186} EIB: Board of Governors: Minutes of the Decision of the Annual Meeting on 4 June 2002 (electronic version), point 1.1
\textsuperscript{187} EIB: Board of Governors: Minutes, p. 1
\textsuperscript{189} paragraph 34
\textsuperscript{190} Woods, p. 88 - 90
\end{flushleft}
outside the European Union. However, the conditions linked to the Bank's last capital increase are quite limited.

There are several mechanisms that contribute to the accountability of the EIB, all of which leave room for improvement. The judicial review is difficult to access for individuals, Commission review is very superficial, Council proposals to the EIB are not binding. The European Parliament in particular has recently tried to increase its influence in this regard. Problems still exist with the definition of clear objectives; altogether, the Bank has to improve the integration of aspects other than financial ones into its procedures. The most important potential for improvement offers the Bank’s attitude towards transparency and participation of external actors.

### 3.3 Evaluation and accountability

As the EIB’s evaluation reports show shortcomings in the formulation and fulfillment of (political) objectives, and the impacts and contributions to sustainability are not always clearly visible, evaluation will be used as an example to explore accountability both within the EIB and towards external parties. The following pages will focus on the state and use of evaluation in the EIB, and their actual and potential use for control purposes.

In 1995, an evaluation department was set up at the EIB. It is answerable directly to the President. Thus, it is consistent with the need for impartiality and independence from the process concerned with the policy making. "Impartiality contributes to the credibility of evaluation and the avoidance of bias in findings, analyses and conclusions. Independence provides legitimacy to evaluation and reduces the potential for conflict of interest […]".191 The EIB Operations Evaluation department carries out ex-post evaluations and assesses the contribution of financed projects to the attainment of the aims of the EIB. In addition, it coordinates the internal evaluation process in the

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191 DAC principles, section III. Impartiality and Independence, paragraph 12; cf. Borrmann, p. 21
Bank. Since 1988, ex-post evaluations with a thematic approach have started to be carried out. They are the only evaluation studies that are published, and finally all can be downloaded from the EIB website. These reports are written by external consultants in cooperation with EIB staff, an approach that allows for a detached examination combined with internal expertise.

The EIB has established an internal evaluation system, opening the way for an ex-post analysis of every completed project through the Projects Directorate. Unfortunately, "[t]he results of these individual analyses are solely for the EIB's internal use and are not made public." Thus, the only evaluation documents publicly accessible are the thematic ex-post evaluation reports on selected projects, although a wider basis of evaluation results most probably would contribute to enhanced accountability.

3.3.1 Objectives

In a recent paper, Katalin Miklos, working for the NGO CEE Bankwatch Network, criticizes vaguely defined objectives, and the consequently relatively ineffective projects selected under the corresponding criteria by the EIB. She focuses on the actual environmental impact of investments supported by the EIB in EU member states and CEE Accession Countries (1996-2000) against the objectives "protection of environment and urban development" and "energy", and whether the EIB comes up to its statement of a pro-active approach to protection of the environment.

She concluded that "in the EIB's interpretation, 'environment' means primarily the human-created environment, and this is what must be improved. Protection of the natural environment is actually just mitigation of the impacts of urbanization. Improving the quality of city life is the chief aim of the projects which are labeled

193 on the advantages/disadvantages of outside evaluation cf. Bilinski, p. 243
194 EIB: The Project Cycle, p. 8
'environmental'. Loans for water supply and wastewater treatment are increasingly channeled through global loans. "Because these loans are channeled through financial intermediaries who refuse to give out any information about the projects financed, it is very hard to assess how the loans contribute to the environmental portfolio and what real impact the investments have." Global loans are listed in the project pipeline, but in general, details on individual projects financed are not published there. This is seen as a shortcoming in the transparency policy of the Bank by the NGOs as well as the European Parliament.

