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EU-Policy Paper No. 1

The European Investment Bank: Accountable Only to the Market?

**A Report by the
CEE Bankwatch Network
in cooperation with the
Heinrich Böll Foundation, Brussels Office**

December 1999

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Published by the Heinrich Böll Foundation, Brussels Office

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1. Preface

Founded in 1958 under the Treaty of Rome, the European Investment Bank (EIB) is the official financing institution of the European Union and thus committed to the European Treaties and their principles of representation, participation, public accountability and sustainable development. However, there seems to be little public knowledge of the Bank's existence and operations, although it is a public institution that lends more money every year than, for example, the better-known World Bank. More importantly, the EIB lags far behind its sister development banks (such as the World Bank) in terms of its transparency, accountability, and the ways it addresses environmental and issues in its work.

With a growing percentage of loans and guarantees being provided for projects outside the European Union, the question of public accountability becomes even more important. Environmental NGOs, especially from Central and Eastern Europe and the Mediterranean region, have taken the lead in monitoring activities of the EIB and advocating for a more transparent and sustainable lending policy. What used to work behind an almost impermeable screen is gradually being revealed as a leading international financing institution that pays lip service to rather than actually taking into account environmental concerns. Its internal environmental policies and decision making procedures are weaker than those of other multilateral development banks (MDBs). While other MDBs have responded, to varying degrees, to campaigns by NGOs and some major shareholders to improve these policies and procedures, the EIB remains "uninvolved," behaving like a development bank of the late fifties.

Although the EIB likes to think of itself as being different from institutions such as the World Bank, European Bank for Reconstruction and Development (EBRD) and other regional development banks, in reality its lending is virtually indistinguishable from the others. In many cases the EIB co-finances projects with these other international financing institutions. On the other hand the EIB does significantly differ from the other international financing institutions in terms of its secrecy, non-transparent behavior and weak environmental performance.

The case studies published in this booklet illustrate some recent projects financed by the EIB. One common point in all these cases is that the EIB's involvement occurred without careful consideration of the environmental, social and domestic legal circumstances of the project in question. Another common thread is that the EIB refuses to provide locally affected citizens any specific information even when formal inquiries or complaints are made. A third key aspect is the EIB's lack of knowledge concerning relevant national standards, laws and required procedures; even when court proceedings are involved, with apparent indifference, the EIB pushes ahead with its plans. A fourth point that emerges in several of the cases is that the EIB will give its support even when other international financing institutions have decided not to do so on environmental or social grounds. Fifth, all of these case studies demonstrate the unwillingness of the EIB to respond to specific critiques made by local NGOs or communities concerning violations of relevant laws and consideration of alternatives.

With this policy paper the HEINRICH BÖLL FOUNDATION and CEE BANKWATCH NETWORK wish to raise public awareness about the European Investment Bank, its legal basis, institutional context and current financing policies, and to contribute to the political dialogue on how to reform the EIB so it can better meet environmental and public accountability standards it is legally and politically bound to existing European law, namely the Article 6 of the Amsterdam Treaty and the Aarhus Convention on Access to Information, Public Participation in Environmental Decision Making and Access to Justice in Environmental Matters.

Decision makers in the Member States and the Union itself are the ones who have the responsibility and chance to move the EIB along the road of democracy, transparency, accountability and sustainable development, thereby properly integrating it with the present structures and standards of the European Union.

We hope that this report will also be useful to members of the European Parliament, the European Commission, other EU public bodies and European NGO networks, as they consider a new "code of conduct" for the EIB that is appropriate for a new millennium. The report concludes with a number of specific recommendations for changes in how the EIB operates, which should contribute to a necessary and timely debate about this important institution.

Brussels and Krakow, December 1999

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Contents

1. PREFACE	3
2. EXECUTIVE SUMMARY	5
3. EIB AS PART OF THE EUROPEAN COMMUNITY	8
4. EIB VERSUS THE WORLD BANK AND EBRD	11
5. THE STRUCTURE OF EIB	14
5.1 BOARD OF GOVERNORS	14
5.2 BOARD OF DIRECTORS.....	14
5.3 MANAGEMENT AND AUDIT COMMITTEES	14
5.4 PROJECT DIRECTORATE.....	14
5.5 LOAN PROCESS - PROJECT CYCLE	16
5.6 ENVIRONMENTAL POLICY STATEMENT	18
5.7 GLOBAL LOANS	20
6. CASE-STUDIES ON EIB PROJECTS	21
6.1 M0 MOTORWAY - HUNGARY	22
6.2 TRANSPORT SECTOR - CZECH REPUBLIC	24
6.3 POZNAN BY-PASS ROAD - POLAND	26
6.4 SOFIA AIRPORT - BULGARIA	26
6.5 LIHIR GOLD MINE – PAPUA NEW GUINEA	27
6.6 LESOTHO HIGHLANDS WATER PROJECT	27
6.7 THE ÖRESUND BRIDGE	30
7. RECOMMENDATIONS	32
8. CONCLUSION	34
9. BIBLIOGRAPHY	35
ANNEX I. - CORRESPONDENCE WITH EIB	36
<i>Internal correspondence of CEE Bankwatch concerning EIB</i>	36
<i>Letter to the President of EIB concerning the consultation process with NGOs</i>	37
<i>Response of the EIB on the consultation process</i>	40
<i>Letter of Pavel Prybil to the Vice-President of the EIB concerning Czech motorways</i>	42
<i>Letter to the Vice-President of EIB concerning consultations (1998)</i>	44
<i>Letter to the High Level Steering Committee on the role of EIB in Balkan reconstruction</i>	45
<i>EIB's reaction to Bankwatch's letter to the High Level Steering Committee</i>	46
ANNEX II. PORTFOLIO OF THE EIB IN CENTRAL AND EASTERN EUROPE	48
<i>List of EIB projects in Central and Eastern Europe (1991-1998)</i>	49
ANNEX III. - QUESTIONS RAISED AT THE EUROPEAN PARLIAMENT	56
<i>Question on Sofia International Airport Upgrade and Extension Project</i>	56
<i>Question on Lihir Gold Mine in Papua New Guinea</i>	57
ANNEX IV - MATERIALS RELATED TO THE M0 CASE	58
<i>Letter to the EIB's President of EIB from NGOs</i>	58
<i>Complaint submitted to the European Ombudsman</i>	59
<i>Verdict on the suspension of the motorway constructions</i>	61
ANNEX V. - OTHER NGOS' RECOMMENDATIONS TO THE EIB	64
<i>Lankowski's Key Recommendations to the EIB</i>	64
<i>Wenning's Key Recommendations to the EIB</i>	64
ANNEX VI. - EIB BOARD OF DIRECTORS, AS FOR APRIL 1999	66
DIRECTORS:	66
ALTERNATES:	67

2. Executive Summary

International financial institutions (IFIs) around the world have been asked in recent years to take on new policy issues, in an effort to improve their performance and transparency. Many have made a concerted effort to do so, although to mixed reviews. One important exception is the European Investment Bank (EIB), a secretive bank of the European Union (EU). When other IFIs are taking steps to address these policy issues, the EIB has shown the least amount of change. This report focuses on EIB performance and lending outside the EU, mostly in Central and Eastern Europe, which is the main area of interest of the CEE Bankwatch Network. It argues that the EIB has shown a notable disregard for addressing a number of important policy issues, such as environment, transparency and accountability or public participation. It also puts together a number of recommendations for changes necessary to improve EIB's performance.

Founded in 1958 as the funding arm of the European Economic Community (the predecessor of the European Union), the EIB was originally founded to finance physical infrastructure linking the national economies of the member European countries and to provide investment in less developed regions. Since its founding, the EIB's mission and areas of operation have grown substantially. With a current portfolio of investments in more than 120 countries, today more than 16% of EIB's total lending operations is outside the European Union. Its investments are in South Africa, Asia, Eastern Europe, the Middle East, and Latin American. More recently, EIB announced it will take the lead in post-war infrastructure reconstruction in the Balkans, making it a major player in South Eastern Europe.

Not only has its sphere of activity expanded, but its lending power as well. The EIB's resources consist of capital from Member States of the European Union and funds borrowed on the world's capital markets. Because of the strength of the EIB Member State shareholders, EIB holds a "AAA" credit rating, enabling the Bank to borrow "cheap" and offer substantially lower interest payments and fees than those charged by other international financial institutions.

Why is this a problem?

Whenever major projects are funded for infrastructure, energy, or transport, inevitably there are significant and long-lasting environmental impacts for the region. By agreeing Article 6 of the Amsterdam Treaty which calls for a high level of environmental protection and integration of environmental concerns into other policies, the European Union recognised the importance of "sustainable development" and making it the framework for all its actions. The EIB is supposed to follow EU legislation in its activities both in and outside EU, at least in the Accession countries, but does not seem to do so.

Although the EIB leadership acknowledges these requirements, there is little evidence of compliance. In this report, Bankwatch cites disturbing examples of EIB's actual *disregard* for environmental considerations and its cavalier dismissal of public opinion in selecting, planning and implementing projects.

The three major multilateral development banks in the CEE region are: the World Bank (WB), European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD). Both the EBRD and the World Bank have stronger environmental commitments than the EIB. This is partly attributable to US shareholder pressure, which is absent in the EIB. However, perhaps a more important difference is relatively more progressive leadership of the EBRD and World Bank, both of whom are more committed to transparency, accountability, and sustainable development than the EIB. By contrast, the EIB acts largely in the background, with a relatively low public profile and little public access to its operations.

Environmental Responsibility.

EIB operations show a lack of professional accountability and oversight in managing projects. This is due largely to 1) the "rubber stamp" approval process of its organisational hierarchy, 2) its relatively small staff, with no environmental department (that enables low-cost loans but precludes professional environmental oversight), and 3) its increasing operation outside the original EU charter, where it is largely exempt from the overall policy direction of the European Union. Some of the identified problems are as follows:

- Lack of standards. Despite EU requirements for specific environmental policies for various types of projects, the EIB has refused to establish policies, even for the sectors in which it is most active such as transport and energy. When the existing EU policies may be enough guidelines for the EIB activities in

the member states, they may not always work well outside the EU—or are not always appropriate; and there are not always specific EU policies for all the issues the EIB should be addressing in its lending outside the EU. For the increasing number of activities outside the EU member states, there are no clear guidelines that describe *whether or how* the EIB should implement relevant policies, directives or legislation. When EU standards are not applied, national standards may be used. Yet in many cases those national standards are inadequate, or even non-existent.

- **Staff size and expertise.** According to EIB's 1998 Annual Report, its staff totals about 1000 employees, which is roughly ten times less than the WB, with the lending portfolio in the CEE region similar to those of the WB. The EIB employs one full-time environmental expert to help review its portfolio and ensure compliance with relevant policies again comparing with about 300 environmental related experts in the WB. Undoubtedly, the EIB's sparse staff contributes to its low operating costs. At what point does the EIB balance the money saved against the number of people's lives adversely affected by the poor quality of its work?
- **Global Loans.** The EIB enters partnerships with intermediaries such as national or local banks to provide Global Loans (lending through intermediaries who receive the credit lines from the EIB). Global Loans currently account for about 20% of the EIB loans outside the European Union. Whereas Global Loans can be a good tool for channeling money to small and medium-sized enterprises to support environmental projects such as energy efficiency and conservation, there is no evidence that the EIB Global Loans serve that purpose. It is also simply impossible to learn if EIB/EU policies are followed by the intermediaries on the national level.
- **Part-time Leadership.** Directors of the EIB serve part time and generally lack professional staffs to engage in project oversight. The Board is non-resident, traveling to EIB's Luxembourg headquarters about 10 times a year. Some members of the Board are from outside government, even from the private sector. The Board has the sole power to make decisions about loans, guarantees and borrowing. With more than 300 project reports to review annually and only 10 meetings a year, the thoroughness of review is questionable. There is no record of the Board's ever having rejected a loan based on the Appraisal Report.
- **Words Without Action.** Largely in response to NGO prodding, in 1996 the EIB presented a new environmental policy containing numerous positive statements and requirements. However, NGO watchdogs such as Bankwatch see serious gaps in the implementation and follow-up of the environmental objectives. For example, EIB delegates responsibility for compliance with environmental standards to project promoters who receive the financing. Also, the present policy does not focus on proactive environmental protection lending, but rather emphasises lending for technological "fixes" to existing environmental problems.
- **Public Accountability.** One of the biggest concerns of NGOs is EIB's lack of transparency and public accountability. Once again, a quick overview can be misleading. For example, in 1997 after persistent pressure from NGOs, the EIB adopted its official "Rules on Public Access to Documents." But upon examination one sees that while these rules purport to focus on information disclosure, in reality, they are so restrictive as to make disclosure of vital information virtually impossible. When questioned about its secrecy policies, the EIB cites "confidential information restricted to internal Bank use only." Thus, despite being a public institution using public funds to finance development projects (often in conjunction with other institutions that operate with a far greater degree of transparency), the EIB continues to operate largely behind closed doors, denying access even to those very groups impacted by the proposed projects. The EU directive on Environmental Impact Assessment states the public must be given access to information gathered and the opportunity to express an opinion before a project is initiated. However, EIB routinely ignores this requirement. The same applies to Global Loans where attempts to gain access to EIB documentation have proved fruitless, with neither the EIB nor intermediaries willing to share information about environmental standards. In some cases, local intermediary banks are not aware of EIB's requirements on the environment.

Case Studies

Seven case studies cite examples of EIB's mishandling or misappropriating funds. Some of these cases resulted in environmental degradation for the countries. In all of them, there has been a consistent disregard for the rights of civil society to have access to information. Each demonstrates the unwillingness of the EIB to respond to specific critiques concerning violations of relevant laws and consideration of alternatives.

Recommendations

Over the years of monitoring activities of international financial institutions, CEE Bankwatch has often engaged in spirited dialogues with the World Bank, the EBRD, and the EIB regarding their policies and activities on environmental sustainability and public accountability. It will continue to do so. However, of the "big three," EIB is definitely the "bottom feeder," surreptitiously picking up projects of questionable merit that have been rejected by other banks as environmentally unsound.

As with previous NGO studies, this report concludes with specific recommendations for the EIB to improve its environmental performance and public accountability (see p. 32). It is hoped that the EIB might view this document as the basis for constructive conversations with environmental and civic communities regarding its operations and policies. Judging from the EIB's lack of voluntary responsiveness in the past, however, it may be necessary for the European Parliament and the European Commission to provide the incentive for change. We hope these institutions see the seriousness of the current situation and take strong action to effect these changes.

The European Investment Bank has an opportunity to make the year 2000 a truly significant milestone in its history by adopting policies and procedures that are respectful of the environment and the public. We urgently invite them to do so.

3. EIB as Part of the European Community

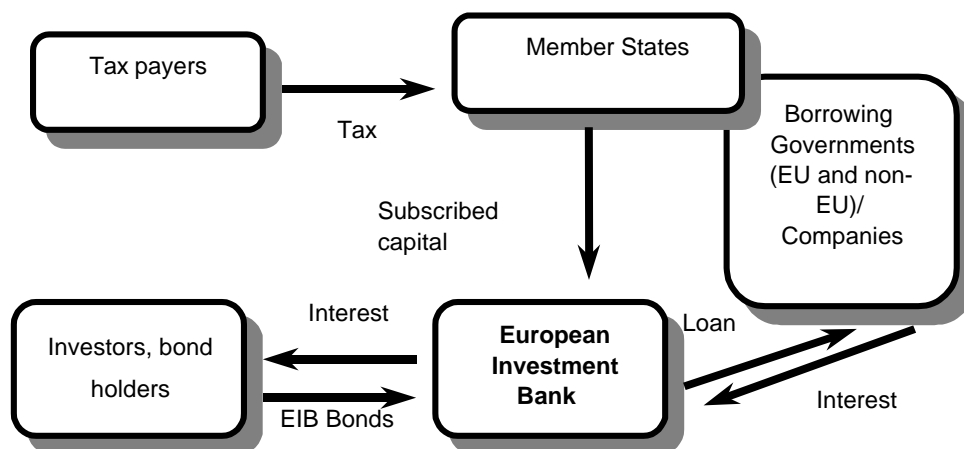
The European Investment Bank was founded in 1958 under the Treaty of Rome as the European Community's financing institution. Its institutional framework is defined by the Treaty establishing the European Community,² other Community Treaties and the Bank's own Statute. Thus the decision to establish the EIB was an integral part of the formation of the European Economic Community. It was acknowledged that to extend the sectoral co-operation under the European Coal and Steel Community into a comprehensive common market, dedicated funds would be needed. At the Messina Conference in 1955 to prepare the Treaty on the European Economic Community, it was agreed to establish a European public body to facilitate the mobilisation and transfer of capital from richer to poorer regions in the Community, and to bring capital into the Community from the outside. At the beginning the major goal of the EIB was to finance extensive physical infrastructure inter-linking the national economies of the countries involved. Large amounts of finance were also required for investments in less-developed regions.

The EIB serves European Community objectives by providing long-term finance (loans and guarantees³) to investment projects. The majority of the lending is within the European Union, but a significant and rapidly growing amount of money is channelled to non-EU countries under Article 18 of the Bank's statute:

... However, by way of derogation authorised by the Board of Governors, acting unanimously on a proposal from the Board of Directors, the Bank may grant loans for investment projects to be carried out, in whole or in part, outside the European territories of Member States.

Its missions and areas of operation have grown substantially over the last 41 years. In 1963 the EIB began activities in the 17 countries signatory to the Yaounde Convention (Associated African States, Madagascar and Mauritius, Overseas Countries, Territories and Departments), and subsequently has steadily increased the number of countries outside the EU in which it is active⁴ It began lending to Central and Eastern Europe in 1989 and is now active in ten countries of the region. In 1992 at the Edinburgh Summit the "Edinburgh lending facility" was created, providing extra funding for investments in Trans-European Networks (TENs). Since 1993 the EIB has been authorised to fund projects in Asian and Latin American countries that have signed agreement with the Community, and it now also works in South Africa as well as the Middle East. In 1997 EIB extended its lending operations in support of the European Union's growth and employment policies. Also in 1997 an additional pre-accession lending facility in the candidate Central and Eastern European (CEE) countries and Cyprus was created, doubling the EIB's lending mandate in the region with

How does the EIB work?



² Now European Union

³ "The EIB has a 40% stake in the European Investment Fund (EIF), which was set up in 1994 to provide long-term guarantees for financing Trans-European Networks (TENs) projects and for small and medium-sized enterprises (SMEs).

another 3.5 billion ECU, up to 7 billion altogether. Recently, after the Balkan conflicts, the EIB was named to be the leading actor in the infrastructure reconstruction process in South Eastern Europe.⁵ In the financial year 1998 the loans to EU member countries accounted for 84% of total lending. The remaining 16% went to lending operations in countries around the world.

The EIB's resources consist of capital, which is subscribed by Member States, and funds borrowed on the world's capital markets. When the EIB was set up in 1958, its subscribed capital amounted to ECU 1000 million; by 1999, after 9 capital increases, it had risen to 100,000 million.⁶ The volume of EIB borrowing climbed from ECU 150 million in the mid-60s to 5 billion in 1985, and 23 billion in 1997. The strength of the EIB's shareholders has led to its receiving the highest rating from rating agencies, which has helped establish the EIB as the leading non-sovereign international borrower with a "AAA" credit rating.⁷ By borrowing "cheap" and "saving" on administration costs the EIB is able to offer substantially lower interest payments and lower fees than normally charged by other international financial institutions (IFIs), such as the World Bank (WB) and European Bank for Reconstruction and Development (EBRD).⁸

The owners of the EIB are the Member States of the European Union, which subscribed capital to it. The EIB describes itself as "an autonomous body with an independent decision-making structure."⁹ Yet it sees itself as a part of the EU "family", but with large financial and administrative autonomy.¹⁰ The dependence of the EIB on European Community institutions is not fully defined. The EIB's Statute provides administrative connection with the European Commission. Article 11 states that the Commission nominates one Member and one Alternate on the EIB's Board of Directors¹¹. Article 21 of the Statute states that for every loan it must seek the Commission's opinion as to whether EIB financing is considered consistent with Community economic objectives. Still, even with a negative opinion of the Commission, a loan can be approved by unanimous vote of the Board of Directors, with the Commission Director being ignored. As a practical matter, the Board merely rubber stamps proposed loans. As one of the EIB's documents underlines "...the Bank remains the final arbiter of its financing decisions, adopted on a project-by-project basis by its Board of Directors after having sought the Opinion of the Commission and the Member State concerned."¹²

In this context, it is interesting to note that the Directorate-General Environment (DG XI) is supposed to play a role in this "review" process. However, it has proved to be impossible for the interested public to learn much about how this process actually functions in practice. Since this is meant to be one of the key aspects of the existing accountability mechanism for the EIB, it is important that the procedures be clearly understood – and followed rigorously.

At least in theory the EIB, as one of the EU's main institutions, is accountable to the European Parliament. The EIB President reports to Members of the European Parliament (MEPs) on the Bank's activities. The Budget and Budget Control Committees have advisory roles in deciding on Community guarantees for EIB. In reality, many EU institutions having contact with the EIB face problems with its non-transparency. The European Parliament Budget Committee's report dated November 11, 1999 reflects the MEPs' desire to have more information about -- and more scrutiny over -- EIB activities: "*Through regular consultation, the*

⁴ See EIB 40 years activity 1998, p. 22-24.