Of the 26% of environmental loans for industrial and energy projects within the EU, only 4.9% were granted for renewable energy projects. For the transport sector, "[f]inancing of road projects amounted 4.3% of environmental loans. The Environmental benefit of these investments are quite doubtful." Even worse, "[t]he environmentally unfavorable projects obviously received much more support than the environmentally-friendly projects." This supports the doubts that have been uttered by some of my interlocutors. They fear that the relatively new commitment of the EIB to environmental protection has not led to a wide range of environmentally sustainable projects, but a redefinition of already existing or planned projects against the newly defined objectives. At the EBRD, there exists a dedicated Energy Efficiency Unit that promotes energy efficiency projects; it might be a model for the EIB, helping the Bank to enhance support for sustainable energy projects.

In the CEE accession countries, the majority of the loans have been granted against the "communications" objective, combining road, railway and telecommunications projects. As Miklos writes "[i]t is strange to have a mixture of these three sectors in the same category, and their environmental impacts are very different too." Here again, there are doubts about the extent to which the EIB pays effective attention to the environmental aspects of projects.

196 Miklos, p. 5  
197 Miklos, p. 8  
199 Miklos, p. 8  
200 Miklos, p. 8  
201 p. 10
These criticisms can be found in some of the evaluation reports as well. One of the recommendations in "An Evaluation Study of 17 Water Projects Located Around the Mediterranean Financed by the European Investment Bank" is "[w]ater supply projects should not be considered per se as eligible under the EIB's environmental programme, particularly if tariffs are subsidised and water resources are not renewable."202 Thus, there are still improvements to be made with regard to the definition of the objectives that should be achieved through a project.

However, the EIB has made a first progress. Together with DG REGIO, the EIB has updated a set of indicators that give a more systematic evaluation of projects financed under the objective of regional development. 203 This results from the widespread criticism of shortcomings in the operationalisation of EIB objectives.

3.3.2 Use of evaluation work

The EIB lists the uses of the evaluation work in the Project Cycle brochure: "The ultimate objective is to frame recommendations serving to: - improve current and future operations in the light of past experience; - enhance transparency, notably as regards the contribution to implementation of EU policies."204 The Annual Report 2000 adds that the work of the Operations Evaluation Department "reinforces accountability and encourages the organisation to learn from experience."205 Internal use, internal decision-making or creation of feedback, are additional purposes of evaluation studies.206 To Borrmann, the results have to be used in learning cycles. As the presence and the accessibility for potential users have to be assured on a long-term
basis, the learning processes have to be organized and institutionalized.\textsuperscript{207} For cross-project evaluation results this implies training, seminars and workshops to inform coworkers of new findings and proceedings.\textsuperscript{208}

It is difficult to assess the EIB's provision for internal learning, due to lack of documentation. An article in the EIB-Information on three newly published evaluation reports on regional development states that "[t]he reports were extensively discussed inhouse before being presented to the EIB's Board of Directors[...]"\textsuperscript{209} Regarding the recommendations made in the reports, "[t]he EIB has initiated a series of internal reflections to consider ways and means of taking the recommendations forward; the outcome of these reflections is pending."\textsuperscript{210} The EP resolution on the EIB Annual Report 2000 "[e]ncourages the EIB to keep intensifying its project evaluation and feedback into future assessments, and in particular, to take an active interest in the actual use that is made of the global loan facilities it provides to local banking partners".\textsuperscript{211} Thus, the Parliament must still be of the opinion that there are deficits. This impression has been confirmed during my interviews. Although the ex-post evaluations have been strengthened, their criticism can be seen as a reproach to the staff in charge of the ex-ante evaluations, which may explain hesitations of the ex-post evaluation staff to criticize too harshly. The ex-post evaluations are being read by the ex-ante evaluation staff; this is seen as an assurance that they achieve their goal and get attention at the right place. I was not able to find out whether there is any in-house training, or any other kind of institutionalized learning cycle within the Bank. My interviews suggested that practitioners generally tend to feel that it was the projects that changed the world, not their ex-post evaluation - an attitude that is by no means limited to the EIB. This point of view still exists even in the face of the growing attention directed towards evaluation, but it does not seem to be predominant. However, there is still room for improvement, as might be deduced from the missing information.

\textsuperscript{207} "Dieser Lernprozeß bedarf der Institutionalisierung, da nach aller Erfahrung nicht davon ausgegangen werden kann, daß Evaluationserkenntnisse selbst ihren Weg zu den Nutzern finden und dauerhaft präsent bleiben. Die Notwendigkeit, Lernprozesse zu organisieren und ein institutionelles Gedächtnis aufzubauen wird auch vom DAC gesehen." In: Borrmann, p. 41 - 42
\textsuperscript{208} Borrmann, p. 44
\textsuperscript{209} 4-1998, no 99, p. 14
\textsuperscript{210} p. 15
"The accountability principle is increasingly being emphasised not only in public debates but also in political quarters including those close to the EIB, and in recent years issues on the EIB’s performance in this respect have been raised still more often." The EIB has accepted evaluation as an important way of enhancing accountability and transparency towards different parties. The European Parliament and other Community institutions depend on the availability of external studies; it does not have the means for extensive research, apart from very selective topics that may be part of e.g. the report on the EIB Annual Report. Civil society and NGOs are even worse off, they do not have as good an access to EIB documents.

3.3.3 Stakeholder participation in evaluation

The literature on evaluation argues for increased orientation of evaluations towards the concerns of the main stakeholders. "The main stakeholders include, in the first place, the institutions funding and implementing aid (governments, agencies) on the donor and recipient sides, but increasingly some who are outside the direct aid relationship are being recognised." To Belinski, this cannot be considered separately from the general question of stakeholder involvement. "Stakeholder involvement in evaluation is very closely tied with the more general issue of their involvement in the entire process of development assistance." Participation of donors and recipients are important for both the quality of the evaluation and the long-term sustainability of the project.

The EIB is extending its contacts with NGOs; nowadays, there are several meetings per year. To what extent this actually represents an acceptability of this group as full stakeholders is difficult to answer. The EIB still does not have binding criteria and

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211 paragraph 20
212 EIB-Information 4-1998, no 99, p. 14
213 Berlage/Stokke, p. 23
214 Bilinski, p. 245
215 DAC principles, paragraph 23; cf. Borrmann, p. 38
procedures for a public consultation strategy, either before project approval or during the evaluation of project implementation.\footnote{NGO Comments on the Main Elements of the new EIB Information Policy, retrieved 11 October 2001 from http://www.bankwatch.org/issues/eib/pip-bwncomments-6-01.html}

For sure, the attitude of the EIB towards the other political actors at European level has changed. A good example is the European Parliament. In February, President Maystadt spoke at a Plenary Session. He said that although there is no formal obligation for the EIB to give account to the EP, to him, it is normal that in a democracy all public institutions, including financial ones, should do so.\footnote{"En effet, même si la Banque européenne d'investissement n'est pas formellement tenue de rendre des comptes au Parlement européen, il me semble normal, dans une démocratie, que toutes les institutions publiques, y compris les institutions financières, doivent répondre aux interrogations et tenir compte des priorités exprimées par les représentants élus des citoyens." President Maystadt at the EP Plenary Session, 5 February 2002, 2\textsuperscript{nd} paragraph} However, the EP is still asking for extended access to EIB documentation, - as of now with limited success, as e.g. it does not get to see the reports of the EIB's external Auditors' Committee.\footnote{EP resolution, 5 February 2002, paragraph 24} This is regrettable as MEPs excerpt an important policy review function. The parliamentary committees "bring experts and officials together with already well-informed MPs to share information, to discuss if not debate judgements, and to thrash out conclusions often with relatively little regard for party guidelines. Above all, they represent to the executive a constant if benevolent threat that policy review and calling-to-account could be imminent."\footnote{Hewitt, Adrian/ Lester, Jim: Aid Policy Evaluation. In: Berlage/Stokke (eds), p.196 – 197} Hewitt/Lester base this conclusion on a study of the Select Committee system of the British Parliament. Even if they are not of the opinion that their findings could be fully applied to the European Parliament, they can certainly be seen as having an important potential contribution that could be realized by extending its organization and powers.