⁵ However, in the EIB's first paper on this subject, "Basic Infrastructure Investments in South-Eastern Europe", 28 September 1999, it focuses only on infrastructure investments. NGOs and civil society have a much more expansive view of the needs for Balkan reconstruction, and doubt that the EIB is appropriately prepared to assume the leading role.

⁶ See EIB 40 years activity, p. 2, EIB Annual Report 1998, p. 7. It can be noted that one of the most important opportunities for agreeing on reforms at other IFIs has arisen during the debates over a proposed capital increase. Often there are specific conditions attached to the capital increase.

⁷ See EIB 40 years activity, p. 2-4

⁸ Also, EIB costs are lower than other IFIs because it has such a relatively small staff, doesn't have an open information and document disclosure policy, and lacks similar procedures for public consultation.

⁹ See EIB Information, 2/1998, p. 7

¹⁰ "In its day-to-day practice the Bank is constantly seeking to establish a balance between autonomy and responsiveness which includes that its actions are not simply consistent with Community policies but are positively supporting them", EIB Information 2/1998, p. 7

¹¹ Director-General for Economic and Financial Affairs (DG II) is appointed as a Director and the Director-General for Regional Policy and Cohesion (DG XVI) serves as an Alternate Director. See EIB Information 2/1998, p. 9

¹² EIB Information 2/1998, p. 10

*Bank and the Commission shall ensure the co-ordination of priorities and activities in third countries [outside the EU] concerned by this Decision and measure progress towards the fulfilment of the Bank's objectives." "Every year, and at the appropriate moment in the budgetary procedure, the European Investment Bank shall be given the opportunity to discuss with the European Parliament and the Council its operational objectives and performance indicators for the forthcoming year and its performance and the effectiveness of its lending during the previous year."*¹³ This formal demand from the Committee for more information underlines that there is a need of more information being released by the Bank to official Community institutions, not to mention the public.

The European Court of Auditors is given the authority to audit EIB activities in which the Bank is involved as administrator of European Community resources. The administration of the Bank's operations that are financed from its own resources is audited by the EIB's own internal Audit Committee, which audits the EIB's accounts in co-ordination with the External Auditors, currently Ernst & Young.¹⁴

In terms of Euratom's nuclear loans to the CEE, the EIB's role is limited to carrying out a financial analysis¹⁵ that would then be used by the European Commission (DG XVIII) and others. The EIB has no decision-making role in approving these loans.¹⁶

¹³ EP Committee on Budget, Report on the proposal for a Council decision on granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern Europe and Western Balkans, Mediterranean countries, Latin America and Asia, and the Republic of South Africa), 142 – C5-0039/1999/0080(CNS)), Nov. 11, 1999

¹⁴ EIB Information 2/1998, p. 10

¹⁵ In this context it is interesting to mention that the EIB made a study on the completion of the highly debated Ukrainian nuclear reactors of Khmel'nitsky 2 and Rovno 4. The study pointed out that the project does not make a sense from financial aspects, but concluded that the EU should support it. This clearly shows that the EIB has a political institution role which overrides the sense of bank.

¹⁶ See Tamar Gutner, 1999. p. 52.

4. EIB versus the World Bank and EBRD

"We are accountable only to the market."¹⁷

Although the EIB does not like to think of itself as a multilateral development bank, and uses this as one excuse for not following procedures similar to other IFIs, it does have a clear development mission defined in Article 130 of the Treaty of Rome. This provision became Article 267 of the Amsterdam Treaty: *"to contribute to the balanced and steady development of the Common Market in the interest of the Community"*. Its development-related activities are very clear in the context of its lending outside the EU, where it is engaged in the same projects (through co-financing) or the same type of projects, as the other IFIs. Moreover, all of the other IFIs play extensive private sector roles that are indistinguishable from that of the EIB.

It is useful to compare some critical features of the EIB to similar areas in the World Bank and EBRD. In terms of its governance structure, the EIB differs from the WB and EBRD in that the shareholder countries do not include any of the non-EU borrowers and thus there are no seats on the Board for those countries. This made sense when all EIB lending was inside the EU, but with the percentage of non-EU lending steadily rising, perhaps it is time to review the legal structure.

There is a sharp contrast between the way the boards of the EIB and the World Bank function, with the latter being engaged on a day-to-day basis in ensuring oversight of projects, both prior to formal approval and while they are being implemented. World Bank and EBRD Executive Directors are working full-time and have professional staffs to help them review the large number of loan documents, whereas the EIB directors are only adding this job to their "normal" jobs and in general lack professional staffs. Clearly being an Executive Director of the EIB is merely a part-time job.

The two areas of lending operations – inside and outside EU countries - can be distinguished to a great extent because of the legal framework and the conditions of the loans. Within the EU there is a much more solid legal framework, which is obligatory for the EIB to follow, than outside the Union (although it is not clear how the EIB actually implements this legislation in its operations). On the other hand there are no clear sectoral policies or guidelines that describe the way the EIB is supposed to implement relevant policies, directives and other legislation in their operations outside the EU. Thus, the EIB has extensive manoeuvring space with essentially unfettered freedom to interpret the definition of "Community policy" in any particular loan outside the EU.

NGO experience with the EIB so far suggests that it follows a rather minimalist approach, at most trying to insert European environmental regulations into infrastructure projects. There appears to be little analysis of the appropriateness of these standards to the borrower's domestic context. There is no clear requirement for monitoring project implementation from an environmental or sustainable development perspective to learn whether these standards – or whatever standards are said to apply - have been followed in practice. To the extent that relevant EU standards are not being applied, it would seem to mean that national standards are applied. Yet in many cases those national standards are inadequate, or do not even exist.

In addition, the EIB does not have a formal policy "voice" (unlike the World Bank or EBRD) and thus does not play much of a direct role in shaping domestic policy reforms, although it does include policy-based conditions in some loans.¹⁸ Lending of the EIB outside the EU is project based, generally without explicit linkage to policy reform objectives. However, this does not mean that EIB lending does not influence domestic policies and the regulatory framework in countries of operation. The conditions attached to its loans can have significant impact on sectors and sectoral policies in those countries. Since these loan documents are not officially made public it is difficult to know the full extent of EIB attempts to condition their lending outside the EU.

Each of the IFIs has a double role. As financial institutions, they must focus on their long-term financial integrity and fiduciary responsibilities to shareholders. At the same time, each one has a set of "social"

¹⁷ Statement of Henry Marty Gauquie, EIB Department of Communication, during the February 1998 meeting with NGOs.

¹⁸ Gutner 1999, p. 111.

missions, which include fostering development that is environmentally sustainable and socially responsible, promoting democracy, etc. Shareholders set the basic rules and design of each institution, and from time to time put forward new mandates and revised priorities. The shareholders must periodically update the mandate based on changing reality and priorities that emerge from outside, but when they make these changes, they must consider how the internal set up and staff incentives should also be reviewed and modified.¹⁹

The EBRD and the World Bank have made much stronger environmental commitments than the EIB. This is partly attributable to US shareholder pressure in those institutions, which is absent in the EIB. But this is not the only explanation, given that many of the EIB's shareholders also are part of what can be described as the "progressive" group at the World Bank and EBRD. Perhaps also there is a difference in the leadership of the various banks. For whatever reasons, the leaders of the World Bank, EBRD and all of the other regional IFIs have been motivated during the past fifteen years to put considerable emphasis on greatly increased transparency, accountability to the public and promotion of sustainable development.

The EIB it is strikingly different. It continues to act largely in the background, with a relatively low public profile and therefore little public knowledge of its operations. It has been able to work without serious public scrutiny for more than 40 years. This does not mean that the EIB's operations are without problems - among them serious ones - but in the case of problems it is always someone else's problem. The EIB refuses any responsibility. In contrast with the World Bank, EBRD and other regional IFIs, the EIB has never faced strong pressure to change the ways it takes environmental issues into account or to become more transparent and accountable. No single shareholder has launched a major effort to guide the EIB in new directions, nor has there been any noisy negative publicity about EIB projects that would spark such a campaign.

The EIB first produced a very modest internal environmental "policy" document in 1984, which broadly echoed the basic policies of other international financial institutions, by stressing the importance of considering environmental impacts of projects and financing activities to protect the environment in areas defined under Treaty article 130. Some observers, and even some Bank officials, would not refer to the document as a "policy" since it reflected the Bank's commitment to follow European Community policies, rather than developing its own, or showing more explicitly how it would translate Community goals and directives into its own internal rules.²⁰

While the EIB has a staff roughly equal in size to the EBRD, around 900 people altogether, this is less than ten percent of the staff of the World Bank (around 10,000). While the WB has more than 300 people who work on environment in some way, the EIB has one or two. These WB environmental experts have been responsible for a huge amount of research on topics related to the environment and sustainable development. Yet the EIB lends more money each year than does the World Bank, and many times more than the EBRD. This raises the question of relative efficiency. The EIB often mentions as a positive point that it manages such an enormous portfolio with so few staff. However, less than 1/10 of the time for project preparation in comparison with other similar institutions implicitly raises questions of quality. This is particularly important given the increasing amount of lending in non-EU countries. It may also be interesting to compare how much each of these entities is lending directly on environmental projects. Projects with primary environmental components or significant environmental objectives in the period of 1990-1996 totalled \$1.2 billion for the World Bank, \$809 million for the EBRD and around \$406 million for the EIB.²¹

Each of the IFIs engages both in competition and co-operation. It is important that these institutions play by largely the same rules, in order to support the best forms of competition. If the existing disparities continue to exist, the EIB to some extent offers financing of "last resort" – or what some would call a "race to the bottom".

For NGOs and community organisations, access to information is the underpinning for their ability to participate meaningfully in any IFI's work. The chart below summarises the present situation regarding access to information at the World Bank, EBRD and EIB.

¹⁹ Gutner 1999. p. 114.

²⁰ Gutner 1999. p.116

²¹ Gutner 1999. p. 196.

Project related Information available from the World Bank, EBRD and EIB

	World Bank	European Bank for Reconstruction and Development	European Investment Bank
Before Project Approval	Environmental Data Sheets - 1 page justification for environmental categorisation	Project Summary Document (30-60 days before Board consideration) for both private and public finance	
	Project Information Documents - main source of public information about an individual project or sectoral loan at an early stage of project preparation and design - minimum two pages of factual summary		
	Factual Technical Documents - pre-feasibility studies, including cost/benefit analysis - site and soil investigation - detailed design studies - financial statement of the agencies responsible for implementing the project - description of institutional framework - technical studies that support the Environmental Impact Analysis - project related poverty analysis		
	Final Staff Appraisal Reports - in depth description of the project - details of legal agreement reached between the Bank and the borrower country - monitoring and supervision arrangements - financial plan; economic justification	Board Report (on public sector projects) - edited version	
	Environmental Impact Assessment; or Environmental Analysis if applicable	Environmental Impact Assessment - made publicly available for public comments prior to the Bank's Final Review of the operation - Environmental Impact Analysis - Attached to Project Summary	
After Board Approval	Loan Agreements		press release on signing the loan
After Project Completion	Summary of Project Performance Audit Report		

Overall, the comparison of the policies, structure and operations of the three institutions show that the EIB has the weakest and least integrated commitment towards transparency, public participation as part of democratic processes and protection of the environment.

5. The Structure of EIB

5.1 Board of Governors

The Board of Governors, consisting of one member from each Community member state, is the highest decision-making body of the EIB. The governors are in most cases ministers of finance in the country they represent and meet once a year. They define the Bank's lending and operational policies as well as making decisions on capital increases. The Governors appoint the members of the Board of Directors, the Management Committee and the Audit Committee. As in other International Financial Institutions, they delegate much of their power to the Board of Directors.

5.2 Board of Directors

The Board has the sole power to make decisions about loans, guarantees and borrowings. Members of the Board are appointed by the Governors for a (renewable) period of 5 years, following nomination by the Member States. The Board of Directors consists of 25 Directors and 13 Alternates, out of whom one Director and one alternate are nominated by the European Commission. The larger EU countries have more directors than other EU Members, and each Director has one vote. Germany, France, Italy and the UK each have three directors, while Spain has two, and the remaining countries have one each. Some members of the Board are high-ranking central bank or Finance Ministries officials from particular countries, but some Directors have come from outside government ministries, including private sector actors. The EIB's relative autonomy is augmented by the fact that its Board is non-resident (which is not the case for other IFIs), but travels to Luxembourg headquarters to meet around 10 times a year. During each of these short meetings the directors have the responsibility to make decisions about an amount of loans equal to what the directors of EBRD (who work full time) decide on in a year. Thus it is likely that Board discussions do not contain too much about the substance of projects as the directors do not have the institutional capacity and time to get into details. Their approval tends to be merely a formality.

5.3 Management and Audit Committees

The Management Committee is composed of the President and seven Vice-Presidents, all of whom are appointed by the Governors based on nominations by the Directors. They serve six-year terms and control all operations, recommend decisions to the governors, and ensure that they are implemented. There also is an Audit Committee, whose three members are appointed by the Board of Governors. The Audit Committee members serve renewable three-year terms. The Audit Committee is answerable directly to the Board of Governors and verifies the accounts of the Bank.²²

5.4 Project Directorate

Until recently three main directorates were involved in the EIB's loan appraisal process: Member States -- the Pays Membres (PM), Economic and Financial Studies -- Etudes (ET) and the Technical Advisory Directorate -- Corps des Conseillers Techniques (CT). In 1995 these directorates underwent a major change: the Economic and Financial Studies and the Technical Advisory Directorate have been merged into a Projects Directorate. The main task of the new Directorate is to conduct analysis of projects, including their technical, environmental and economic aspects.

EIB staff now is divided into seven Directorates, two of which have the most direct bearing on lending, the Lending Directorate and the Projects Directorate. There is a separate Directorate for Lending Inside the EU and a Directorate for Lending Outside the EU. The Lending Directorate sets the broad outlines of lending operations in a given country, and for operations outside the EU sets the credit limit for each country. It is then up to the Projects Directorate to decide where the money will be lent and for what purpose. The heavy

²² 1998 Annual Report, pp. 58-59.

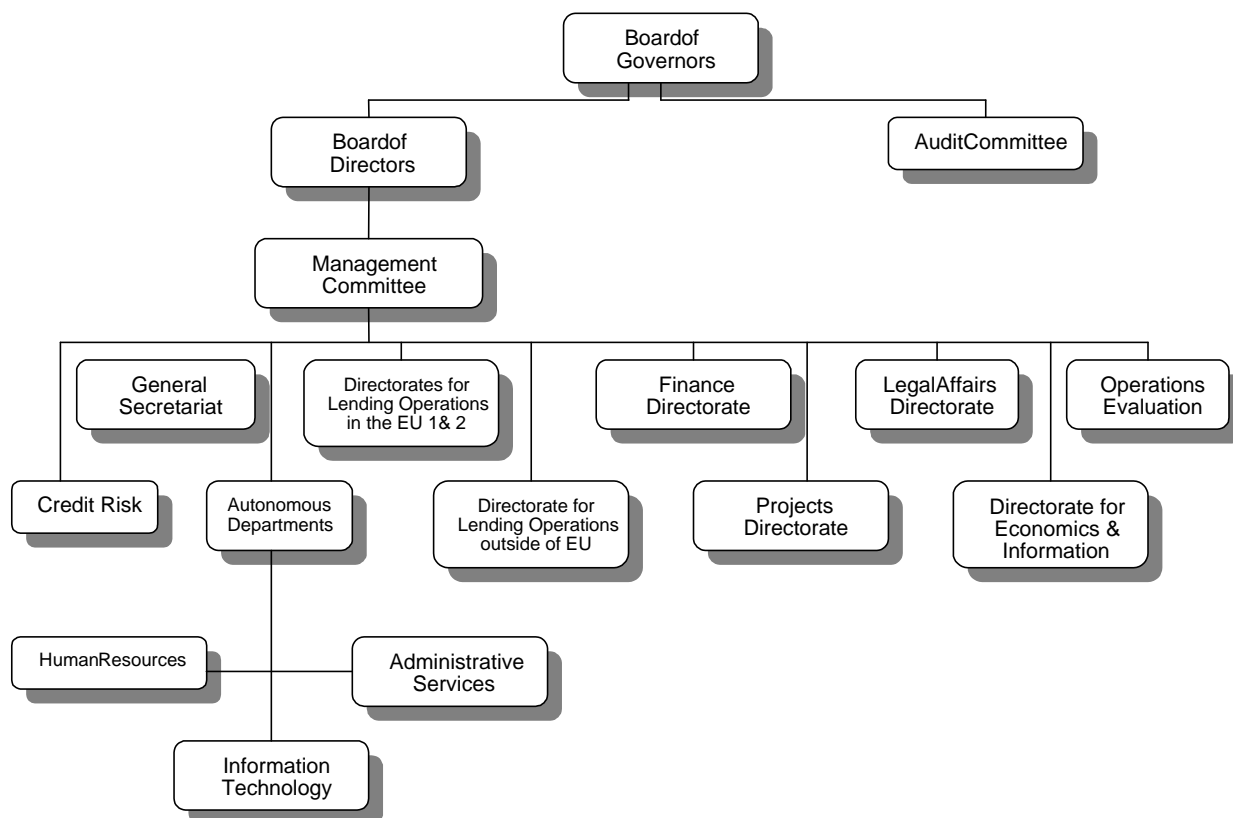
workload of projects compared to the number of staff requires that the personnel be able to quickly evaluate proposals.²³

After the change in 1995 the personnel was formed into five new teams, focusing on (1) transport (except air) and sundry infrastructure, (2) water supply, sewerage and wastewater treatment, solid waste, agriculture, forestry and fisheries, (3) electricity, oil and gas (4) mining, heavy industry, health and education,²⁴ (5) aviation, telecommunications, tourism, agriculture processing and financial intermediaries.²⁵

Another new step in 1995 was the creation of an Operations Evaluation Unit, reporting directly to the President. As the Annual Report 1996 states, it is seen "as the unit responsible for assessing in an impartial manner the contribution of operations financed by the Bank towards achieving the Union's objectives."²⁶ It is not yet clear exactly how this body is functioning, but it is an important step, in line with NGO recommendations made the previous few years. Its mandate was drawn up based in part on internal experience and on discussions with other multilateral lending institutions. The problem is that it is an *ex post facto* body, evaluating projects after they had been implemented and therefore it is too late to change anything. Until now the Unit does not seem to have had an impact on project design or implementation.

Its first report concerned nine sewage treatment plants financed between 1985-1993. In 1998 the Unit published reports on three sectoral evaluation studies: Operations in the Telecommunications Sector in EU Member States; Industrial Projects Financed by the EIB under the Objective of Regional Development; and

Organizational Structure of EIB



²³ As stated in the EIB Annual Report in 1998 about 320 or so capital projects were appraised by Bank staff in 1998, which means about 1.2 projects per working day. See AR 1998, p. 7. At the same time the EIB's staff numbered 998 at end of December 1998, see AR 1998, p. 63.

²⁴ It is odd that the EIB chose to restructure its activities in this way, with health and education merged with mining and heavy industry.

²⁵ 1998 Annual Report, p. 61.

²⁶ 1996 Annual Report, p. 67.

Contribution of Major Road and Rail Infrastructure Projects to Regional Development. The studies were intended as a basis for internal policy debate. As stated in the 1998 Annual Report, "One of the conclusions of the report states that investment projects, especially those centering on infrastructure and telecommunications, are generally well implemented, robust and performing satisfactorily." But at the same time: "All three reports conclude that the EIB does not yet have an instrument for or other means of systematically assessing the impact of its lending on regional development. In fact, the studies found that only in half the cases were there clear indications of positive impact on regional development, while for about a quarter of the projects there apparently had not been any decisive impact"²⁷ EIB documents do not mention if similar studies have been conducted for assessing lending outside the EU, although billions of ECU have been loaned in scores of those countries during the past 30 years.

It is worth mentioning that although the EIB claims that it is supporting EU policies, for many years it has refused to have its own sectoral policies based on the EU requirements, even for the sectors in which it is most active, such as transport and energy. For NGOs who are particularly interested in how EU policies on environmental protection, sustainable development and access to information are being complied with and supported, it has been surprising to learn that in the last several years the EIB has employed officially only one full-time environmental expert to help review its huge portfolio and ensure compliance with relevant EU policies.²⁸ For an institution which makes a profit more than Euro 1 billion a year it is interesting to question why it isn't able to employ more environmental staff who could help ensure that environmental considerations are fully integrated into project planning, appraisal and then follow-up monitoring.

5.5 Loan Process - Project Cycle

Project work in the Bank is carried out by staff from a number of directorates: financial analysts from the lending directorates, economists and engineers from the Projects Directorate and lawyers from the Legal Directorate. The loan process begins with a decision by a lending directorate to initiate an appraisal, which is communicated to the Projects Directorate, and then, via a "fiche d'allocation" to a head of department, who assigns a project engineer and economist. The project team normally is completed with a lawyer from the Legal Directorate. It makes an initial recommendation in the form of a Preliminary Reaction to the Management Committee, which is composed of the President and his Vice-Presidents. Then the appraisal team, led by the lending directorate and with participation of the Project Directorate, prepares a mission to the promoter. From 2-5 days appears to be normal for an on-site visit. The mission produces findings that are sent to the Management Committee, which decides whether to recommend approval of the loan to the Board of Directors. According to one Bank official, the EIB does not normally propose projects itself, but reacts to a proposal from the promoter, which means the project has to basically be ready for financing when presented to the EIB.²⁹ This approach is also confirmed by some national officials, who state that the EIB selects from a list of projects presented to them by various ministries.³⁰ At the same time the EIB tends to co-finance many projects with other IFIs (including the World Bank and EBRD), where main work on project preparation is being done by one of those institutions.

The project cycle starts with project identification and preparation. The first formal stage in the internal project planning and decision making process is pre-appraisal. The management of the Projects Directorate designates either an engineer and/or an economist to join a project team and to give an opinion as to whether the project is eligible for Bank finance and merits appraisal. For the appraisal usually the promoter is sent a questionnaire and this is followed by an appraisal mission and an on-site visit. During appraisal the team aims to assess the viability of the project, identify attendant risks and propose mitigation measures as appropriate. On completion of its appraisal, the Projects Directorate produces an Appraisal Report. This

²⁷ 1998, Annual Report, p. 62

²⁸ EIB Environmental Policy Statement, p. 9: "Unlike most other international financial institutions, the Bank does not have a body of staff designated 'environmentalists' as such. Instead environmental issues – as in all project-related matters in the EIB – are the collective responsibility of all members of any 'project team'. [...] Within the team, the engineer or economist usually takes the lead on environmental issues...". The one person with environmental duty is "Co-ordinator with special responsibilities for the Environment" under Projects Directorate. See AR 1998, p. 61

²⁹ Interview with one of the EIB officials at the Brussels office, October 1999

³⁰ Interview with governmental official, Ministry of Transport, Poland, 1998

contains a chapter on the findings of the environmental appraisal as well as a one-page summary Environmental Fiche. The findings are presented in standard form to the Management Committee, which prepares recommendations for consideration by the Board of Directors.³¹ There is no example of the Board rejecting a loan supported by the Management Committee. At the same time it is worth noting that having more than 300 projects approved every year, and only around ten Board meetings, it is not possible under the existing arrangements for Board members to go into details while approving the loans.

Another key feature of the EIB in practice is its very strict confidentiality regulations. In contrast to other IFIs, it doesn't make any of the project-related documents available to civil society or those directly affected prior to the loan's being approved, and it maintains this confidentiality even after loan approval.³² Thus, there is no direct and timely channel between citizens and the Bank about projects it is proposing to be involved with.³³ It is largely up to the individual project team to discover, in inquiries to the promoter and during on-site visits, any complaints or concerns citizens or NGOs may have. During the project cycle the following documents are produced solely for internal use:

- Fiche d'allocation
- Preliminary Reaction
- Note to the Management Committee for authorisation to appraise, including preliminary identification of the environmental risks and issues for appraisal
- Environmental Fiche/Environmental Appraisal
- Economic Appraisal
- Application to the Commission and the respective Member State(s) seeking an opinion on the project³⁴
- Report to the Board of Directors (including a "chapter" on the environment) for authorisation to sign the loan agreement and finance the project, in line with agreements reached during loan negotiations
- Project Monitoring (or progress) Report
- Project Completion Report (prepared after implementation of the project)
- Ex-post evaluation study, in which environmental issues may be studied in themselves or as part of a broader topic

None of these documents ever is made available to the public³⁵. The EIB's justification for this secrecy, as articulated in the Environmental Guidelines, is that they "...often contain confidential information and hence are restricted to internal Bank use only".³⁶ Moreover, the contact information of the Board of Directors is also classified as confidential - which isolates them from information from public or concerned citizen groups. Thus, in spite of the fact that it is a public institution, using public funds to finance development projects, often co-financed with other IFIs that operate with a far greater degree of

³¹ See EIB Environmental Guidelines 1997, p. 4-6

³² On March 26, 1997 the EIB promulgated official "Rules On Public Access to Documents" (97/C 243/06). Article 6 states that "Any document containing information about third parties shall not be disclosed..." and this is defined to block release of "documents relating to actual or potential lending or borrowing operations, to individual projects or investment programs or the parties actually or potentially involved in such operations or projects, such as appraisal reports and contract documents; as well as any other documents containing information about - the identity or the financial circumstances of actual or potential borrowers... [or] - the technical, economic or financial characteristics of individual projects or investment programs; as well as the Bank's appraisal, monitoring or evaluation of such matters..." Thus, in essence these rules that purport to focus on disclosure are actually rules supporting virtually total non-disclosure of information.

³³ See Barnes, J., The EIB: Little Access for Citizens to Project Information, published in "Participate", April 1998.

³⁴ It is our understanding that this is the job of DG XI (among other Directorates), but how this "application" to the Commission actually is handled needs to be clarified. According to Gutner, DG XI officials often feel that the information circulated to them by the EIB related to EIA is insufficient, p. 35.

³⁵ See comparison of project related documents released by different IFIs in chapter 4

³⁶ EIB Environmental Guidelines, 1997, p. 5

transparency, the EIB continues to operate largely behind closed doors, and is almost completely non-transparent to civil society.

5.6 Environmental Policy Statement

The Bank first adopted an environmental policy in 1984, which included a commitment to make concerted efforts to raise the environmental awareness of promoters, with the goal of convincing them to choose less polluting designs. At that time the EIB also committed to providing additional financing up to 10% of project costs if anti-pollution equipment is available that offers greater protection than required by existing standards. The same year, its Board of Directors agreed to review the Bank's environmental performance every two years.³⁷ Despite this early focus, relatively few concrete environmental requirements emerged in the following years. There is no published information about how the 1984 policy was implemented, including cases where the additional pro-environment financing was actually made available.

Partly because of the NGO analysis and advocacy that has occurred in recent years, the EIB has taken some modest steps to improve its environmental performance and has begun to highlight the visibility of its activities that are seen as being environmentally friendly. It presented a major new environmental policy statement at the Board of Governors' annual meeting on June 3, 1996. This Policy contains numerous positive statements and requirements. The appraisal of each project must include verification that the investment complies with the relevant Community legislation or national law and regulation, whichever is most demanding. It notes that one of the most important such laws is the Directive on Environmental Impact Assessments (85/337). The appraisal process is supposed to be designed so as to pinpoint environmental risks, appropriate mitigating measures, and likely future environmental legislation.

NGOs have problems with the present policy, which does not focus on proactive environmental protection lending. Overall the EIB uses its policy to emphasise lending mainly for "end-of-pipe" technological fixes. We also see serious gaps in the implementation and operational follow-up of the existing environmental objectives.

Up to this point the EIB rarely has become very involved in project definition, leaving promoters who receive its financing largely responsible for respecting environmental standards:

The promoter is responsible for compliance with the legal obligations and standards relating to the environment, including the obligation to carry out an EIA (Environmental Impact Assessment) and the associated public consultation and to respect emissions and quality standards during the operational phase of a project. Regulation and enforcement is performed by the competent authorities at Community and/or national level.³⁸

There are limits to the EIB's role and responsibilities in the environmental field. The project promoter is responsible for compliance with legal obligations, as well as with requirements in the area of public consultation. Regulation and enforcement is undertaken by the competent authorities at European and/or national level.³⁹

However, nothing prevents the EIB from being more pro-active in promoting positive environmental projects, which will help fulfil EU policies and priorities.

The Bank claims a substantial involvement in "environmental" lending:

In the ten year period, 1986-1995, about 25% of EIB lending of about 125 billion ECU in the European Union made a direct contribution to the protection of the environment. Outside the EU, in the same period, the lending for environmental projects was about 1.5 billion ECU, notably in the Mediterranean region and in the Central and Eastern European Countries.⁴⁰

³⁷ M. Wenning, WWF Internal Discussion Paper, Dec. 1992, p. 15, drawn from Annual Report of Activities of the EIB in the Implementation of the Declaration of Environmental Policies and Procedures Relating to Economic Development, presented at the 12th CIDIE Meeting, Washington, DC, 19 April 1991.

³⁸ Environmental Policy Statement, p. 7.

³⁹ EIB Information, 3rd quarter, 1996, p. 11.

⁴⁰ Environmental Policy Statement, p. 5.

In 1998 the Bank states that 26% of aggregate individual loans were environmental loans, amounting to 4369 million. "To this figure should be added some 1820 million in global loan allocations, chiefly for small-scale sewerage and sewage disposal schemes and urban development projects. Environmental lending thus totalled 5.2 billion..."⁴¹

The two key components of the EIB's environmental policy are its financing of investment projects specifically oriented towards protecting and improving the environment and the quality of life and the systematic screening of the environmental impact of all investment projects submitted to it for funding.⁴²

The main aim of the Bank in the environment field is to support projects that produce one or a number of the following benefits: improvements in drinking water supplies and waste water treatment; the introduction of environmentally sound techniques to process solid, in some cases toxic waste; a reduction of atmospheric pollution; especially from power stations and industrial plant; the promotion of environmentally sound industrial processes and products; and the protection of the environment and the improvement of the quality of life in urban areas.⁴³

However, there are a number of problems here. First of all, the EIB has a very weak definition of what "environment" means. Second, since in practice the EIB is not open to having this reviewed by anyone outside, no independent evaluation has been carried out on these self-defined environmental projects. Therefore, it is hard to assess whether they serve their intended purpose and achieve their objectives. Third, since the EIB does not have sectoral policies, and has not conducted Strategic Environmental Assessments in the countries of operation, it may not necessarily decide on the best sectoral solutions. Based on the detailed consultations that NGOs have had with the EIB over the past 4 years and the exchange of a number of policy letters between NGOs and top EIB officials, there is no way to evaluate or verify its environmental claims. Moreover, without an open information disclosure policy, it is impossible for anyone else, whether they are NGOs, government representatives, or members of the European Parliament, to make an independent evaluation of the EIB's positive environmental claims.

As noted above, theoretically the EIB is subject to the overall policy direction of the Union. The EU has taken a number of steps in recent years to endorse the proposition that "sustainable development" is the main framework for all actions by the Union and its member states. These steps include adoption of the Fifth Action Program in 1993, ratification of the Treaty on European Union in 1993 (which made "sustainable and non-inflationary growth respecting the environment" a primary objective), the White Paper on Growth, Competitiveness and Employment at the European Council in December 1993 (which includes a section called "Thoughts on a New (Sustainable) Development Model for the Community"), a requirement for Environmental Impact Assessment for plans and policies, which specifically mentions the EIB, in Directive 85/337/EEC,⁴⁴ and finally Art. 2 and 6 of the Amsterdam Treaty requiring high levels of environmental protection and amelioration of environmental quality, as well as integrating the environmental dimension into other policies.⁴⁵ Thus, there is a solid basis for NGOs as well as members of the European Parliament to insist that the EIB be oriented in these directions. The present EIB leadership acknowledges these requirements at least rhetorically, but again there is no way now to independently evaluate how the EIB actually is taking them into account.⁴⁶

In terms of public consultation, EU standards generally do not appear to be applied outside of the European Union. At the September 1996 NGO-EIB meeting in Luxembourg, EIB officials admitted that they require promoters outside the EU only to consult with local authorities. At the request of NGOs, EIB officials promised to move towards more open, transparent consultations with the public, based on EU standards.

⁴¹ Annual Report 1998, p. 25

⁴² EIB Information, 2nd quarter, 1996, p. 9.

⁴³ Environmental Policy Statement, p. 5.

⁴⁴ See Report from the Commission on the Implementation of Directive 85/337, 2 April 1993.

⁴⁵ Article 6 of the Amsterdam Treaty, "Environmental Protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development." Official Journal C 340, 10.11.1997, p.45

⁴⁶ See, for example, the Summary to the Environmental Policy Statement, which quotes the language "sustainable growth respecting the environment" from Article 2 of the treaty establishing the Community, p. 4.

Unfortunately, until now there are no positive examples that indicate such a change, as demonstrated in the case studies below.

5.7 Global Loans

Apart from individual loans and guarantees, the EIB also makes extensive use of so-called “global loans” -- which are provided to financial intermediaries (national or local banks). Global loans constitute an important element of EIB lending, accounting for about 20% of loans outside the EU. These are claimed to have a strong environmental component⁴⁷. In EIB documents its catalogue of “environmental” lending is often supplemented by the total amount of global loans approved. The CEE Bankwatch Network has made a systematic effort in several countries to gain access to EIB documentation for global loans, but in general, these attempts have proved to be unsatisfactory, with neither the EIB nor the intermediaries being willing to divulge any information.⁴⁸

During the meeting NGOs had with the EIB in September 1996, EIB officials stated that intermediaries who receive the credit lines are contractually required to comply with EIB regulations. New global loans, they explain, require the intermediary to use a modified environmental fiche. However this seems to be in contradiction with the EIB’s Environmental Guidelines, which state: “Lending through intermediaries – ‘global loans’ in the terminology of the Bank – is handled in a different way from direct operations and is not discussed in this note”.⁴⁹ In any event, the EIB remains unwilling to disclose information on the specific nature of the global loans, retreating behind its normal excuse of ‘commercial confidentiality.’ Thus it is impossible to assess what criteria are being used for ensuring that environmental standards in lending through global loans are being fulfilled and how much the global loans actually contribute to the EIB environmental portfolio. The experience of CEE NGOs shows that local intermediary banks often do not know much about EIB requirements on the environment, and that it is virtually impossible for the interested public to obtain any information about how the global loans are being used. In several countries requests were made directly to the intermediary banks for information about “environmental” loans they had made, but in every case the veil of secrecy remained in place.

The way that the EIB itself verifies use of global loans, including that its own regulations are being complied with, also is unclear. One EIB official stated that this is done by checking changes in the intermediaries’ portfolio, and through it concluding which sectors have been supported. “We don’t check all these small projects, going into details is interfering into local bank’s own business [...] We will act when it is proved that the bank does not fulfil EU policies”.⁵⁰ How such proof would come to light, however, is a mystery, given the completely closed system of information availability.

Global loans, with their ability to support small and medium-sized enterprises, could be a good tool for channelling money to good environmental projects, including smaller ones such as energy efficiency, conservation and renewables. However, at the moment they do not seem to serve that goal.

⁴⁷ EIB Environmental Policy Statement, 1996: “The EIB’s lending for relatively small investments, generally carried out by small and medium-sized enterprises, is done indirectly through local financial intermediaries under its ‘global loans’ scheme.[...] Small environmental investments, including potentially very high yielding ones in the area of raw material management, energy saving and treatment of waste, are, for instance, managed in this way.” p. 9

⁴⁸ See, for example, the exchanges of correspondence between Bankwatch National Co-ordinators Pribyl (Czech Republic), Feiler (Hungary), Stoczkiewicz (Poland) and Brazda (Slovakia) regarding the global loans and motorway projects, Annex I.

⁴⁹ EIB Environmental Guidelines, 1997 footnote 1, p. 1

⁵⁰ Interview with EIB official in Brussels office, October 1999

6. Case-studies on EIB projects

*"The EIB ensures that any project it finances, whether in the European Union or elsewhere such as in Hungary, has been subject to detailed environmental studies and has received the necessary national legal clearances."*⁵¹

The following case studies illustrate some recent projects financed by the EIB outside the European Union as well as one case study from an EU member country. They are from Central and Eastern Europe, Papua New Guinea, Lesotho and Sweden, to illustrate the global scope of the EIB's activities, which now lends to more than 120 countries. One common point in these cases is that the EIB got involved in them without careful consideration of the environmental, social and domestic legal circumstances of the project. Another common thread is that the EIB refuses to provide locally affected citizens any specific information even when formal inquiries or complaints are made. A third key aspect is the lack of knowledge by the EIB concerning relevant national standards, laws and required procedures. A fourth point that emerges in several of the cases is that the EIB will give its support even when other international financial institutions have decided not to do so on environmental grounds. Fifth, all of these case studies demonstrate the unwillingness of the EIB to respond to specific critiques made by local NGOs or communities concerning violations of relevant laws and consideration of alternatives.

The cases show the tendency of the EIB to use a double standard for its projects within and outside the European Union. While the EIB claims that its projects are in line with relevant EU policies and regulations in the accession countries, unfortunately this is not true. However, as we can see in the case of Sweden, even within the EU, citizens' organisations that have concerns about a particular EIB loan are faced with precisely the same wall of secrecy and absence of public accountability as are those outside the EU.

When writing to EIB personnel about its lending for these projects, NGOs have consistently expressed the desire to present their concerns and to discuss alternatives. However, they have always received the same type of response: *"It is not for the Bank to discuss individual projects with Friends of the Earth or other civil organisations"*.

In the EIB's own Rules On Public Access to Documents (97/C/243/06), it "recognises the legitimate interest of citizens of its shareholder States, as well of citizens in other countries where the Bank lends and borrows funds", and states that the EIB "is committed to an active information policy". The EIB has also said that it will conform to EU Directives when lending outside the EU, at least in the Accession Countries. The EU directive on Environmental Impact Assessment states:

2. Member States shall ensure that: - any request for development consent and any information gathered pursuant to Article 5 are made available to the public, - the public concerned is given the opportunity to express an opinion before the project is initiated.⁵²

Yet the EIB resolutely ignores this requirement. In this context NGOs are exasperated that the Bank does not show any interest in contacts between civic initiatives and EIB representatives in the Czech Republic, Poland, Hungary or other countries in the CEE where the EIB is active. Thus there hardly exists any way to inform EIB personnel about the specific status of relevant – and often ongoing – domestic legal procedures. Yet these are directly connected to the feasibility of the fulfilment of the loan contracts that are being signed.

NGOs regret that the EIB refuses to meaningfully accept requests for the opportunity to describe the concerns of environmental and civic communities about proposed projects. According to our understanding of the applicable EU rules, since the EIB serves as an investment tool of the European Union it should follow both procedural and substantive EU rules in its lending to CEE countries. In each sector, the EIB should take fully into account relevant EU policies, such as the recently adopted EU transport policies, which stress support of environmentally sound transportation, with special emphasis given to railways and public transport. At the same time, the EIB should be fully aware of relevant national laws, regulations and

⁵¹ Letter of Mr. Henry Marty-Gauquie (EIB) to Ms. Barbara Mihok dated 2 December 1998, Ref: 10817

⁵² EU EIA Directive(85/337) Article 6

procedures, and should take steps not to interfere with or undercut those domestic rules and procedures. Where domestic rules require a higher standard of behaviour than the EU's rules, it is our understanding that the EIB should follow the higher standard.

Another problematic fact that emerges from these case studies is the special status given to road building within the transportation sector. Although the EIB does not raise any doubts about road infrastructure loans being repaid from public money, loans for railways have to be repaid by the company itself, and there are sometimes conditions about specific things that must be done within the railways sector in order to obtain a loan. This obviously only further enhances existing economic distortions in the transportation sector between road and rail, while completely ignoring the environmental and social benefits obtained from investing in rail and public transport.

To some extent these failures can be attributed to the strong technocratic and weak environmental and public background of the Bank, which sticks to a narrow and outdated attitude regarding its lending activities. In our view, these failures also reflect the relatively "hands-off" attitude of the Board of Directors, and the absence of any effective oversight by the European Parliament. While these procedures and approaches may have been considered "normal" in 1958 when the EIB was created, they are completely inappropriate more than forty years later.

6.1 M0 motorway - Hungary

In 1993 the EIB provided an ECU 72 million credit to Hungary for partial financing of a road project with two components: the construction of a ca. 35-km section of the road E77 north of Budapest (a part of which is included in the M0 orbital motorway) and the rehabilitation of approximately 350 km of existing roads.

Original plans for the Northern Section of the M0, including the Environmental Impact Assessment, were prepared by UNITEF Ltd. in June 1994. This planned route connected the M3 motorway (coming from East-Hungary, Miskolc) with the main road no. 11 (coming from the North, on the western side of the Danube). According to this plan, the M0 would pass through an almost uninhabited area near the M3, then connect with the new M2 main road, which the EIB is also funding under the loan. From there, the road would go through a 16 meter high, 270 meter long viaduct, which passes within 250-300 meters of a housing estate called Káposztásmegyér II. This housing estate has 5000 inhabitants. Junction 2, connecting the new M0 to a major arterial in the direction of downtown Budapest, is planned within 150 meters of a nursery school and within 400 meters of the apartment buildings. Projected traffic backing up on two-lane roads feeding into the junction is only 15 meters from the apartment buildings, and runs between the local school, the nursery, and the apartments.

According to many experts, the NOx and particles generated by the increased traffic on the road will be 25-30% above Hungarian ambient air and noise standards. New medical evidence indicates severe public health related risks of PM10 exposure, most of which comes from motor vehicles. In every kilometre 2 tons of pollution will be emitted daily. The noise levels are also expected to exceed the limits and reach 70-76 dB in the day, 63-68 dB at night (counted to the year 2008). The officially accepted limit values are 65 dB in the day, 55 dB at night. This violates not only the Hungarian Constitution (Act 20-1949 Par. 18) guaranteeing citizens a right to a healthy environment, but also the Regional Planning and Regional Development Act 21-1996 (par. 3), which stipulates that environmental considerations are as important as any other concern when making decisions about plans and projects.

The suggested mitigation plan mentioned in the EIA, planting trees around the construction site-new road, to create a green protection belt, will not mitigate the problem, as it will take from 10 to 16 years for the trees to reach sufficient size to serve this purpose.