The EIB seems to have recently started a new approach towards its evaluation work and the related contacts with the European institutions as well as the publics. The question remains to be answered as to the extent of the potential for the evaluation to contribute to the effective accountability of the EIB. It has been shown that the criticism of the accountability provisions of the EIB is closely related to shortcomings in evaluation. The Bank has introduced some promising improvements, e.g. public
thematic ex-post evaluations by external and internal evaluators. However, there are still shortcomings in the fields of transparency, formulation of clear objectives, and stakeholder involvement.

4 CONCLUSION

The European Investment Bank is an example of a non-majoritarian institution, characterized by the absence of direct accountability to democratically elected bodies. Within the European Union, its double status of European institution and private bank is unique. It has been shown, however, that it can be compared to European agencies as well as MDBs. Especially during the last two years, there have been demands, e.g. from the European Parliament and NGOs, for greater accountability of the Bank. The accountability notion looked at here goes far beyond the mere control of the proper use of funds, it comprises the accountability of an agency/institution for the exercise and its interpretation of the mandate conferred upon to a representative body.

The study is based on the theoretical concept of Giandomenico Majone who argues that independence of a non-majoritarian institution, i.e. independence from partisan politics, offers important advantages for its functioning, while independence does not necessarily contradict accountability. To him, this independence has to be accompanied by control mechanisms assuring adequate accountability of the institution.

A closer look at the way the EIB profits from its independent status leads to the perception that the Bank could far better take advantage of its possibilities. Extended expertise in non-financial questions and a different rewards system, recognizing the Bank's performance in areas other than the financial one, are the main points of critique.

An examination of the accountability mechanisms to which the Bank has to respond shows several weaknesses. Recourse to judicial review of its acts is available almost exclusively to European institutions; the European Ombudsman can conduct
investigations on request from individuals, but it is very time-consuming. In addition, he only looks at if the Bank has correctly applied its own procedures, he does not consider the substance of their content.

Cooperation with the European Parliament has improved during the last years; still, it has only an influence on the EIB handling of funds from the Community budget. The own-initiative report of the EMAC committee on the EIB Annual Report has no binding effects.

The provisions for Commission influence do not allow for substantive content review of EIB acts. Even if it would be wished for, the current Commission design is insufficient for such an extended role.

The Bank takes up Council propositions, but this cannot be mistaken for effective control. The Board of Governors is composed of the national representatives of its member states. They set the overall guidelines for the Bank’s policy. However, the provision of generally only one meeting per year shows that extensive control can hardly be exercised by this body.

The EIB's objectives are not clearly defined. It has made first steps to develop appropriate indicators. However, this is an important lack as it hinders evaluation.

Strict, procedural requirements, and professional principles and expertise are additional formal requirements destined to assure accountability. There are basic provisions made at the Bank, but these still leave room for improvement especially in regards other than banking aspects.

The justification of its measures in cost-benefit terms is mostly limited to financial aspects; especially the evaluation reports list shortcomings in the consideration of social, environmental, and wider economic effects of the projects chosen.

The biggest potential for improvement lies in the Bank’s attitude towards transparency, access to information of EU institutions and the public, as well as public disclosure and participation.

Evaluation results are an important measure to establish a reliable basis for accountability. Also in this regard, the EIB could improve its structures. Difficulties with evaluation are mainly due to unclear objectives. At the EIB, only limited use of the evaluation results seems to be made; no comprehensive learning cycles seem to be established. Also regarding the different evaluation stages, there are deficits in
stakeholder participation. An overall improved status of evaluation in the institutional design of the Bank might be a solution.

Altogether, the EIB can only be encouraged to continue the road it has chosen a few years ago and to further extend its openness, transparency and willingness to cooperate with the European institutions as well as civil society. First of all, all documents, especially those linked to controversial projects should be made publicly available, and consultation procedures extended. In doing so, the advantages offered by its independent status will be enhanced and strengthened.