Construction of the motorway close to the houses

Even then it is insufficient. As traffic studies prepared for the Municipality of Budapest clearly indicate dramatic increases in traffic and related emissions, the construction of this part of the M0 will considerably worsen ambient air quality. As the northern sector of the M0 ring road is in the wind corridor from which clean air blows into the city of Budapest, it may well drive significant areas of the city into violation of ambient air quality laws. The team that performed the EIA, failing to make use of a dispersion model, failed to determine the impact on ambient air quality in northern Budapest. In any case, it is clear that the project will significantly worsen air quality for a substantial portion of the city, in violation of the Decision no. 28-1994 of the Constitutional Court, which blocks all new acts by the state which worsen environmental conditions.

These problems would have been pointed out in public hearings had any of the affected citizens or environmental groups been notified of a public hearing. The Ministry of Transport, Communication and Water Management (KHVM) signed a contract with UTIBER Ltd. on 19 December 1997 to begin work. The inhabitants of Káposztásmegyer II. were informed of the construction only in the early spring of 1998, when they realised with alarm that excavation had begun 250 meters from their homes. The indignant citizens formed an association, called Káposztásmegyeri Környezetvédők Köre Egyesület (Káposztásmegyer Environmental Protection Society, KKKE). While the District claims to have announced the public hearing attended by 16 government officials, their admission that not one person showed up despite the obvious concern that the formation of KKKE indicates, clearly constitutes a violation of Act 53-1995, the law on the General Rules of Environmental Protection, which requires proper public notification, and Government Decree 152-1995, which requires that the hearing be published in a major newspaper. It also clearly constitutes a violation of EU Directives, as well as the spirit of the EIB's own Rules On Public Access to Documents (97/C/243/06), which "recognises the legitimate interest of citizens of its shareholder States, as well of citizens in other countries where the Bank lends and borrows funds".

There is also a question as to the legality of the Environmental Impact Assessment. The EIA was performed under the old EIA law, and was initially rejected. While the area of the road under construction was not the primary concern raised in the old EIA, when the project went forward on the other section, an EIA in conformity with the much stricter EIA law of 1996 should have been performed. The ring road and Junction No. 3 connecting the M0 to the M2 pass through a Nature Protection Area inhabited by *Hippophae rhamnoides*, a protected bush. Furthermore, fencing around the area to protect it during construction, identified as a mitigation measure in the EIA, has not occurred, in violation of Act 53/1996, p. 31, which restricts all activity threatening to nature in Nature Protection Areas.

As a response to the claims of civil groups and the submission of the European Environmental Bureau, the European Ombudsman agreed to investigate the EIB's administration in the case, the first time this has occurred. The Ombudsman asked the EIB to provide specific documentation about the project, which was provided by the EIB President. After that EIB was asked to provide additional material in response, which they refused stating that, in accordance with Article 237(c) of the European Community Treaty, the decisions of the Bank's Board of Directors are not subject to judicial review. Ombudsman, however asked again the EIB to explain in more detail how it examined the present and likely- future environmental legislation and the environmental impact assessment performed by the promoter of the motorway project. The Ombudsman also asked the EIB to supply the Ombudsman with the documents submitted by the executing agency for the project (the Ministry of Transport, Communication and Water Management) and with any other documents. The EIB decided to refuse co-operation even with the Ombudsman's request:

"I kindly request you to reconsider this refusal, taking into account that the activities of the European Ombudsman are governed not by Article 237 of the EC Treaty, but by Article 195. According to Article 195 EC, the Ombudsman conducts inquiries, either on his own initiative or on the basis of complaints submitted to him, concerning instances of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role. Article 195 EC does not provide for any exceptions other than those relating to the Community courts acting in their judicial role. Specifically, it does not provide for any exception relating to the EIB."⁵³

⁵³ The Ombudsman's letter to Sir Brian Unwin, President of the European Investment Bank

(At the moment the Ombudsman is expecting the EIB response by the end of December 1999.)

During this same period of time, national civic organisations filed suit in a Budapest Court for an injunction against further construction of the motorway segment. This request was successful, with the Court ruling on June 21, 1999 that the applicable laws had not been followed, and therefore construction should be suspended pending a final decision.⁵⁴

6.2 Transport Sector - Czech Republic

The government of the Czech Republic that was in power from 1992 until the end of 1997 promoted an unsustainable and costly transportation policy based on massive investment to construct thousands of kilometres of new motorways and 4-lane expressways, while providing insufficient funding for the maintenance of the basic road network, and a destructive attitude towards the railway sector. Despite the fact that motorway construction plans were updated annually, the government never allowed the public to effectively participate in the decision making process. There was no Strategic Environmental Impact Assessment (SEA) carried out during those five years for the infrastructure development schemes, either overall or on a corridor basis. The argument used for non-implementation of the law on Environmental Impact Assessment (passed by the Parliament in 1992) was that the original motorway construction scheme was approved by the government in 1963. On municipal and county levels a similar negative attitude towards public involvement was used. What can be described as “salami tactics” were used to construct short segments, thereby making it impossible to carry out an effective corridor analysis.

These were the circumstances under which EIB was asked to provide loans for the construction of segments of the main infrastructure corridors (both on railways and motorways). While it is generally accepted that investments in the railway corridors are crucial for future ability to achieve a shift of transit transport from roads to rails (which is also a priority of the EU transport policy), the benefits to the Czech Republic from loans for the motorways are dubious.

In 1997 the former Czech government asked EIB for the loans of about 420 mil. ECU for the following motorways:

D5 (Prague - Pilsen - German border-dir. Nurnberg)

D8 (Prague - Usti nad Labem - German border-dir. Dresden)

D11 (Prague - Hradec Kralove - Polish border)

R1 (Prague ring-road)

R35 (Hradec Kralove - Olomouc)

The fact that there was no public involvement or a proper EIA process followed for evaluating the proposed motorways, from project preparation to the construction phase, means not only that basic democratic principles are being violated but that alternatives that would be less environmentally harmful and also less costly were not considered. Those motorway sections for which the EIB is providing finance (D5, D8, D11, R1, R35) are - with only one exception - those creating the most public controversy. If the EIB had insisted on adherence to proper EU standards on EIA and public participation, it is clear that the situation regarding these projects would be different today. Czech NGOs have the impression that the EIB willingly acted as a vehicle for getting those motorway sections built as quickly as possible, effectively acting in collusion with the former government, without regard to environmental or social considerations and legal requirements.

Fortunately, the government that came to power in January 1998 considered the previous policy unacceptable. It decided that a completely new transportation policy was necessary and that Strategic Environmental Impact Assessment (SEA) should be carried out on the Proposal of Transport Network Development Conception Until 2010 (TNDC 2010). This process started in the spring of 1998 with the involvement of representatives from the public. Because of the non-compliance of the initial proposal of the Ministry of Transport with EIA legislation (there was only one option of future development submitted), an alternative based on the initiatives of civil society was elaborated and included as the 2nd option to the

⁵⁴ See the Court's decision in Annex IV

assessment. Currently, the SEA documentation is being published and after the Ministry of Environment declares its position on it, the government will make a final decision.

During this process the SEA expert team has confirmed the critiques of several of the planned motorway routes contained in the option of the Ministry of Transport - including those that rely on EIB loans. Therefore, the SEA documentation states that several of the ministerial proposals do not represent the best options. At the same time the expert team supports the civic initiative's alternative proposals.

Details of the EIB-funded Roads in Czech Republic:

D5 (Prague-Pilsen-German border-direction Nurnberg): Approximately 190 mil. ECU have already been disbursed for the D5 motorway, which is already built with the exception of the bypass of the city of Pilsen. The transfer of the remaining 230 mil. ECU awaits a confirmation that Land and Construction permits have been issued.

Section of D8 motorway (Prague-Dresden): This is the only Czech motorway included in the EU's TENs scheme. The EIB is supposed to provide funds for section 0805 (Lovosice-Rehlovice). The whole 15 km long section will pass through Ceske Stredohori Protected Landscape Area. If this happens, an exception from the Act on Nature Protection No. 114/1992 Coll., which forbids any construction in such areas, is required. The link will create a barrier, cutting the area in the middle and degrading its values. On the other hand, the alternative proposal preserves the natural values of these mountains - a pearl of the North Bohemian region, which is otherwise "famous" because of its immense environmental damages. This option is under assessment now in the SEA on the Proposal of TNDC 2010 and the route including the 0805 section, which was marked roughly in 1963, is in serious doubt. The SEA expert team clearly supported the option offered by the environmental civic initiatives, which suggests terminating the motorway in Lovosice - as it is now. This solution would create an opportunity for the TEN railway corridor Berlin - Prague - Vienna, which, after it is upgraded, could carry much more freight and passengers. Already the importance of the railway in freight transport can be seen in the RO-LA combined transport system between Dresden and Lovosice. Annually there are about 20,000 lorries carried on the railway between these two places, which creates a significant benefit not only for the environment, but also time savings thanks to avoidance of waiting at the road border bottlenecks. If the D8 motorway is built following the proposed route with EIB funding, it will obviously attract great numbers of trucks and the importance of railway and its role in combined transport will decrease. Also, in the case of capacity insufficiency another possibility exists to connect the Czech Republic with the eastern part of Germany, which could avoid the Ceske Stredohori Landscape Protected Area as well as the Vychodni Krusne Hory Nature Park.

Section of D11 motorway (Prague-Hradec Kralove): The D11 motorway in the section Libice nad Cidlinou - Hradec Kralove (segment 1104 + 1105) faces a similar problem. Not only will it degrade the natural value of a number of natural reserves, but also it is supposed to cut through the most valuable one: Libicky Luh National Nature Reserve (highest level of protection). A few years ago, the EIA documentation for this section of the D11 did not assess any alternatives (including the option of not building the motorway). The possibilities of meeting transport capacity needs without cutting Libicky Luh reserve are being considered just now in the SEA procedure on the Proposal of TNDC 2010. Again, the SEA experts considered the option put forward by the civic initiative, which proposes the use of a parallel railway link and in case of capacity insufficiency a widening of the currently used main road. This option is now supported by the Ministry of Transport.

Prague ring road (R1): The EIB is supposed to fund a 2 km viaduct that is a part of the Prague ring road. The EIB states that 'this investment is justified in its own right on grounds of relieving heavy congestion in the immediate area, irrespective of decisions still to be taken by the Czech authorities on the ring road as whole'. However, this argument is simply wrong, because since there is no decision about the final shape of the Prague ring road, the construction of the viaduct could not create any positive improvement. The construction of such a viaduct separately could make the capacity problem even more complicated and predetermine the need to adjust the rest of the scheme to the transport flows at the viaduct.

To a certain level, this case is different from the previous ones, because it is under the discretion of the Prague Municipality. However, the main problem - lack of public participation in the preparatory stages - remains. It is the result of the municipal representatives' decision to arbitrarily change the categories in the

Land Use Plan of Prague Agglomeration Until 2010 in order to avoid its assessment in a legal EIA procedure. Paradoxically, 1.2 million inhabitants of the Prague agglomeration were denied the legal possibility of taking part in creating the main city development master plan. The Municipality continues to ignore public comments and proposals of alternatives, which were prepared first for the Concept of the Land Use Plan two years ago, and later during discussion of the official Proposal of the Land Use Plan. However, due to the refusal of the Ministry of Environment to approve the current municipal proposal, there is still time for a fruitful discussion about Prague's real needs and alternatives, and with the new municipal representatives elected in November 1998. From the above case study it is evident that the situation in this case is quite complex and needs further assessment. Therefore the disbursement of the EIB loan for a specific viaduct is premature, and would prejudice the future deliberations about the best alternatives.

6.3 Poznan By-Pass Road - Poland

The bypass in Poznan will be financed by ECU 130 million from the EIB, approved in July 1998, and supported by an ECU 35 million PHARE grant.⁵⁵ The 13.3 km bypass is a part of the planned A2 highway (extension of the Trans-European Network to Poland in the corridor Berlin-Warsaw-Moscow). The highway will be built and operated by a private company, Autostrada Wielkopolska. The bypass, built with public money, will help to economically justify other parts of the highway.

Polish environmental citizen organisations oppose the whole Highway Building Program in Poland, the implementation of which is planned at the cost of neglecting of the maintenance needs of existing roads, railway rehabilitation and public transport improvements. No sectoral studies have been conducted either on impacts of the Highway Program on the Polish environment, or on budget implications for other modes of transportation. Polish NGOs argue that before such studies are conducted, public money should not be spent for the Program, and they also question the use of public money to support private enterprises.

Bypasses are in many cases considered necessary in cities. In the Poznan situation, however, the main problem is that the bypass goes partly through the city, including the area of the drinking water reservoir supplying water for a significant part of the town. The planned route originates from the 1940s, when the Germans planned it for strategic reasons. The existing plan is only a slight correction of the plans made more than 50 years ago. The endangered area is not only valuable as a drinking water reservoir (with the bypass Poznan will lose 40% of its drinking water resources) but also as a recreational site for many inhabitants. As a result of the planned project, the increased amount of pollution will substantially exceed allowable pollutant concentration standards, which will render the area unusable for recreational purposes.

Since 1995, many environmental Non-Governmental Organisations from Poland, as well as local citizens' groups, have been involved in a campaign against the route of the bypass. There was no public participation conducted, and the Environmental Impact Assessment document is inadequate on numerous grounds, not least its failure to analyse alternatives. Local groups brought a court case against the by-pass, as did the municipality of Poznan. Both of the cases were lost, however, because it was ruled that the Act on Toll Highways overrides most other legislation. One of the judges commented on the court verdict as follows: "Practically speaking, you are right with your appeal but Poland, on its way to joining the European Union, has to have highways". In spite of the protests against the bypass, the severe impacts on the public drinking water supply and the adverse impacts on the environment and human health, the EIB still approved the 130 million ECU loan.

This is another example of why application of EU standards, both procedural regarding EIA and substantive regarding air quality and protection of water supplies, should be required as a basic aspect of the EIB's lending activities outside the EU.⁵⁶

⁵⁵ EIB Press Release, 27 July 1998.

⁵⁶ The EIB appears to acknowledge this in its 1996 Environmental Policy Statement on page 6: "In countries aiming for EU membership, notably the CEEC, European Community legislation is an obvious guideline."

6.4 Sofia Airport - Bulgaria

The European Investment Bank approved ECU 60 million in September 1997 for the Sofia International Airport Upgrade and Extension Project. The loan's declared purpose was to help finance a new passenger terminal building to cope with increasing traffic at Sofia airport. It will also be used for extending the main runway to reduce noise levels by redirecting flights over the capital. Extending the runway will furthermore allow larger aircraft to use the airport.⁵⁷

The contract was signed when there was no concrete project drawn up and thus no Environmental Impact Assessment made on it. There was only a general Master Plan for the Reconstruction of the Sofia Airport done by the British company "Sir Halkrow and Partners". Thus, the EIB approved its loan at a stage when a specific project was lacking. In the Master Plan there are several variants proposed for the elongation of the runway. The EIB's premature loan decision means that no proper assessment was made of the variants and the project overall. There should be an EIA on a specific project executed and not only an EIA on the general plan.

The airport is situated very close to the city of Sofia. The noise and emission levels already are above prevailing legal standards. There have been numerous protests and petitions against the further expansion of the airport by the local population. At the public participation meeting on the general EIA there were arguments raised against the current plan and alternative locations for the airport were proposed. None of these comments was taken into account by the EIB.

6.5 Lihir Gold Mine – Papua New Guinea

In July 1996 the EIB announced a 46 million ECU loan for the Lihir Gold mine in Papua New Guinea. In the 30 years of operation 104 million tons of ore reserves will be exploited, producing 341 million tons of waste rock. The waste rock would be discharged into the nearby Louisiana harbour on the East coast of Lihir Island. The mining company Rio Tinto uses the open pit cyanide leaching process, which is highly polluting. During the mine's lifespan 89 million tons of toxic tailings will be produced. The tailings will be treated, however the treatment water is also being discharged into a deep submarine outfall. Trace metals in the treatment water will include copper, arsenic, cadmium, lead, chromium and mercury. The American Overseas Private Investment Corporation declined to provide political risk insurance in 1995 because of the above mentioned environmental impacts. Yet the EIB was willing to step in and provide direct finance for the project.

6.6 Lesotho Highlands Water Project

On June 4, 1998 the EIB provided a package of loans totalling ECU 99 million for the Lesotho Highlands Water Project (LHWP). A loan of ECU 44 million went to the Lesotho Highlands Development Authority (LHDA)⁵⁸, to fund the Matsoku Tunnel and Weir scheme. A second loan of ECU 45 million was provided to the Trans-Caledon Tunnel Authority (TCTA) to finance the foreign exchange costs of the Mohale Dam. A third loan of ECU 10 million is also being provided to LHDA.

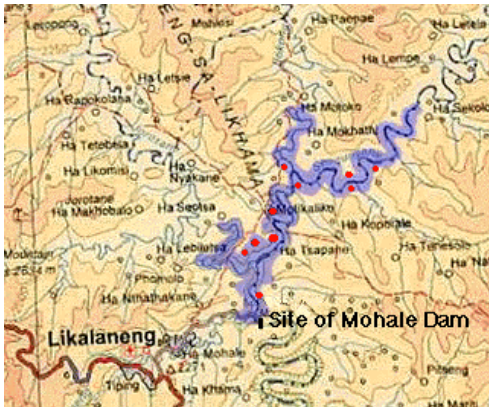
According to the EIB's press release, "The financing is for Phase 1B of the LHWP, one of the largest infrastructure projects currently under implementation in Africa. Governed by a Treaty between the Republic of South Africa and the Kingdom of Lesotho, the project is to transfer water from mountainous Lesotho to the industrial heartland of South Africa, mainly in Gauteng Province. The additional water supplies will contribute to safeguarding South Africa's industrial development potential and bring clean piped water to households in the previously disadvantaged urban and peri-urban communities, a priority of South Africa's Reconstruction and Development Programme. The project will also provide local job

⁵⁷ EIB Press Release, 10 September 1997

⁵⁸ The Lesotho Highlands Development Authority (LHDA), a semi-autonomous state corporation, is responsible for overseeing the projects and for raising the finance.

opportunities for thousands of Lesotho nationals who have depended on remittances from the South African gold mines." ⁵⁹

The Highlands project is an \$8 billion effort to supply water to South Africa and electricity to Lesotho. It involves the construction of five dams on the Senqu River - also known as the Orange River - a power plant, and tunnels through Lesotho's mountains. The dams will block Lesotho's rivers from flowing into the Atlantic Ocean, and divert about 40% of the water in the Senqu river basin northwards via a complex series of tunnels to South Africa's Ash river and from there into the Vaal dam, 70 kilometres south of Johannesburg. The work is due for completion in 2017. Phase 1B of the project, due for completion in 2003, includes the US\$1 billion Mohale dam on the Senqunyan river and the Matsoku river, with 30 kilometres of associated tunnels. The Mashai dam, scheduled for completion in 2008, would be built under Phase 2 and the Tsoelike dam would be completed in 2020 under Phase 3. Ironically, the project's high costs have caused water prices in South Africa's most populous region to nearly double, putting it out of reach of the poor Blacks already suffering from water inequities created under apartheid.



The Mohale Dam of the Lesotho Highlands Water Project. Dots indicate the villages that will be inundated by its 23-square-kilometer reservoir.⁶⁰

This near-doubling of costs caused activists in South Africa's Alexandra township to protest the project through a claim with the World Bank's Inspection Panel. The claimants said the project's second dam should not go forward without a full demand-management (water efficiency and conservation) study to determine whether or not the project was needed at that time. The World Bank rejected the claim.

The lack of democratic reforms and deteriorating social well-being lie at the heart of Lesotho's current situation, which was further aggravated by a massive, unannounced invasion and occupation by South African military forces in September 1998. Not surprisingly, given the import of the LHWP to South Africa and the growing anti-South African sentiment in Lesotho, protection of the dam sites was a top military priority.

From the total land area of Lesotho less than 10 % is suitable for farming. The Mohale valley, which would be flooded when the Mohale dam is completed, contains Lesotho's most fertile land, and is the only region in the country to produce a surplus.⁶¹ In addition to flooded villages, others will be affected by road construction and other project activities. Construction on project roads has already begun, causing problems for local people such as damage to farms and fields, and an influx of construction workers to the isolated area. In total some 20 thousand people will lose their homes, lands or access to communal lands as the impact of Phase 1 of the project. Because arable land is a scarce resource in the country, those evicted for the sake of reservoirs have not been given replacement farmland, but are forced to find new livelihoods. Initially the project emphasised training in skills that were useless in Lesotho. Training in new livelihoods is lagging far behind, and few have been retrained to date.

The project has caused the vulnerable Highlands population to lose fields, grazing lands and access to fresh water sources. Despite promises, their livelihoods have not been re-established, and poor people have been pushed closer to the edge in their struggle for survival. Problems of erosion and the downstream effects of massive water diversion will disrupt ecosystems and people's livelihoods.

In March 1993 the Norwegian Agency for Development Co-operation (NORAD) rejected an application by Kvaerner Energy for US\$9.4 million in credit support for the Muela dam. Kari Nordheim-Larsen, Norway's aid minister, refused the funding because the contract was for one of a series of dams whose cumulative social and environmental effects has not been studied.⁶²

⁵⁹ Press release of the EIB, June 4, 1998.

⁶⁰ <http://www.irm.org>

⁶¹ Phase 1A and 1B combined result in the loss of 4635 hectares of grazing land and 1500 hectares of arable land, according to the World Bank.

⁶² Communication with Lori Pottinger, Director for South Africa International Rivers Network

In addition to what appears to be a growing and long-term impoverishment of the directly affected Highlands people, it is doubtful that there will be sustainable economic benefits in the temporary construction-related jobs. Construction activities have been faced with considerable labour unrest given the low pay and harsh working conditions of the Basotho work force. In 1996 project contractors summarily fired 2500 workers which resulted in a strike. To break the strike police was called and numerous workers were shot dead and many others sought refuge in churches.

There has been proven massive corruption in connection with the project. A dozen firms allegedly paid more than \$2 million in bribes to LHDA's first chief executive officer Masupha Ephraim Sole between Feb. 1988 and Dec. 1998. The following list of companies and the reported bribe amounts paid was published in July 1999⁶³:

Multinational group	OECD Home country	Subsidiary Company	% owned	Consortium	Bribe listed in charges	Comments
ABB	Sweden, Switzerland				FF250,000 (US\$40,410)	
Acres International	Canada				C\$279,539 (US\$185,002)	
Alcatel	France	Sogreah			FF84,000 (US\$13,578)	Owned by Alcatel until 11/1/99
AMEC	UK	Spie Batignolles	41.6		FF738,630 (US\$119,393)	
AMEC	UK	Spie Batignolles	41.6	LHP C	DM105,639 (US\$57,269)	
AMIC (Anglo-American Industrial Corporation)		LTA		LHP C	DM105,639 (US\$57,269)	LTA is controlled by AMIC
BICC	UK	Balfour Beatty	100	LHP C	DM105,639 (US\$57,269)	
Bouygues	France			HWV	\$733,404	
ED Züblin	Germany				DM819,862 (US\$444,466)	
ED Züblin	Germany			LHP C	DM105,639 (US\$57,269)	
Group Five	South Africa			HWV	\$733,404	South African owned
Impregilo	Italy				US\$250,000	Controlling shareholder is Fiat (owns 5% plus 16% through Gemina)
Impregilo	Italy			HWV	\$733,404	
Kier Intl	UK			HWV	\$733,404	
RWE	Germany	Lahmeyer Consulting Engineers	100		DM16,000 (US\$8,674)	
RWE	Germany	Hochtief	100	HWV	\$733,404	
RWE	Germany	Concor	40	HWV	\$733,404	Owned via Hochtief
Stirling Intl	UK			HWV	\$733,404	
Suez-Lyonnaise des Eaux	France	Dumez International	100		FF509,905 (US\$82,422).	

The governments of the home countries of these companies are all signatories to the OECD Convention on Combating Bribery, adopted in November 1997. This Convention requires all signatories to make bribery of a foreign official a criminal offence, and specifically requires that *“Investigation and prosecution of the bribery of a foreign public official shall not be influenced by considerations of national economic*

⁶³ Charge sheets as reported in Business Day 29 July 1999⁶³; company annual reports; PSIRU database

interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved” (Article 5).

In October 1999 the Lesotho High Court awarded damages of over R7 million to the Lesotho Highlands Development Authority (LHDA) against Sole, its previous first executive. The biggest claim was for R6,362,488 - which was the sponsorship the Lesotho Highlands Water Project lost from the European Union.

Sole authorised the alteration of the conditions of the Muella Dam contract without clearance from the EU headquarters in Brussels, the court heard. Once the EU realised it was not approached for approval, the organisation dropped its sponsorship.⁶⁴ In November 1999 the Lesotho government had begun issuing summons to bring the companies accused of bribery to court in Maseru.

The EIB certainly should not be involved in this case or any similar case. This experience shows clearly how over-extended the EIB is as it tries to be involved in loans all over the world, particularly in light of its very limited staff expertise. It simply is unable to fulfil its own requirements, while opening itself up to great economic risk in providing finance for such projects.

6.7 The Öresund Bridge⁶⁵

The Öresund bridge between Sweden and Denmark is due to be opened for traffic in July, 2000. That will mark the completion of a project that has been the centre of controversy for a decade and a half. The project has been called an environmental, financial and democratic scandal.

In the mid 1980's, a business lobby group called the European Roundtable of Industrialists presented the report "Missing Links", with a number of proposals for specific projects for transportation infrastructure. One of the projects was a bridge or tunnel between Sweden and Denmark.

Shortly afterwards, a consortium was formed to pave the way for the project. It received grants from the European Commission, enabling it to prepare the project. However, the project was harshly criticised by environmentalists. From the end of the 1980's, it was highly controversial politically in both Sweden and Denmark.

Fearing (correctly) a loss in the election of September 1991, the Social Democratic government of Sweden that spring pushed through an agreement with the Danish government to build the bridge. The agreement was hurriedly ratified by the Swedish Parliament in June, 1991 and the Danish parliament in August 1991.

Danish environmental groups filed a complaint against the project with the European Commission that same month. They detailed eleven points where they claimed that the project violated European Union directives. The Danish groups emphasised that the project would be a threat to the sensitive Baltic Sea, to the waters between Denmark and Sweden and to some of the most valuable bird protection areas of Europe, and would violate the Bird Habitat Directive and the Environmental Impact Assessment Directive.

The Swedish decision to ratify the agreement was made before conducting an Environmental Impact Assessment or determining if it was compatible with the relevant national environmental laws. It was then claimed that the bridge had to be built, by inviolable international agreement. Nonetheless, the courts did try the project in a long complicated series of rulings over the next years. One court placed conditions on the project, so that the flow of essential salt water from the Atlantic to the Baltic would not be impaired. Another court denied a permit to the project on the grounds that it could damage the Baltic Sea, that it could damage important fishing and nature areas locally, and due to effects on the transportation system. Nonetheless, in June 1994 the Swedish government decided to go ahead with construction. The Minister of the Environment resigned in protest. That government lost power in the election in September that year.

In order to reduce opposition to the project, the 1990 agreement between the Swedish and Danish governments stated that all costs related to the planning, construction and operation of the bridge would be

⁶⁴ Lesotho Judge Awards R7M Damages to LHDA. MASERU 21 October 1999 Sapa, URL:gopher://gopher.anc.org.za/00/anc/newsbrief/1999/news1022

⁶⁵ The case study was prepared by Charles Berkow, former organisation secretary of Friends of the Earth (FoE) Sweden

covered by the consortium, by fees from the users of the bridge; no government money was to be used. This promise has been repeated a number of times and is an integral part of the decision. However, calculations showing that this would not be viable were kept from the Swedish parliament before it made its decision.

A built-in dilemma is that lower fees will lead to more users and therefore more money, but also more traffic and environmental problems. At the time of the parliamentary decision in 1991, the Swedish government estimated that the bridge would in its first year of completion be crossed by about 10 000 vehicles a day. It is now estimated that the number will be 12 000, and the bridge is built with a capacity of 50 000.

The debate about crossing fees and the financial viability of the project is still debated. In 1995, the financial paper *Dagens Industri* had a special issue showing the bridge to be a high-risk project, where the user fees would probably not be enough to pay for the costs.

In 1995 the European Investment Bank of the EU lent 31.9 million ECU to the project, in 1996 it lent 192.2 million ECU and in 1997 it lent another 82.8 ECU, for a total of over 300 million ECU for the three year period.

Sweden is a net contributor to the EU. In negotiations over its membership fees, the amount that Sweden gets back from the EU influences how much Sweden is willing to contribute. Thus, the funds the EU and EIB spend in Sweden can be seen as funds that indirectly correspond to funds paid by Swedish taxpayers. In that sense, Swedish taxpayers are helping to pay for the Öresund bridge, something it has repeatedly been said that they would not have to do.

This is not something the Swedish public is generally aware of. For example, on the editorial page of Sweden's leading morning newspaper *Dagens Nyheter*, an article on May 5 1999 states "The bridge is not financed with government money, but by private loans." Again on November 12, the newspaper states "The Öresund Bridge has been financed by borrowing on the market."

It should be noted that proponents of the bridge sometimes argue that it is a rail project, as it will be a combined rail and road bridge. It has also been claimed that emissions from vehicles crossing the bridge will be less than emissions from ferries.

But it is uncertain how much the bridge will actually benefit rail traffic. And the impending completion of the bridge is being used by local politicians as an argument for other road projects in Sweden. One example is the upgrading of the highway to Kristianstad, recommended by the "regional partnership" in its regional development programme, the basis for its plans for applications from the EU structural funds.

Despite the massive debate about the project during the past 15 years, the involvement of the EIB has gone unnoticed in the public.

7. Recommendations

What should be changed in order for the EIB to embrace modern environmental and public accountability standards? There has been a series of efforts by various NGOs during the 1990s to hold dialogues with the EIB. These dialogues have made it possible for NGOs to learn how the EIB operates, and for the EIB to learn what NGOs are concerned about. Through these dialogues, a number of recommendations have been made by NGOs directly to the EIB. Those originally put forward by Wenning and Lankowski (WWF studies from 1992 and 1994) were reiterated in 1995 by Friends of the Earth at the first NGO consultation held at the EIB, and were referred to by EIB officials during the second and third consultations with the CEE Bankwatch Network and other NGO representatives in 1996 and in 1998. They retain their validity as benchmarks to evaluate the EIB's response during the past few years (see Annex V.). On some points there has been some progress, while on others very little has changed.

As discussed above, CEE Bankwatch Network has put forth a number of new recommendations in a series of policy letters to senior EIB officials. Those recommendations which are worth to be taken into consideration by the European Parliament and governors of the bank are:

1. **Revise the existing formal policy on information disclosure to require that all relevant environmental, economic and financial appraisal project information is made available in a timely way to interested NGOs and affected communities.** Based on the experience of other international financial institutions, it is clear that the EIB lags far behind in terms of information disclosure. It also is clear that other IFIs are able to provide substantial information to the public even for purely private sector lending, such as the World Bank's International Finance Corporation (IFC) and the EBRD's large private sector portfolio. The EIB's revised information disclosure policy should be based on the Aarhus Convention on Access to Information and UN ECE Convention on Access to Environmental Information and Public Participation, as well as on policy and practice of the World Bank, the IFC and the EBRD.
2. **Strengthen the Environmental Impact Assessment (EIA) procedures.** The EIB should introduce the same approach as the World Bank and EBRD, with clear and transparent criteria for A, B and C category projects⁶⁶, and with more extensive EIA and consultation requirements for A category projects, e.g., those with significant adverse environmental and/or social implications. EIA should be conducted in a broader sense and applicable to the whole investment (project, for ex. a highway), not only to the part being financed by EIB itself.
3. **Require public consultations in the process of considering EIB-financed projects with significant environmental and social implications.** There should be a clear requirement for promoters to hold public consultations on all A projects, along with measures to verify the quality of such consultations.
4. **Provide detailed information about "global" loans made through intermediary banks, especially how these loans actually benefit the environment, and criteria for selecting projects.** As mentioned above, global loans could be used to support small and medium-sized enterprises, including for channelling money to smaller, not end-of-pipe oriented environmental projects.
5. **Promulgate substantive policies on key issues, such as energy and transport, and comply with the EU requirement for integration of environmental protection and sustainable development dimension into all policies and practice.**⁶⁷ This also would be an opportunity to detail the EIB's role in

⁶⁶ Both the WB and EBRD have regulations on dividing projects into those with major impact on environment, which are assigned an "A" category and a requirement for full Environmental Impact Assessment and public participation process, a "B" category, requiring Environmental Impact Study, and a "C" category, with no impact on the Environment. The way EIB is assessing potential impacts on the environment of projects is, according to the Bank, grounded in EU Directives, but is not clearly specified for projects outside the EU. "Inside the EU, in a case where a project might have a significant environmental impact, the promoter is required to carry out an EIA, including public consultation, in accordance with Community and national law. But outside the EU, the legal framework may be less well developed and the promoter may need guidance from the Bank as to what environmental studies should be carried out." EIB Environmental Policy Statement, 1996, p. 7

⁶⁷ According to Art. 6 of the Amsterdam Treaty.

implementing EU environmental and sustainability policies, as well as the EIB's role in addressing climate change.

6. **Promulgate Country Assistance Strategies CAS(plans) for accession countries, which would be a mutual effort of the EIB and each country.** These strategies should be based on assessment of country needs, as well as the EU requirements, integrating the sustainability approach into all sectors. EIB could also work on CAS in co-operation with the World Bank.
7. **Add environmental specialists to work with the existing staff of economists, engineers and lawyers.** The EIB intends to become the leading financial source for the CEE region – especially the Accession Countries, as well as continuing to make substantial loans to other regions outside the EU. Unless its staff expertise becomes more balanced, it will be impossible for the EIB to fulfil the environmental requirements set out in the Amsterdam Treaty.
8. **Create a special team to promote energy efficiency, conservation and renewables.** This could be based on the EBRD example, which shows how much can be accomplished with a focused team that has the necessary technical and financing expertise. Without such expertise and a clear mandate from the EIB leadership that makes this kind of lending a priority, it is unlikely that the present imbalance in the portfolio will change.
9. **Strengthen the role of controlling institutions.** These include the European Parliament, European Court of Auditors or newly established European Anti-Fraud office (Olaf) over the EIB activities. In general, much fuller use must be made of the European Parliament and its committees, and relevant parts of the European Commission structure for oversight, including conducting and/or reviewing various types of “due diligence” reviews. Full endorsement should be given to the Ombudsman's potential role.

8. Conclusion

The European Investment Bank's present structure and activities are problematic from various aspects both for decision-makers in Member States and in EU bodies and for the concerned public.

The bank is a public institution that conducts operations ultimately backed by public money, the contribution of tax payers in EU Member States. As such institution, with the mandate to promote development, it is obviously far from fulfilling the mandate of public bank with development aims at the beginning of the new millennium. It is the bank of secrecy, lack of transparency, and public oversight that lends money in many instances for socially and environmentally destructive projects. These projects in the world of global interdependence create more harm than the enormous profit the bank makes on these projects. Also, the bank competes with similar public institutions and private investors for the sole purpose of promoting European business interest in a way that undercuts any effort for raising social and environmental standards of financing.

From an NGO perspective, there are numerous obstacles to resolve if the EU wants to ensure that the EIB follows proper, modern environmental procedures. First is the institutional mentality. As one member of the old Pays Membres Directorate described it privately a few years ago, a rigorous appraisal process involving a variety of technical and environmental checks is considered to be a nuisance that would reduce the value of the EIB's relatively cheap money.⁶⁸ Second is the absence of a truly open public information and disclosure policy. Third is the absence of adequate trained staff in the relevant environmental and social disciplines. Fourth is the absence of power in the hands of the Environmental Officer to actually stop or reject any particular proposal. Fifth is the absence of any substantive policies to guide the Bank's lending.

These problems are mainly due to the institution's backward nature - from the fact that it maintains its independence and nature of operations undisturbed from public oversight for more than 40 years. The challenge for decision-makers within the EU is sizeable: they should regain control over the bank, which runs free, and away from the public interest.

If this task would be accomplished it would be much easier to keep EIB projects in line with public interest. The quality of project performance on environmental and social ground is also a guarantee for lower financial risk and in this way it should be the interest of concerned decision-makers and citizens of the European Union. Reforming the EIB should be high on the agenda for the common good for the people and planet in the new millennium.

⁶⁸ C.Lankowski, *Environmental Impact Review in the European Investment Bank – A Report on Current Practices*. 1994, p. 12.

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Annex I. - Correspondence with EIB

Internal correspondence of CEE Bankwatch concerning EIB

Date: Wed, 1 Oct 1997 15:46:57 +0200 (MET DST)

From: Pavel.Pribyl@ecn.cz (Pavel Pribyl)

To: CEE Bankwatch Internal list

EIB response to request for materials

Hello,

After more than two month I received a response from EIB to my request for materials. Mr. Henry Marty-Gauquie and Yvonne Berghorst explain to me that nor PSDs nor environmental analysis are not available from the bank.

More interesting is the next paragraph: "...you ask for an exchange of views on future infrastructure schemes in the Czech Republic in which EIB is not (yet) involved, and also for getting involved in influencing them. It is not for the Bank to discuss individual projects with Friends of the Earth or other civil organisations."

In respect to my request to be informed in time about EIB missions in Czech republic they write: ".....contacts between the EIB and Environmental Civic Initiatives in countries where the bank operates....As a member of FoE you may know that the EIB has regular contacts with environmental NGOs, among these FOE, which mostly take place at its Headquarters in Luxembourg, and where appropriate - decided on case-by-case basis - in the country where EIB is operating."

So, this is a piece from their response. It really seems that after last years meeting they feel very uncomfortable to develop contacts with us. And I just wonder how do they involve NGOs on case-by-case basis, when " it is not for the Bank to discuss individual projects with Friends of the Earth or other civil organisations."

Greetings, Pavel Pribyl,

Hnuti Duha Czech Republic

From: brazda@changenet.sk (Norbert Brazda)

To: "Jozsef Feiler" <jfeiler@lucy.tgi.bme.hu>

Subject: RE: EIB

Date: Fri, 10 Oct 1997 20:25:37 +0100

MY LETTER TO MR. CERNOIA:

As you may know, citizens of Slovakia are facing serious cuts in public sector services (e.g. health and social care, public transport) as a result of unbalanced distribution of financial resources within the state budget. At the same time the Slovak society is confronted with the plans for huge spendings of public resources for new infrastructure, especially roads. We have serious doubts about the economic impacts of such investments as well as their environmental and social consequences.

As we know, the EIB has recently signed loan for highway construction in Slovakia. I would be glad to get more detailed information about the project, especially Cost-Benefit analysis. I hope that such analysis exists and is available for a review.

Because the road transport has significant impacts on environment and we experienced serious problems with environmental assessment of several highway projects in Slovakia in past, I would also ask you for the Environmental Impact Assessment documentation for projects under the EIB loan.

AND EIB RESPONSE:

As to your request to receive the Cost-Benefit Analysis and EIA of highway schemes under EIB financing, we have to inform you that it is not for the EIB to provide these types of documents. Such documents exclusively form part of the Bank's relationship with the project promoter and are not prepared for the purpose of publication. It is up to the project promoter to provide these, subject to the relevant legal regulations. For your information we enclose our Information Policy brochure, including Rules on Public Access to Documents.

Yours sincerely,

EIB, Henry Marty-Gauquie, Yvonne Berghorst

Norbert Brazda

CEE Bankwatch Network - Slovakia

Letter to the President of EIB concerning the consultation process with NGOs

Sir Brian Unwin
President
European Investment Bank
100 Blvd. Konrad Adenauer
L-2950 Luxembourg

October 14, 1997

Dear Sir Brian:

We are writing you regarding the aborted consultation with environmental Non-Governmental Organisations (NGOs) from Central and Eastern Europe (CEE).

As you will be aware from the letters we have sent you the past two years, CEE NGOs are intensely interested in what your Bank is doing in the CEE region. Our Network is experienced in dealing with a broad range of international financial institutions which are active in our region. These include the World Bank Group, International Monetary Fund, European Bank for Reconstruction and Development, Global Environment Facility, PHARE and TACIS.

We are in active dialogues with these other institutions. Those dialogues, although not perfect, are grounded on two basic principles:

- (1) Citizens and public interest organisations have a legitimate right to receive accurate and timely information, and
- (2) They have a legitimate right to "participate" in projects that they perceive to be important or which affect them. Based on these principles, there is a process of give and take in our dialogues, and often an institution such as the World Bank or the EBRD has commended our ideas and suggestions. There also are active relationships between interested NGOs and the boards of Executive Directors, and it has proved to be

possible for these institutions to execute changes in both procedure and substantive policy, often in direct response to NGO critiques and recommendations.

In this context, we have to express our strong displeasure and disappointment about the process of "dialogue" with the EIB thus far. From our perspective, the EIB appears interested in only the form of a dialogue rather than in substance. It seems unwilling to change anything about the way the Bank functions, even when promises, commitments and statements to the contrary have been made.

This year, the very process of trying to arrange a fruitful consultation has been marred by a series of EIB dictates -- about the agenda and who can participate -- rather than being a shared process. This is not the way that NGOs normally work. Consultation is a process, which must be taken seriously. We hope that the EIB is not interested just in a public relations exercise but in engaging in the longer-term investments of time and resources that are needed to make the consultation process productive. In particular, we hope that you remain committed to a process of dialogue and consultation with the CEE Bankwatch Network and our other colleagues, about the issues that concern us.

During the last consultation on September 12, 1996, your senior staff agreed that a number of important issues had been raised by the NGOs. We were under the impression that there were EIB commitments to respond positively on many of these, as the notes from the meeting show. For example, Mr. Bond stated, regarding your projects in the CEE: "We should ensure that there is an open, transparent consultation with the public, and we will endeavour to do that."

Regarding routine access to project documents such as environmental analyses and cost-benefit studies, Mr. Bond stated: "It would require a big shift for us. We've taken on board your suggestions. There is an internal committee that is considering this. On public consultation, we will make sure in future there is a public, open inquiry. It's a good point and we fully share it."

Regarding Global Loans, the NGOs noted that while the EIB often cites that the on-lending is for environment and energy saving, we have no proof from the EIB side on this. In response, Mr. Bond said: "You're right. This information could be made public." Following up, Mr. Carter said: "We don't classify this information for loans outside the EC, but we could."

During the wrap-up session, Mr. Carter made a number of points: "This has been useful for us. You suggest we need different procedures for areas outside the EU. You've suggested we are not up to speed on information disclosure. We hear you. You have suggested that the definition of "environmental loan" needs more attention. On costs, there are questions about how to achieve the polluter pays principle. We agreed it is difficult. You say we should have substantive policies -- we will consider that. You find our strategic approach to the transport sector needs attention and you suggest that our appraisal mechanism is biased against rail -- that is very interesting."

Mr. De Korte summarised his view of the consultation: "The aim was to have a constructive dialogue, to understand each other better. We've succeeded. You've shown yourselves to be experienced; we hope you have a similar opinion of us. We've explained the constraints we are under. We need time. Change requires time. Your comments today are food for thought. We'll look forward to further formal meetings like this, in about a year. We'd like to stick to that. Of course, there are ways to have other types of informal contacts."

Thus, as this year's expected consultation drew near, we had every reason to believe that the EIB would be announcing serious progress on:

- information disclosure,
- public consultations and inquiries,
- providing detailed information about Global Loans in each country, including more exact reporting of how these loans actually have been used to benefit the environment, and criteria for selecting and appraising projects supported by Global Loans,
- consideration of the need for substantive policies on key issues such as energy and transport, and
- the study of whether the EIB appraisal mechanism is balanced among transport modes.

We anticipated such announcements because our experience during the last year shows no visible progress from the EIB's side. We would welcome very much announcements that would neutralise our negative experiences concerning requests for environmental impact assessments, cost-benefit analyses, and information about Global Loans. Please, let us enumerate some details of our correspondence with your staff and local intermediaries.

Our Estonian co-ordinator received the following reply from EIB to his request for the Environmental Impact Assessment, Environmental Fiche and Cost-benefit Analysis concerning the railway upgrade in Tallin-Narva section: "...research in relation to individual projects carried out in the framework of EIB's project appraisal are not made available for the public."

Our Slovakian co-ordinator sent a request for the same types of documents about the highway schemes receiving EIB financing in Slovakia. He received the reply that "Such documents exclusively form part of the Bank's relationship with the project promoter and are not prepared for the purpose of publication."

The Polish co-ordinator, after requesting similar information, was reminded that on the EIB-NGO consultation in 1996 "... it then was made clear by EIB representatives that the type of information you are asking for now cannot be provided by the Bank."

The Czech co-ordinator received a similar reply to his request, with an additional remark to his hope that there will be an exchange of views on future infrastructure schemes in the Czech Republic between the Bank and civil organisations: "It is not for the Bank to discuss individual projects with Friends of the Earth or other civil organisations."

Our Hungarian colleague similarly was unable to initiate a dialogue on transport issues in relation to the "Blueprints for Sustainable Transportation" that the Bankwatch conducted in six countries of the region.

Our Czech colleague requested details about Global Loans but he did not succeed. He did not get any response from National Netherlander, while Creditanstalt replied as "responding to your letter... with regrets we have to announce that we do not know anything about these deals". The Commercial Bank (Komerční Banka) responded: "... [I] can not accept your request for the overview of the projects financed from Global Loans, because we are not allowed to provide this information to third parties."

We do not see any justification for withholding these types of information, especially after the projects have been approved. We do not see that disclosure of such information could harm serious bank or business interests to an extent which can have priority over the affected public's right to know. This type of transparency is inseparable from democratic practices. We submit that the EIB procedure is inconsistent with applicable EU regulations.

We would also have hoped to hear about progress on the other subjects discussed last year and mentioned in our letter to you this January, such as boosting your lending for demand-side energy efficiency and conservation.

We look forward to receiving a response from you as at your earliest convenience as to how the process of dialogue and consultation can be got back on track.

Sincerely,

Tomasz Terlecki
Internal Co-ordinator

Jozsef Feiler
Regional Co-ordinator

on behalf of CEE Bankwatch Network member groups

Response of the EIB on the consultation process

November 24, 1997

Dear Mr. Terlecki,

As those members of staff of the EIB most immediately responsible for the subject matter that it contains, we have been asked to reply to your fared letter of 20 October to Sir Brian Unwin. This was already acknowledged in Sir Brian's interim reply of 22 October.

Let us, first, stress that the third annual EIB-NGO meeting on environment matters, scheduled for 7 October 1997, was not "aborted", as you put it, but postponed at the request of the NGOs (Mr Barnes' letter of 24 September). The Bank was keen that the event should take place as planned - with a geographical focus on the Mediterranean region, as agreed at the 1996 annual meeting (Mr de Korte's letter of 24 June) - and several staff put in considerable, and, hopefully, not wasted effort to prepare for the event. In that regard, we strongly object to the use of the term "dictates" to describe the behaviour of Bank staff, when both the participation and the agenda for the 1997 consultation were discussed in a "give and take" way.

Second, we would like to assure you that the Bank is "committed to a process of dialogue and consultation" with the environmental NGOs - not just those from the CEEC but also those from other regions where the Bank is active - and it should be remembered that it was a Bank initiative to launch a series of formal meetings in the first place in 1995.

Third, on the issue of the institutional framework of the consultation process, the ground rules cannot be set by one side alone. You must understand the factors which drive the Bank as much as the Bank tries to understand the interests that you represent, and EIB staff have been at pains on several occasions to explain to you and your colleagues the principles which govern the activities of the Bank and to describe its achievements and the challenges.

Fourthly, this brings us to the "basic principles" of the dialogue set out on page 1 of your letter under reference. On point (1), we have already sent you a copy of our recent Bank statement on "information Policy", being one example of the tangible progress made since the 1996 meeting. The scope and guidelines of the policy are fully consistent with the "Rules on Public Access to Documents" applicable to EU institutions. In line with the statement - a matter made clear on various occasions in the past as well as in the many Bank letters which you quote on page 3 of your letter the Bank does not make available information to the public, such as environmental impact assessments and cost-benefit analyses, on individual projects.

On point (2), It must be recognised that the Bank is the financing arm of the EU charged with the implementation of Community policy, itself the outcome of a democratic process. But it is an autonomous body and responsibility for lending and other banking decisions resides, according to the provision of the Treaty of Rome and the Bank's Statute, in its own decision-making organs. We do not share your view that "participation" in the Bank's decision making process is "legitimate", though naturally, on occasions, the Bank seeks and takes into account the views of third parties, like NGOs. The most appropriate way for NGOs to try to influence projects for which EIB finance is being sought is through local institutional arrangements for public participation.

By way of summary, we are keen for the process of consultation on environmental matters between the CEE Bankwatch Network and the EIB to continue, according to the Mission of the Bank and its operating policies and practices, of which you should now be fully aware. Having discussed the matter with Rudolf de Korte, vice-president responsible for the environment, within this framework, we would be pleased to invite you and a small number of colleagues to visit the Bank for an informal exchange of views on how the process of dialogue and consultation might be taken forward.

Henry Marty-Gauquié, Peter Carter

To: Mr Tomasz Terlecki

Copy: Mrs Magda Stoczkiewicz, CEE Bankwatch representative in Brussels

Subject: Meeting between EIB and CEE Bankwatch Network

Luxembourg, 17 December 1999

Dear Mr Terlecki,

Thank you for the e-mails of 19 October and 15 November, sent by Mrs Magda Stoczkiewicz on behalf of CEE Bankwatch, requesting the next of their regular meetings with the EIB.

In line with our joint conclusions of the meeting on 16 November 1998, the EIB agrees to follow-up with another full-day meeting, provided that CEE Bankwatch is still committed to a constructive relationship.

In this respect, we would like to remind you of the understanding between the EIB and Bankwatch that lies behind the Bank's willingness financially to underwrite the regular meeting and the open and frank discussions entered into on such occasions. However, we consider this understanding to have been endangered by Bankwatch in a number of respects since the last meeting.

First, we would like to refer to Bankwatch' non-productive practice, by distributing leaflets, at the EIB's press conference on the occasion of the annual meeting of its Board of Governors on 14 June 1999. Second, Bankwatch public comments at the launch of the EIB's Balkan Task Force represented an unfair use of *off the record* remarks made at one of our regular meetings. Third, we were surprised about the remarks in the "Mail" on Lesotho in view of CEE Bankwatch geographical interest.

I would also add that we still await background information on CEE Bankwatch that was last requested on 18 October by our colleague at the Brussels Office during his meeting with Mrs Stoczkiewicz. She agreed to send him details on your Statutes, financial status and situation, including funding sources, indication of membership, an activity report and organisation, management and staffing. By the way, we have recently introduced a Code of Conduct. Do you have a similar document?

Having said this, the EIB is keen to continue a constructive dialogue with CEE Bankwatch in the manner we have tried to establish in the past.

We suggest, in order to prepare for the next consultation, a small preparatory meeting early in the New Year. We very much look forward to your views on this matter.

With kind regards,
EUROPEAN INVESTMENT BANK
Henry Marty-Gauquié

Letter of Pavel Prybil to the Vice-President of the EIB concerning Czech motorways

Mr. Wolfgang Roth
vice-president, EIB
Mr. Peter Carter
Environmental Appraisal Unit, EIB

Prague, 24 July 1998

Dear Mr. Roth and Mr. Carter,

We are addressing you with this letter in respect to EIB loans for development of motorway network in the Czech Republic.

EIB has so far provided loans for the part of the D5 motorway connecting the Czech Republic with Germany, the link which is being considered as part of TEN.

Now there is another ECU 230 mil. to be provided for construction of the sections of the D8 motorway (Prague-Dresden), D11 motorway (Prague - Hradec Králové) and R1 (Prague ring), from which only D8 is included in TEN scheme.

We are surprised by the fact, that your bank provides loans for concrete sections of above mentioned motorways even under the circumstances when there is no final decision about their construction taken. Currently strategic EIA is being carried for "Transport Network Development Conception till 2010" (TNDC), which assesses three options of the transport network development in our country. Not only routes of possible new links but also their existence as such is being considered and none of those sections for which EIB is providing its loans is definitely approved yet, because after SEIA the final form of TNDC must pass through the government.

Furthermore, specifically the routes which EIB decided to provide loans for are extremely controversial from the point of environmental protection:

D8 motorway section 0805 (Lovosice-Øehlovice), as it is planned today, should pass through Èeské støedohoøí Protected Landscape Area. If this will happen, the law on nature protection (No. 114/1992 Sb.) will be clearly violated, as it literally forbids construction of motorways in such areas. The alternative proposal which should preserve natural values of these mountains - a pearl of the severely damaged North Bohemian region - is under assessment now in frame of the SEIA on TNDC and the route including 0805 section, which was roughly marked already in 1963 when there was no environmental legislation, is put under serious doubts.

D11 motorway in the sections 1104 and 1105 (Libice nad Cidlinou - Hradec Králové) faces similar problem. Not only that it will degrade natural value of number of nature reserves, but it is supposed to cut the most valuable one: Libický luh National Nature Reserve (highest level of protection). A few years ago, EIA documentation for this section of the D11 didn't take into account any alternative options (neither the 0 option) and possibility to meet transport capacity needs without cutting trees in 100 m wide stripe in Libický luh are being considered just now in the SEIA on TNDC as well.

The situation with Prague ring motorway is even more complicated because except of the assessment in the same strategic EIA process new concept of the city and use plan is being discussed at this period and concretely the R1 route became an object of number of concerns because of its future impacts both on environment, recreation zones and also on densely populated areas.

Taking the role which EIB is playing in providing sources for development of road infrastructure with regret we have to express our feeling that despite its pro-environmental rhetoric the bank does very little to prove its concern on environmental impacts of its loans and on public involvement. Therefore, no mission was announced to us when the EIB transportation loans under preparation, although we have expressed our

serious interest in it (to cite from your letter: „It is not for the Bank to discuss individual projects with Friends of the Earth or other civil organisations,, H. Marty - Gauquié and Y. Berghorst, letter from 26 September 1997).

We are also exasperated by the fact that the bank doesn't show any interest in contacts between NGOs and EIB representative for the Czech Republic (letters we have addressed to him sometimes were not responded, once the letter was responded by a different person, with explanation who are the people we should address at the bank).

Another concern we must repeat again is connected to transparency of EIB's global loans. EIB and its intermediaries upon requests didn't provided us with the information about concrete flow of the money from global loans. Under our understanding, this information shouldn't be considered as a confidential one, because we are only interested on the purpose for which the money were used and we do not demand any information about recipients of the loans, project details etc.

In respect to above written, we ask the EIB:

1. To begin to give serious interest on the environmental impact of its lending activities. This must include also announcements of upcoming missions related to the projects with environmental impacts at least to those civic representatives who have previously shown interest in being involved in the preparatory phase of the loan consideration.
2. To adopt such a policy on disclosure of information, that will ensure public access to the information about the direction of the loans provided and will give us the chance to meet EIB missions in the preparatory phase of the project and to discuss possible concerns.
3. To abandon policy when country officers do not react on the letters. We do not see the reason, why we shouldn't keep contacts with EIB representative for the Czech Republic. Under our opinion this is in full accordance with subsidiarity principle, which is highlighted by the EU, because the country representative should be much more aware about local situation than the central office personnel who deal with scope of other issues.
4. In the concrete case of infrastructure development in the Czech Republic we ask the EIB to interrupt its funding for construction of motorway network at least until the plans will pass through governmental approval. In respect to above mentioned topic we are ready to meet EIB representative and provide him/her with the detailed description of current situation.

We would like to express our hope that serious concerns we have expressed about the EIB's policy in respect to public participation and information disclosure will be helpful in transforming the EIB - as the EU's main financing institution of the EU - into a body which will respect participatory mechanisms on all societal levels as it is proclaimed by number of EU policies. We are also looking for a useful discussion about the future ways of our mutual communication during the meeting between EIB and environmental civic initiatives from Central and Eastern Europe in November.

Yours sincerely,

Pavel Pribyl

CEE Bankwatch Network Co-ordinator for the Czech Republic

*cc: Mr. Jean-Jacques Schul, Operations Evaluation Unit
Mr. Peter Bond, director of Infrastructure I Dept.*

Letter to the Vice-President of EIB concerning consultations (1998)

Rudolph de Korte
Vice-President
European Investment Bank
Budapest, 28 December, 1998

Dear Mr. De Korte,

We would like to thank you for the opportunity to have a meeting with you and your staff on 16th November. The CEE Bankwatch Network hopes that the two meetings we have had with the EIB staff suggest a trend, which could be characterised in the future by increased openness and mutual productivity.

Mr. Henry Marty-Gauquié noted during the morning session that there is a difference between the perception of the Bank and the reality of the Bank. According to him, the Bank is more environmentally friendly in its loans and policies than we, as environmental NGOs perceive it to be. We hope that during the process of future consultations and interactions we will get to a point where we will have the chance to understand the 'reality' of Mr. Marty-Gauquié's reference and where there will be no further environmentally and socially destructive projects. During the process of future consultations and interactions we hope that it will be possible to get to know the reality he referred to, and that there will be no environmentally and socially destructive projects disturbing the picture. NGOs are willing to co-operate with the Bank if it is willing to embrace in concrete ways the principles of environmentally sustainable development and democracy, and to make them operational at national and local level.

We arrived in Luxembourg having accepted for that event the limitations the EIB placed on our discussions. However, we had the hope that despite these limitations we would have the chance to get a better understanding of the working methods and decision-making logic of the Bank, along with candid exchanges of views on the themes of transport and waste management.

We would like to thank the organisers for the presentations on the legal framework of the EIB's operations as well as on the economic valuation of environmental externalities. We would like to encourage the EIB to transfer the academic content of this research to the operational level soon, and we hope to hear about the internalisation of externalities in solid waste, energy and transport related projects, among others.

During our meeting it was stated that it is not possible for the EIB to apply Community legislation in Central and Eastern European countries due to existing differences in legislation. We hope that in the future the EIB will be able to follow relevant EU regulations even in those countries, or that it has developed clear and detailed sectoral policies and procedures to be applied in these countries. Development of these policies and procedures would provide tools to ensure project quality and would provide appropriate benchmarks for the public and other bodies to evaluate progress.

Concerning legal matters, we recommend that the EIB take steps during the next year to incorporate important parts of the soft *acqui* into its practices (e.g. Strategic Environmental Assessment, Integrated Pollution Prevention and Control) as they will become part of the legally binding *acqui* during the next few years.

The issue of transport still remains one of the areas where active dialogue is necessary between the Bank and NGOs as the discussion only highlighted the importance of the issue. We believe that smaller group meetings focused on this theme would be beneficial for both parties. In this way the obvious time pressure which was present at the meeting would be relieved and more expertise could be represented from the NGO side. Such meetings could be held in the region including the possibility to meet project missions.

We believe that to achieve sustainable mobility it is necessary to take into account the whole transport system in the accession countries. Therefore, before lending, the EIB should demand from the borrowing countries clear and integrated national transport policies, drawn up according the sustainable development requirements. Such policies should answer not only international, but also national and local transport

needs, and would serve as basis for EIB lending for particular transport projects. At the moment we can observe a very incoherent approach. Insufficient priority is given to road, rail, and surface public transit system maintenance and upgrading, while an inordinate share of funding is dedicated to environmentally damaging transport investments, such as new road construction and aviation. Because EIB lending requires local matching funds, these new constructions projects contribute to the neglect of rail systems, road maintenance, and public transport.

While we applaud the independence of the EIB in not blindly considering all of the TINA corridors automatically eligible for financing, for having your own economic, environmental and financial appraisal independent of the DG VII, and for considering funding public transit and other projects which are primarily of national or regional rather than merely international concern. Past funding of certain road corridors of dubious economic importance and of questionable environmental impact indicates the need for both re-evaluation the EIB's appraisal criteria and developing new publicly/available criteria in consultation with experts in the field, national governments, other IFIs, and NGOs.

In particular cases, where there is a suspicion that environmental standards are being violated (as with the Hungarian M0 case), the Bank should make an effort to verify how well the promoter fulfils their environmental obligation, as well as the way the public participation process has been implemented. We also believe, that for the future it is important for EIB to sign as soon as possible the Memorandum of Understanding with DG VII, to ensure better evaluation of financed projects.

On waste management, we think that time pressure did not let us to elaborate the topic properly. Our experts emphasise that the use of "waste pyramid" is necessary before the acceptance of any project. We think that the option of a waste incinerator should normally be the last possible tool, and we note that it can avoided by carefully analysing and investing in other options.

We are looking forward to a continuing dialogue with you and your staff about these issues.

Yours sincerely,

Jozsef Feiler

Policy Co-ordinator

Letter to the High Level Steering Committee on the role of EIB in Balkan reconstruction

DATE: October 4, 1999

TO: Members of High Level Steering Group on Economic Co-ordination in South-Eastern Europe

James Wolfensohn, President, World Bank

Horst Kohler, President, EBRD

Sir Brian Unwin, President, EIB

G-8 Ministers of Finance

RE: EIB's Involvement in Balkan Reconstruction

Dear Sirs

CEE Bankwatch Network is requesting your intervention in the announced intention of the European Investment Bank to take the lead in infrastructure development in South-eastern Europe. As the representative of non-governmental organisations in 11 countries of Central and Eastern Europe, our primary goal is to monitor the activities of international financial institutions in the region from the aspect of democratic decision making, transparency, and environmental and social

concerns of local population. On this basis, we believe EIB's lead would be detrimental for the following reasons:

- Among the international lending institutions active in the region, the EIB is the least transparent and claims to be accountable only to the market. It is not willing to adopt an information disclosure policy similar to the ones already established and practised by other international financial institutions such as the World Bank and the EBRD, nor are they forthcoming in their interaction with the population impacted by its projects.
- EIB currently has a centralised infrastructure based only in Luxembourg. This inaccessibility will further limit access to information and participation of the concerned public in Balkan countries. In addition, this lack of transparency and accountability increases the possibility of corruption in the reconstruction process.
- The EIB lacks clear policies for outside the European Union. This lack of sectorial and participation policies leads to problematic projects such as the M0 highway in Hungary, which was suspended due to violation of national legislation and is under investigation by the European Ombudsman.
- The size of project portfolio managed by the EIB and the number of staff it employs makes it physically unable to conduct proper project preparations and execution.

The Balkan reconstruction should not only be about the investment into the infrastructure, but also about strengthening the democracy and civic society in the Balkan countries. Democratic decision-making in the use of rehabilitation funds is critical for the economic, political, and social relationships between the Balkan countries. The international financial community must seek input from the affected communities, local authorities, NGOs, expert groups and trade unions on what needs to be done and how it should be accomplished. They must work in a clear and transparent structure, adhering to their own policies and making thoughtful decisions that include the rights and opinions of civil society. On this basis, we would like to ask you to consider carefully which international financial institution should lead the infrastructure reconstruction in South-Eastern Europe.

Sincerely,

Tomasz Terlecki, CEE Bankwatch Network

EIB's reaction to Bankwatch's letter to the High Level Steering Committee

6 October 1999.

Dear Mr Terlecki,

I refer to your fax of 5 October 1999 concerning the European Investment Bank's involvement in Balkan reconstruction. I have been asked on behalf of the President of the Bank to make a number of comments.

The role of the EIB, as the European Union's long-term financing institution, is to offer its exceptional expertise in infrastructure financing as part of a clearly defined European Union involvement for supporting Balkan reconstruction. The EIB does not operate in a policy vacuum in Central, Eastern or South-Eastern Europe, but finances priority projects which comply with the Bank's strict criteria for intervention, namely economic, financial, technical and environmental, within nationally set priorities, within the framework of the 'European Union's policy for the countries concerned. This wider EU support framework also includes grant aid managed by the European Commission, which is used, where appropriate, for helping social and institutional building.

The EIB's readiness to take a lead role in infrastructure financing is a natural one, taking into account its long-standing experience, based on over 40 years of financing projects, in particular in the infrastructure sector, applying the same high appraisal standards both within the European Union and outside. It is also in keeping with its responsibilities as the largest international long-term lender in the European region.

As regards the Balkans, the possible role for EIB action was fully disclosed in the report we published last week on "Basic infrastructure investments in South-Eastern Europe" which sets out a priority list of projects amounting to some EUR 6 billion. The EIB has been active in the region since 1977 and its action programme has been designed within the context of the international community reconstruction effort in full co-ordination with the UNMIK, the Stability Pact and the High-level Steering Group on Economic Co-ordination in South-Eastern Europe, which includes government and the other main international financing institutions.

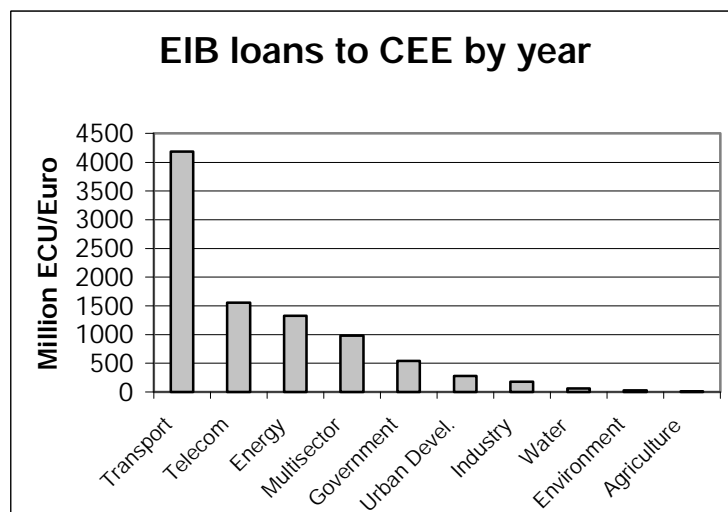
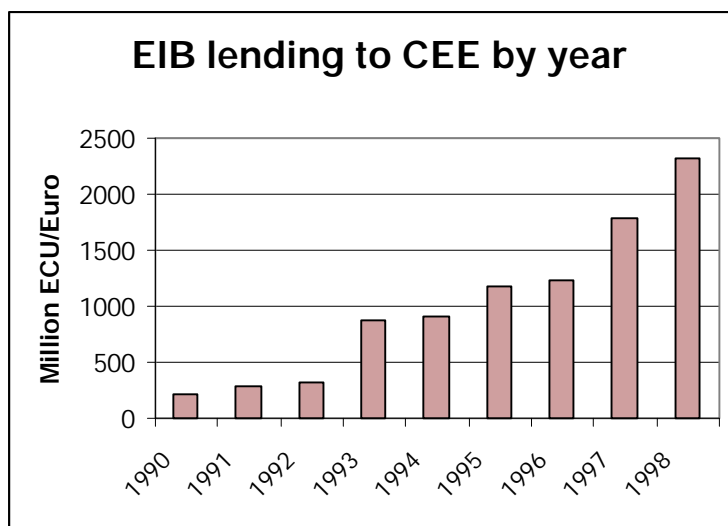
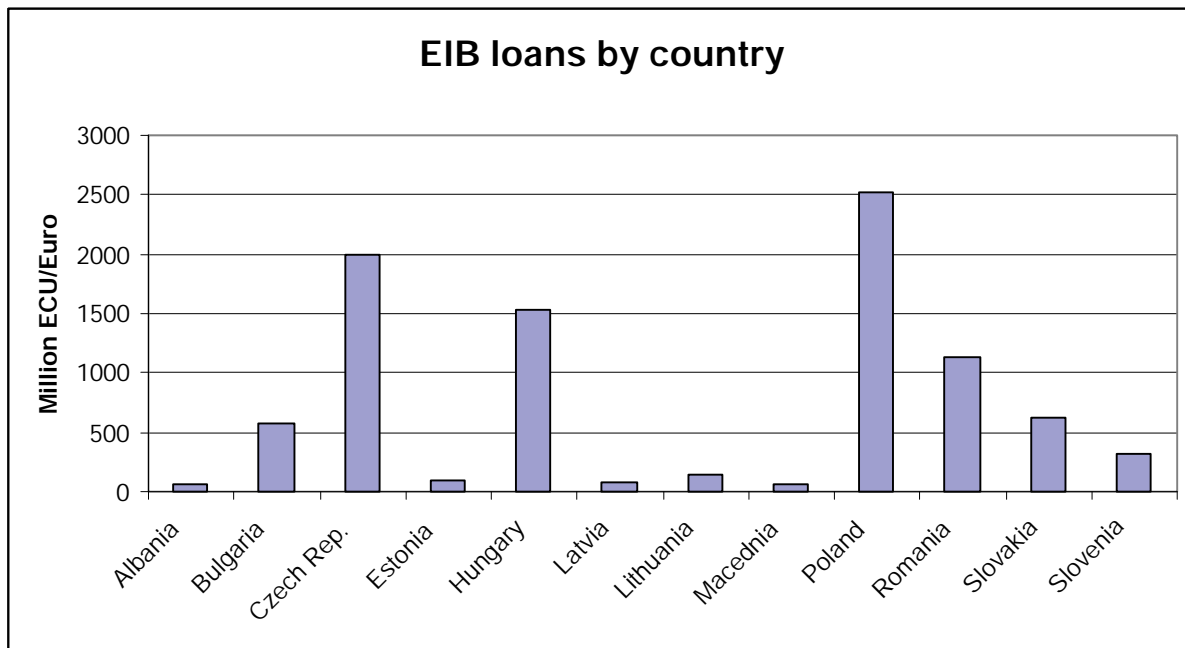
The EIB's ability and efficiency in financing investment in the Balkan area is assured through our newly established Balkan Task Force, backed up by the EIB's financial, engineering and economic experts.

I must completely reject the accusation of lack of transparency. The EIB's public disclosure policy has been clearly laid down in document that are themselves public. The EIB also has a set of relations with NGOs both within and outside the EU, of which CEE Bankwatch is one. In your case we have held yearly meetings and have a regular flow of correspondence and we should be glad to continue discussions with you on a frank and constructive basis.

In view of the distribution of your letter, a copy of this letter is being sent to the Presidents of the World Bank and EBRD and made available to interested news media.

Henry Marty-Gauquié
Director of Communication
Luxembourg,

Annex II. Portfolio of the EIB in Central and Eastern Europe



List of EIB projects in Central and Eastern Europe (1991-1998)

Financial Year 1990

Country	Project's short description	Amount Million ECU	Source of info ⁶⁹
Hungary	Hungarian Electricity Enterprise - Upgrading of the power-line system, feasibility study about the possibility of linking eastern and western European power-line systems	15,00	AR, p.91
Hungary	Global-loan to Inter-Europa Bank for financing small and medium scale manufacturing and tourism, as well as energy saving and environmental projects	25,00	AR, p.91
Hungary	Hungarian State Telecommunications Enterprise - Modernisation and expansion of the telecommunications	80,00	AR, p.91
Poland	Polish Oil and Gas Society - Expansion of gas production and distribution, opening of new deposits, improvement of transport	50,00	AR, p.91
Poland	Global loan to Export Development Bank for financing small and medium-sized enterprises in industry and tourism, as well as small-scale environmental protection and energy saving schemes	25,00	AR, p.91
Poland	Polish Railway Society - Modernisation of railway company's own telecommunications network and locomotive repair centers	20,00	AR, p. 91

Financial Year 1991

Country	Project's short description	Amount Million ECU	Source of info
Hungary	Magyar Villamos Művek Tröszt – Modernisation of the Heat & Power Plant Kelenföld near Budapest	35,00	AR, p.94
Hungary	Global Loan to the National Bank of Hungary for financing via local banks industry, tourism, as well as energy saving and environmental projects	80,00	AR, p.94
Poland	Global Loan to the Polish Development Bank for financing - via local banks - small and medium scale projects in industry and tourism; and small environmental protection and energy saving schemes	75,00	AR, p. 94
Poland	Modernisation and expansion of telecommunications	70,00	AR, p.94
Romania	Loan to the Romanian Government for the Regia Autonoma de Electricitate for the rehabilitation of two brown-coal-power-stations (Rovinari & Turceni)	25,00	AR, p.94

Financial Year 1992

Country	Project's short description	Amount Million ECU	Source of info
Bulgaria	Loan to Republic of Bulgaria for Nazionalna Electriciska - Compania Completion and upgrading of the coal-fired power station Maritza Ost II	45,00	AR, p.96
Bulgaria	Bulgarian Post and Telecommunications Co Ltd - Modernisation of telecommunications network	70,00	AR, p.96
Czech Republic	Global Loan to Czech National Bank for financing a credit line for SME	57,00	AR, p.85
Hungary	Hungarian Ministry for transport - Upgrading of air traffic control system	20,00	AR, p.96
Hungary	Loan to Republic of Hungary - Building of a bypass road near Sopron and Szolnok as well as rehabilitation measures	50,00	AR, p.96
Poland	Polish Transport Ministry - Modernisation of Warsaw (Okecie) airport	50,00	AR, p.96
Slovak Republic	Global Loan to the National Bank of Slovakia for financing a credit line for SME	28,00	AR, p. 96

⁶⁹ AR stands for EIB Annual Report in the respective financial year.

Financial Year 1993.

Country	Project's short description	Amount Million ECU	Source of info
Bulgaria	Global loan to Bulgaria National Bank for financing small and medium size projects	30,00	
Bulgaria	Loan to Republic of Bulgaria (part of TEN) - Upgrading of air traffic system	30,00	AR, p.99
Bulgaria	Loan to the Republic of Bulgaria - Improving of appr. 800 km primary transit roads and motorways	21,00	AR, p.99
Czech Republic	SPT-Telecom - Modernisation and expansion of telecommunication networks	65,00	AR, p.99
Czech Republic	Skoda automobilova - Modernisation and expansion of the motor-car plant Skoda in Mlada Boleslav	100,00	AR, p.99
Estonia	Global Loan to Eesti Bank, via the Central Bank of Estonia, for financing SME-industrial, tourism, energy saving and environmental projects	5,00	AR, p.99
Hungary	Hungarian electricity enterprise - Improvement of the electricity system, feasibility study concerning the linking of Hungarian and western European power-line systems	20,00	AR, p.99
Hungary	Republic of Hungary - Building and rehabilitation of parts of transit-roads and bypass road north of Budapest	72,00	AR, p.99
Poland	Polish Republic - Reafforestation of 17.000 ha agricultural area	13,00	AR, p.98
Poland	Global Loan to the Polish Development Bank for financing - via local banks - small and medium scale projects in industry and tourism; and small environmental protection and energy saving schemes	50,00	AR, p.98
Poland	National Railway enterprise (part of TEN) - Rehabilitation of railroad Berlin-Warsaw	200,00	AR, p.98
Romania	Global Loan to Ministry of Finance for financing SMEs via selected Romanian banks	30,00	AR, p.99
Romania	Loan to the Republic of Romania (Finance Ministry) for the Romatsa R.A., part of TEN - Upgrading of air traffic control system	24,00	AR, p.99
Romania	Loan to the Republic of Romania (part of TEN) - Rehabilitation of trunk road network	65,00	AR, p.99
Slovak Republic	Loan to Pozagas, a.s. - Underground natural gas storage facility 40 km north from Bratislava	55,00	AR, p.99
Slovak Republic	Loan to Slovenske Telekomunikacie - Expansion and modernisation of the telecommunications network	45,00	AR, p.99
Slovak Republic	Loan to the Slovak Republic - Rehabilitation of road network	10,00	AR, p.99
Slovenia	Slovenske Zeleznice - Rehabilitation and modernisation of main East-West railway lines	47,00	AR, p.99

Financial Year 1994.

Country	Project's short description	Amount Million ECU	Source of info
Bulgaria	Upgrading of air traffic system (part of TEN)	30,00	PR
Czech Republic	Oil-pipeline between Czech Republic and Germany	100,00	PR
Czech Republic	Modernisation of telecommunication networks	30,00	PR
Czech Republic	Modernisation of the railway-line Berlin-Praha-Vienna	125,00	PR
Estonia	Modernisation of the district heating systems of Pärnu and Tallinn	7,00	PR
Estonia	Modernisation of Air-traffic control system	20,00	PR
Estonia	Construction of a deep-sea terminal at the Port of Muuga	15,00	PR
Hungary	Global Loan to National Savings and Commercial Bank -OTP for financing small municipal infrastructure schemes	40,00	PR
Hungary	Modernisation and expansion of the telecommunications	100,00	PR

Latvia	Global Loan to the Investment Bank of Latvia (LIB), for financing SMEs in industry, tourism, energy saving and environmental protection	5,00	PR
Lithuania	Modernisation of the international airport of Vilnius	10,00	PR
Poland	Global Loan to Export Development Bank for financing small and medium-sized enterprises in industry and tourism, as well as small-scale environmental protection and energy saving schemes	13,00	PR
Poland	Modernisation and expansion of telecommunications	150,00	PR
Poland	Rehabilitation of the highway Wroclaw - Opole; and construction of a new highway from Opole to Gliwice (part of TEN)	125,00	PR
Romania	Rehabilitation of the gas distribution network	50,00	PR
Romania	Upgrading of air traffic control system	16,00	PR
Slovak Republic	Expansion and modernisation of telecommunications network	20,00	PR
Slovak Republic	Upgrading of air traffic control system	15,00	PR
Slovenia	Rehabilitation of main East-West railway lines	13,00	PR
Slovenia	Building of Ljubljana-Celje motorway	28,00	PR

Financial Year 1995.

Country	Project's short description	Amount Million ECU	Source of info
Albania	Global Loan for SMEs	5,00	PR
Albania	General Roads Directorate of the Ministry of Construction and Tourism - rehabilitation and improvement of some 94 km of Albanian's main east-west road	24,00	PR
Albania	Modernization of the port of Durres	5,00	PR
Bulgaria	Upgrading and reconstruction of motorways and primary transit roads	60,00	PR
Czech Republic	Loan to a Czech power utility to help finance its large environmental program which will bring the largest lignite-fired power stations in compliance with international standards.	200,00	PR
Czech Republic	Loan for the upgrading of some 450 km of European 'E' roads and for the construction of four bypasses, for road maintenance equipment and technical assistance.	60,00	PR
Estonia	Loan to the Estonian Investment Bank for financing SMEs in industry, tourism and services, as well as energy saving and environmental protection schemes	5,00	PR
Hungary	Global Loan to K&H Bank and OTP Bank and to affiliates of four foreign banks for financing industry, tourism and infrastructure projects	150,00	PR
Hungary	Hungarian telecommunications company MATÁV - expanding and modernising the national telecommunications network	50,00	PR
Lithuania	Loan to the Lithuanian Development Bank for financing SMEs in industry, tourism and services, as well as energy saving and environmental protection schemes	5,00	PR
Lithuania	Modernisation and expansion of the Baltic port of Klaipeda	14,00	PR
Poland	Global Loan to four Polish subsidiaries of European Banks to finance industry -, tourism -, and infrastructure projects	100,00	PR
Poland	Loan to finance upgrading of a 37km section of the TEN E-20 railway line Berlin-Warsaw-Minsk-Moscow	40,00	PR
Poland	Loan to a waste-water treatment plant in Warsaw	45,00	PR
Romania	RENEL-Renia Autonoma de Electricitate - upgrading of the heat and power generation and electricity transmission and distribution network	60,00	PR
Romania	Loan to the Regia Autonoma de Telecomunicatii (ROM-TELECOM R.A.) for the expansion and modernisation of the national telecommunications system	80,00	PR
Romania	Romtelecom S.A. - modernisation of telecommunications network	80,00	PR

Romania	Loan for investments in the Black Sea Port of Constanta to repair storm and accident damage to the Northern breakwater and complete all the breakwaters of the port.	35,00	PR
Slovak Republic	Modernisation and expansion of the international pipeline transporting Russian gas through the Slovak Republic to western Europe	30,00	PR
Slovak Republic	Global Loan for financing SME	50,00	AR
Slovenia	Druzba za Avtocest v Republiki Sloveniji (DARS) – modernisation of the Slovenian road network	32,00	PR

Financial Year 1996.

Country	Project's short description	Amount Million ECU	Source of info
Albania	Power Transmission Network - rehabilitation and improvement of the power transmission network in Albania. Investments comprise transmission sub-station (Durrës, Vlora, Babice) and 140 km transmission lines	12,00	PR 36/96
Czech Republic	International syndicate composed of 12 international banks is guaranteeing the loan to the Czech power utility C'EZ, a.s. Loan is for large environmental investment program (glue gas desulphurisation equipment to "clean" major lignite-fired power plants)	100,00	PR 15/96
Czech Republic	Loan to Sko Energo Fin s.r.o. to finance the replacement of Skoda's lignite-fired combined heat and power plant at Mlada Boleslav (260 MWth for heat and 70 MWe for electricity production)	55,00	PR 39/96
Czech Republic	Loan for Skoda - Volkswagen has finalised the loan facility extended by the EIB to Skoda automobilova a.s. the funds will help finance assembly facilities, a paintshop and a quality control system at Skoda's car plant in Mlada Boleslav	100,00	PR 40/96
Czech Republic	Loan to the Czech State Railway Company for modernising the 216 km stretch of the Warsaw-Vienna railway line between Petrovice and Breclav	200,00	PR 39/96
Estonia	Rehabilitation of the Tallinn-Narva railway line (60 km)	16,00	PR 14/96
Hungary	Extension of the M3 toll motorway from Budapest to the Ukrainian border	95,00	PR
Latvia	Hydropower Project - loan for rehabilitation works and dam safety improvements for the Daugava hydropower plants.	6,00	PR 31/96
Latvia	Global Loan to the Investment Bank of Latvia (LIB), for financing SMEs in industry, tourism, small scale infrastructure, energy saving and environmental protection	5,00	PR 34/96
Lithuania	Extension of the gas transmission and distribution	10,00	PR
Lithuania	Global Loan to the Lithuanian Development Bank for financing SMEs in industry, tourism, small scale infrastructure, energy saving and environmental protection	5,00	PR 32/96
Lithuania	Upgrading of Via Baltica - upgrading of the section between Kaunas and the Polish border to a 2-lane highway	20,00	PR 22/96
Lithuania	EIB loan to the city of Riga. Loan will be lent to Riga Water to rehabilitate and improve the water supply and waste water system	15,00	PR 19/96
Poland	Gas Storage Facilities - loan provided for the conversion of a depleted gas field at Wierchowice, near Wroclaw, into an underground gas storage facility.	180,00	PR 25/96
Poland	Global Loan to Deutsche Bank Polska S.A. for financing industry, tourism and infrastructure projects in Poland	100,00	PR
Poland	TEN A-4 motorway - rehabilitation and upgrading of a 70 km road between Wroclaw and Opole to motorway standard and 56 km of new motorway between Opole and Gliwice.	100,00	PR

Romania	Bucharest Metro - loan for the modernisation of the metro network in Bucharest (acquisition of technologically advanced trains, completion of the construction and equipment of a 3,3 km section between North Railway Station and 1st May Square)	20,00	PR 46/96
Romania	Romanian Road Network - upgrading some 180 km of primary transit roads in Romania over the period from 1997-2001. In particular: rehabilitation of the E 81 linking the cities of Cluj Napoca and Satu Mare	70,00	PR 30/96
Slovak Republic	Gas Pipeline - loan to Slovensky Plynarensky Priemysel (SPP) for upgrading the international pipeline transporting Russian gas through Slovakia to Western Europe	30,00	PR 38/96
Slovak Republic	Power Project in Slovakia - loan to Slovenske Elektrarne (SE), for the refurbishment of a power plant at Vonjany	70,00	PR 33/96
Slovenia	Loan for upgrading the road Ljubljana - Celje to a highway	30,00	EIB Information

Financial year 1997.

Country	Project's short description	Amount Million ECU	Source of info
Bulgaria	Upgrading Sofia Airport - loan will help finance a new passenger terminal building and extend the main runway.	60,00	PR 21/97
Czech Republic	Loan for flood damage repairs - rebuild roads, railroads, flood protection, water schemes and municipal infrastructure	200,00	PR 37/97
Czech Republic	Immediate assistance for flood damage - help reconstruct a hospital in Olomouc	0,50	PR 28/97
Czech Republic	Loan to SPT Telecom a.s. to help finance the company's ongoing investment program covering the digitalisation of some 1.1 million telephone lines and the installation of 850 000 new lines.	100,00	PR 37/97
Czech Republic	Railway Modernisation (TEN) - upgrading of the Czech section of Berlin-Prague-Vienna railway line (renewal of tracks, bridges + tunnels, electrification of 75 km of track, modernisation of stations, new communications + train control system)	75,00	PR 14/97
Czech Republic	Motorway Construction - construction of a 62 km motorway stretch between Pilsen and the Czech-German border – part of TEN corridor Nürnberg-Prag	165,00	PR 27/97
Estonia	Global Loan for financing small and medium-scale ventures (Union Bank of Estonia)	10,00	EIB Info.
Estonia	Loan to Tallinn Airport Ltd. will help finance investments to bring services up to international standards and up to 1.4 million passengers per year.	10,00	PR 34/97
Hungary	Magyar Villamos Művek Rt. (MVM) - financing of a new gasoil-fired open-cycle combustion turbine on the site of a former power plant at Lörinci to supply peak load power	35,00	PR 52/97
Hungary	Loan to the Hungarian telephone company MATAV in support of its ten year investment program for bringing the Hungarian telecom. network to EU standard	168,00	PR 20/97
Hungary	Hungarian Railways - to improve efficiency, service and competitiveness of the Hungarian railways	120,00	PR 12/97
Latvia	Upgrading of Ventspils Port - improve access to the port through dredging works on the channel entrance and in the river-harbour in order to accommodate larger vessels, as well as the related reconstructing and strengthening of the river quay	20,00	PR 19/97
Lithuania	Mobile telephone network (GSM) – development of a GSM mobile telephone network in Lithuania. The new digital cellular network covers the main cities and transport corridors, forming the core investment which can be extended later	15,00	PR 03/97

Lithuania	Mobile telephone network (GSM) – loan to UBA Bité GSM, the private telephone operator in Lithuania, for expanding the mobile telephone network	7,00	PR 48/97
Poland	Immediate assistance for flood damage - help restore the ancient University library at Wroclaw	0,50	PR 28/97
Poland	Flood Damage Reconstruction - a) ECU 225 mio. to Republic of Poland to rebuild roads, municipal infrastructure, flood protection infrastructure; b) ECU 75 mio. to railway company PKP for the reconstruction of tracks, viaducts, electrical equipment, etc.	300,00	PR 44/97
Poland	Global Loan (via Vereinsbank Polska S.A.) for financing small and medium-scale infrastructure, industry, tourism, environmental and energy projects.	35,00	PR 33/97
Poland	City of Katowice – improving urban infrastructure in Katowice including the financing for two road bypasses, a pumping station for the sewage system and a municipal landfill	20,00	PR 46/97
Romania	Loan to Radet R.a. to finance the rehabilitation of the heat distribution grid in Bucharest	35,00	PR 41/97
Romania	MDB Sebes FRATI S.A. – Construction of medium-density fibreboard and special resins plant in Sebes	47,00	EIB Info
Romania	Loan to Romtelecom S.A. to help finance the company's ongoing investment programme including the installation of new switching and transmission equipment and optical fibre cables	40,00	PR 41/97
Romania	Romania for METROREX.R.A. – renewal of rolling stock and completion of network infrastructure on Bucharest metro	20,00	EIB Info
Slovak Republic	Loan to Slovenské Telekomunikácie, s.p. for the expansion (up to a telephone density of 35 lines per 100 inhabitants) and digitalisation (digitalisation rate up to 78% by the year 2000) of the country's telecommunications network	100,00	PR 45/97
Slovak Republic	GSM Network in Slovakia – development of the second mobile telecom. Network in the Slovak Republic. The loan to Globtel GSM a.s. helps finance the installation of two switching centers, some 500 base stations, 19 control stations	65,00	PR 47/97
Slovak Republic	Slovak Road Links With Austria And Hungary (TEN) – building of 18km of trunk roads linking the Bratislava with new border crossings to Austria and Hungary (road link is part of the TEN motorway network Nuremberg-Prague-Bratislava-Budapest and Vienna)	25,00	PR 17/97
Slovak Republic	Bratislava Road Bypass - finance a 6,5 km stretch of city motorway, including a 1,7 km viaduct, to by-pass the central Bratislava area and to link two existing motorway sections of the Nürnberg-Prague-Bratislava-Budapest corridor.	72,00	PR 54/97
Slovenia	GSM Network in Slovenia – development of the mobile telecom network in Slovenia; loan to MOBITEL d.d., a Slovenian telecom company to finance the installation of a switching center and several base stations, microwave radio links, equipment, buildings	45,00	PR 53/97

Financial Year 1998.

Country	Project's short description	Amount Million ECU	Source of info
Albania	New Durres-Tirana Road - 21km section of a new high capacity road between Durres and Tirana (TEN corridor VIII)	22,00	AR/1998
Bulgaria	Rehabilitation, upgrading and completion of some 600 km of priority transit roads	60,00	AR/1998
Bulgaria	Modernisation and expansion of main Bulgarian copper plant in Pirdop, east of Sofia	100,00	AR/1998
Bulgaria	Protection of areas along Black Sea coast and strengthening of sections of Danube River bank	25,00	AR/1998

Bulgaria	Upgrading Road Links to Greece – upgrading road sections located between Sofia and Kulata on the Greek border (E79), and between Orizovo and Novo Selo on the Greek border (E80/E85)	40,00	AR/1998
Czech Republic	Financing for small and medium-scale ventures; Global loan to: Commerzbank AG (10,00), Vereinsbank (CZ) a.s. (10,00), Bank Austria Creditanstalt Czech Republik a.s. (10,00), Deutsche Bank AG (10,00)	40,00	AR/1998
Czech Republic	Motorways Project - building of six sections of four-lane motorway and expressway mainly serving Prague, with a total length of 100 km (capacity of the completed sections we be around 40 000 to 45 000 vehicles per day)	230,00	AR/1998
Hungary	Loan for MOL's oil refinery and service station network - loan will cover one half of the investment cost for a delayed coker with an annual capacity of 1 mio. tons at the Duan Refinery + improvements to MOL's domestic service stations	125,00	AR/1998
Hungary	Construction of fourth metro line connecting South Buda and Pest	50,00	AR/1998
Hungary	Financing for small and medium-scale ventures; Global loan to Kereskedelmi es Hitelbank Rt. (K+H Bank), Budapest	30,00	AR/1998
Hungary	Improvements to urban transport, sewerage, solid waste disposal and urban amenities in Budapest	110,00	AR/1998
Hungary	Hungarian railways - EIB finances upgrading of 340 km of rail track on four lines (part of the core network on the priority international corridors Dresden-Budapest-Bucharest/Sofia and Trieste-Budapest-Lvov), in addition: equipment modernisation	60,00	AR/1998
Latvia	Modernisation of main east-west rail line Spa Latvijas Dzelzcelis	34,00	AR/1998
Latvia	Global Loan to Vereinsbank Riga, for financing small environmental energy saving, infrastructure, industrial and tourism projects in Latvia	10,00	AR/1998
Lithuania	Rehabilitation of road network	40,00	AR/1998
Macedonia	Motorway Network Development - loan helping to build two motorway stretches: 36 km on the E65 between Skopje and Tetovo, 31 km on the E75 between Stobi and Demir Kapija	70,00	AR/1998
Poland	Loan to Isuzu Motors Polska Sp. For a new Diesel engine plant in Upper Silesia (Katowice area) - the plant will provide 600 jobs and contribute to the restructuring of the former coal- and steel dominated economy of the region	110,00	AR/1998
Poland	Construction of 25 km section of A4 motorway south to Katowice	150,00	AR/1998
Poland	Construction of urban expressway in Katowice area	100,00	AR/1998
Poland	Construction of tramline in Cracow	45,00	AR/1998
Poland	Development of mobile telephone network	150,00	AR/1998
Poland	Construction of Poznan by-pass on A2 motorway	130,00	AR/1998
Poland	Construction of air separation and liquefaction plant near Katowice	30,00	AR/1998
Romania	Global Loan to ABN AMRO Bank (Romania) S.A. for small and medium scale-projects undertaken by Romanian companies and utilities, by joint-ventures and enterprises involving international partners. Mainly energy, telecom, industry and tourism projects	10,00	AR/1998
Romania	Road corridors – loan for upgrading the main European road corridors in the Transylvanian and Moldavia regions	225,00	AR/1998
Romania	national railway – modernise the railway line between Bucharest and Brasov to allow speed of 160 km/h for passenger trains to allow sustainable services	200,00	AR/1998
Slovenia	Major motorway project - 20 km motorway section between Sentjakob and Blagovica, north-east of Ljubljana, as part of the Priority Corridor V of the TEN from Italy to Ukraine	130,00	AR/1998
Slovenia	Global loan to Bank Austria d.d., Ljubljana	10	AR/1998
Slovak Republic	Construction of natural gas-fired combined heat and power plant in Bratislava	51	AR/1998

Annex III. - Questions raised at the European Parliament

Question on Sofia International Airport Upgrade and Extension Project

The Sofia International Airport Upgrade and Extension Project is funded by the EIB with ECU 60 million. The fund is for extension of the runway and for a passenger terminal. The contract is already signed. However, there is no concrete project drawn up and no EIA made on it.

There is only a general Master Plan for the Reconstruction of the Sofia Airport done by the British company "Sir Halkrow and Partners". A specific project is lacking.

In the Master Plan there are several variants proposed for the prolongation of the runway. Constructions are bound to begin without proper assessment of the variants and the project. There should be an EIA on the specific project executed and not only EIA on the general plan. At the public participation meeting on the EIA of the general plan there have been arguments raised against the current plan and alternative locations for the airport were proposed. None of these were taken into account.

The airport is situated in an unacceptable proximity to the city of Sofia. The noise and emission levels are above standards. There have been numerous protests and petitions against the further expansion of the airport by the local population.

Questions:

Why does the EIB proceeded with financing a project without it being actually specified, designed and an EIA executed on it?

How does the project and its preparation comply with the relevant European Community legislation which is the claimed guideline of the Bank in Central and Eastern European Countries? I would like to have a detailed answer with reference to every relevant piece of Community legislation with explanation of the way how compliance is achieved.

How does the EIB take into consideration the complaints and suggestion of impacted population?

What kind of documents support that the EIB took into consideration environmental viability of the project according to Community standards as guidelines? I kindly request the relevant project documents to be annexed to the answer.

Answer from Commissioner Hans van den Broek (17. June 1998)

EIB reported that the Bank has made a loan at 60 mill. ECU for modernisation of Sofia Airport including construction of a passenger terminal and an extension of the runway.

EIB went into this project in a relative early planning phase. The Bulgarian authorities had then prepared a master plan for the modernisation of the Airport, and this plan had been estimated as regards to its total influence on the environment. EIB could with satisfaction record that there already in such an early phase under the project development had been consistently a satisfactory estimation of the environmentally consequences and hold a public hearing. The mentioned estimation include the projects environmentally consequences on air, surface water, groundwater, soil, geologically conditions, flora and fauna, landscape, garbage and specially noise nuisance from air traffic. The estimation concluded in a conclusion that an extension of the runway towards east with 540 m. would bring the noise nuisance down on an acceptable level. Therefore become the extension of the runway kept in the revised master plan.

As a condition for the grant of the loan the EIB demanded that the existing masterplan would upgrade of competent international consultants so it fulfilled the international standards for extension of airports their are set up of the Organisations for International Civil Air-traffic (ICAO). This standards means among other things that the project is in agreement with the relevant international directions on the environmental area. All the results they had get with the above mentioned environmentally estimation has been verified of highly qualified experts in the light of ICAOs standards, and they will in the subsequent planning phases be taking into consideration in the future.

EIB guarantees that those requests will be complied and they will follow the similarly Community standards on the environmental area.

Question on Lihir Gold Mine in Papua New Guinea

July 1996 the EIB announced a 46 million ECU loan package to the Lihir Gold mine in Papua New Guinea. In the 30 years of operation 104 million tons of ore reserves will be exploited, producing 341 million tons of waste rock. The waste rock would be discharged into the nearby Louisiana harbour on the east coast of Lihir Island. The mining company Rio Tinto use the open pit cyanide leaching process, which is generally known to be highly polluting. During the mine's lifespan 89 million tons of toxic tailings are produced. The tailings will be treated, however the treatment water is also being discharged into a deep submarine out-fall. Trace metals in the treatment water would include copper, arsenic, cadmium, lead, chromium and mercury.

The American Overseas Private Investment Corporation declined to provide a political risk insurance in 1995 because of the above mentioned environmental impacts. it does not adhere to US standards regarding waste disposal.

Therefore the following questions are posed to the EIB:

1. Which environmental standards have been applied by the EIB when considering the Lihir Gold project?
2. Does the Lihir Gold Project adhere to environmental standards of the EIB?
3. As the project is operating already, how does the EIB intend to monitor the environmental impacts, and which criteria does the EIB apply if doing so?
4. What is the EIB's policy and practice about integration of compliance with multilateral agreements into the bankability criteria for project proposals?
5. How does the EIB take into consideration the principles and practices declared in the UN Convention on the Law of the Sea (date of entry into force 16 November 1994) with special attention to Part XII, Article 194.1. and Part XII, Article 196.1, when decided to support the Lihir Gold Mine Project?

Answer from the Commission (Yves-Thibault de Silguy)

With the evaluation of the Lihir-project in Papua New Guinea EIB used its usual environment standards. They can be found in The Political Environment Declaration. As from this declaration The Project meets all national and international relevant approved demands (specially those demands Australia's and USA's Environment Protection Offices' demands), and follow the best attainable and tested out environment-practice. The Project is also in agreement with FN's sea law convention, as Papua New Guinea has acceded to.

EIB-funded projects must be in agreement with those international declarations which the host country has acceded to. This country proper authority is formally responsible for such agreements is respected. In the case of Lihir was the grant to the environmental plan determined by that it would be submitted, sanctioned of and connected to a environment control- and surveillance program with extensive demands about reports to the different authorities of Papua New Guinea. From those and other information shall the entrepreneur regularly submit reports. Including independent investigations to EIB. Those demands have been kept.

Annex IV - Materials related to the M0 case

Letter to the EIB's President from NGOs

Sir Brian Unwin
President of European Investment Bank

12.11.1998. Budapest

Dear Sir Brian:

On behalf of the undersigned organisations, we would like to request that the European Investment Bank, together with the PHARE program, withhold further disbursements of loan and grant funds to the Hungarian Government for the M2 and M0 highway project, at least until a judgement is delivered by the Central Court of Pest on the legality of continuing construction.

The M0-M2 road construction violated several Hungarian laws.. First, the road will pass only 150 meters from a large apartment complex with 5000 inhabitants, and the major junction will pass within 150 meters of a nursery school. Experts agree that these locations will be exposed to levels of particulates, Nitrogen Oxides, and noise levels above those tolerated by Hungarian law. The construction permit was approved based on a map where this apartment complex did not appear. The road also passes through a Nature Preserve, and destroys certain rare plants protected by Hungarian law. While the District claims to have announced the public hearing, no one living in the District was aware of, or attended, the meeting despite the enormous interest in the project. This is not only illegal under Hungarian law, this clearly constitutes a violation of EU Directives requiring announcement in a major newspaper, and as such violates the policy of the EIB to conform to EU Directives when lending outside the EU. There is also some question as to the legality of the Environmental Impact Assessment. The EIA was performed under the old EIA law, and was initially rejected. While the area of the road under construction was not the primary concern raised in the old EIA, when the project went forward on the other section an EIA in conformity with the much stricter EIA law of 1996 should have been performed.

Whereas the process of Hungarian administration of justice is very roundabout, first trial out of order will be held on 14th January 1999. For this reason further decision of the Board of European Investment Bank basically influences the process of construction. This lawsuit is a precedent case in Hungary, the judgement may not be predicted. Because of decreasing value of the affected habitants landed properties not only financial compensation but also the removal of the construction can be ordered by the Court.

Ministry of Transport is willing to negotiate with the protesting local organisation on 11th November. Minister of Transport has ordered to stop the construction until the negotiation.

While we appreciate the reluctance of the EIB to impose conditionalities on the Hungarian Government, encouraging a legislative framework and fiscal responsibility, in harmony with the European Union, should be general policies of the EIB. In this respect, the loan for new construction along the M2-M0 was irresponsible, given the continuing insufficient level of investment in road maintenance, and over-emphasis on new construction, which is greatly contributing to the Hungarian debt. While we believe in the sincerity of the efforts of EIB staff to monitor the consistency of its projects with Hungarian law, EIB staff lacks the manpower and expertise to sufficiently monitor major infrastructure loans outside the EU where major environmental or social concerns are involved. Unfortunately, in Hungary citizens' groups still lack sufficient legal redress against violations of their own laws, let alone violations of EU directives and policies. This situation calls for a greater level of environmental and social due diligence at the EIB than is required for lending inside the EU.

We greatly appreciate your attention to this matter.

Sincerely,

Katalin Fokvári
President
Káposztásmegyer Environmental Protection
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Complaint submitted to the European Ombudsman

The European Ombudsman

COMPLAINT ABOUT MALADMINISTRATION

1. From: (name)

European Environmental Bureau

On behalf of : CEE Bankwatch Network

Address:

Tel/Fax:

2. What Community institution or body is the object of your complaint?

The European Commission	<input type="checkbox"/>	The Economic and Social Committee	<input type="checkbox"/>
The Council of the European Union	<input type="checkbox"/>	The Committee of the Regions	<input type="checkbox"/>
The European Parliament	<input type="checkbox"/>	The European Monetary Institute**	<input type="checkbox"/>
The Court of Auditors	<input type="checkbox"/>	The European Investment Bank	<input checked="" type="checkbox"/>
The Court of Justice*	<input type="checkbox"/>	Other	<input type="checkbox"/>

* except in its judicial role

** The European Central Bank (from 1.1.1999)

3. What is the decision or matter about which you complain? When did it come to your attention ? Add annexes if necessary.

European Investment Bank (EIB) finances the construction of Northern part of M0 orbital motorway (M0-M2 motorway) around Budapest with a 11 billion HUF (46 million ECU) loan. Planning and construction according to our opinion violated Hungarian laws, EU EIA Directive (85/337).

The 5000 habitants of the nearby housing estate affected by negative impacts of Northern route were only informed of the construction in the early spring of 1998, when they realised with alarm that excavation had begun 250 m far from the housing estate.

4. *What are the grounds for your complaint and what are your claims? Add annexes if necessary.*

Original plans for the Northern Section of the M0 were prepared, including the Environmental Impact Assessment, by UNITEF Ltd. in June 1994. This planned route connected the M3 motorway (coming from East-Hungary, Miskolc) with the main road no. 11 (coming from the North, on the western side of the Danube). According to this plan, the M0 would pass through an almost uninhabited area near the M3, then connect with the new M2 main road, (coming from Vác), which the EIB is also funding under the loan. **From there, the road would go through a 16 m high, 270 m long viaduct, which passed within 250-300 meters of a housing estate called Káposztásmegyer II. This housing estate has 5000 habitants. Junction 2, connecting the new M0 to a major arterial in the direction of downtown Budapest, is planned within 150 meters of a nursery school and within 400 meters of the apartment buildings.** Projected traffic backing up on two-lane roads feeding into the junction is only 15 meters from the apartment buildings, and runs between the local school, the nursery, and the apartments.

The ring road, and Junction No. 3, connecting the M0 to the M2, passes through a Nature Protection Area inhabited by *Hippophae rhamnoides*, a protected bush. **Furthermore, fencing around the area to protect it during construction, identified as a mitigation measure in the EIA, has not occurred, in violation of Act 53/1996, p. 31, which restricts all activity threatening to nature in Nature Protection Areas.**

According to many experts, the Nitrogen Oxides and particulates generated by the increased traffic on the road will be 25-30% above Hungarian ambient air and noise standards. New medical evidence indicates severe public health related risks of PM10 exposure, most of which comes from motor vehicles. In every kilometer 2 tons of pollution will be emitted daily. **The noise levels are also expected to exceed the limits and reach 70-76 dB in the day, 63-68 dB at night (counted to the year 2008). The officially accepted limit values are 65 dB in the day, 55 dB at night.** This violates not only the Hungarian Constitution (Act 20-1949 Par. 18) guaranteeing citizens a right to a healthy environment, but also the Regional Planning and Regional Development Act 21-1996 (par. 3), which stipulates that environmental considerations are as important as any other concern when making decisions about plans and projects.

The suggested mitigation plan mentioned in the EIA, planting trees around the construction site-new road, to create a green protection belt, will mitigate the problem, as it will take from 10 to 16 years for the trees to reach sufficient size to serve this purpose.

As traffic studies performed by for the Municipality of Budapest clearly indicate dramatic increases in traffic and related emissions, the construction of this part of the M0 will considerably worsen ambient air quality. As the northern sector of the M0 ring road is in the wind corridor from which clean air blows into the city of Budapest, it may well drive significant areas of the city into violation of ambient air quality laws. The team that performed the EIA, lacking access to a dispersion model, failed to determine the impact on ambient air quality in northern Budapest. In any case, it is clear that the project will significantly worsen air quality for a significant portion of the city, in violation of the Decision no. 28-1994 of the Constitutional Court, which blocks all new acts by the state which worsen environmental conditions.

These problems would have been pointed out in public hearings had any of the affected citizens or environmental groups been notified of a public hearing. The Ministry of Transport, Communication and Water Management (KHVM) signed a contract with UTIBER Ltd. on 19th December 1997 to begin work. The habitants of Káposztásmegyer II. were only informed of the construction in the early spring of 1998, when they realised with alarm that excavation had begun 250 m far from their homes. The indignant citizens formed an association, called Káposztásmegyeri Környezetvédők Köre Egyesület (Káposztásmegyer Environmental Protection Society, KKKE).

While the District claims to have announced the public hearing attended by 16 government officials, their admission that not one person showed up despite the obvious concern that the formation of KKKE indicates, clearly constitutes a violation of Act 53-1995, the law on the General Rules of Environmental Protection, which requires proper public notification, and Government Decree 152-1995, which requires that the hearing be published in a major newspaper. It also clearly constitutes a violation of EU Directives, and as such violates the policy of the EIB as Rules On Public Access to Documents (97/C/243/06) says: „recognises the legitimate interest of citizens of its shareholder States , as well of citizens in other countries where the Bank lends and borrows funds... , ...(EIB) is

committed to an active