It is a different starting point this conclusion is asking for: The Bank should not be preoccupied by increasing its overall volume of lending, but to provide for the most sustainable efforts, in all regards. This demands for the courage to actively specify Council recommendations and develop stringent strategies under their headings, in the long run to refocus its interventions. Enhanced support for the project promoter during implementation, and thorough evaluation, including the corresponding institutional provisions for learning cycles, will be needed as well. The different stakeholders, especially civil society, should be welcomed as a contribution to the Bank’s quality of intervention, as long as their criticisms proofs to be technically sustainable. In doing so, the Bank can be sure to become not the biggest IFI, but the most sustainable one, its interventions designed for long-time influence - an aim coherent to all different EU policies.
5 LITERATURE


Baldwin, Robert/ McCrudden, Christopher: Regulation and Public Law. Weidenfeld and Nicolson, London 1987

Barnes, James: An Inspection and Compliance Mechanism for the EIB?, March 2, 2001, for a Roundtable on "La Banque européenne d’investissement n’a-t-elle de comptes à rendre qu’au marchés financiers?", organized by Amis de la Terre in collaboration with the Heinrich Boell Foundation, Paris 2 March 2001


Bermejo, Romualdo: La BEI: Une banque de développement. Revue internationale de droit économique 1987, 03 und 1988, 01


CEE Bankwatch: NGO Comments on the Main Elements of the new EIB Information Policy (electronic version). Retrieved 11 October 2001 from
http://www.bankwatch.org/issues/pip-bwncomments-6-01.html


Comite economique et social: ECO/038 Le role de la bei dans la politique regionale (avis), 20 septembre 2000; CES 1001/2000 ad

Dickertmann, Dietrich/Gelbhaar, Siegfried: Die Europäische Investitionsbank. Öffentliche Kreditwirtschaft im Schatten des Europäischen Haushalts. Arbeitspapier Nr. 51 der Studien schwerpunkte Fininzwissenschaft u.a., Trier, 1998

EBRD: Environmental procedures. EBRD, London 1996

EBRD: Project Evaluation Department. EBRD, London August 1999


EIB: Annual Report 2000 (CD-Rom)


EIB: Code of Good Administrative Behaviour for the Staff of the EIB in its Relations with the Public. EIB 2001

EIB: Contribution of Major Road and Rail Infrastructure Projects to Regional Development. Evaluation report, 1998

EIB: EIB briefing to Administrators of the EP. 27 September 2001


EIB: EIB Information 2-1998, no 97

EIB: EIB Information 4-1998, no 99

EIB: EIB-Informationen 1-2000, No 104

EIB: EIB-Informationen 2-2001, No 108

EIB: Environmental Statement (electronic version). May
2001


EIB: Statute of the European Investment Bank, version 1 July 1999 (electronic version)


EIB: The Project Cycle. 12 July 2001 (electronic version)

European Commission: European Economy, Supplement A. Economic Trends No 3-4, 2000 (electronic version)


European Court of Auditors: Special Report No. 3/1999 "über die Verwaltung und Kontrolle der Zinszuschüsse durch die Kommissionsdienststellen" (electronic version)

European Court of Justice: Case 85/86, 61986C0085, Opinion of Mr Advocate General Mancini delivered on 24 November 1987. Commission of the European Communities v Board of Governors of the European Investment Bank. Tax withheld from the salaries and pensions of staff of the European Investment Bank (electronic version)


European Ombudsman: Special Report to the European Parliament following the own initiative inquiry into public access to documents (16/PUBAC/F/IJH)


European Parliament: Resolution A5-0215/2001 (electronic version)


Meyer, Bernhard: Die EIB zwischen Markt und Lenkung. Institut für Wirtschaftspolitik an der Universität zu Köln, Köln 1984
Miklos, Katalin: Facts Behind the Rhetoric: A preliminary assessment of certain aspects of the EIB’s Portfolio. Published by No Reform No Money! Citizens’ Campaign, no date (electronic version)


Roslycky, Lada/Spanjaard, Jolanda: The European Investment Bank: A European Institution Subject to EU Policy? Amsterdam International Law Clinic, final draft 20 December 2001 (electronic version)


Tabary, Philippe: Des nouvelles priorités dans les financements de la BEI. Revue du Marché commun, no 311, Novembre 1987


UN/ECE: Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention),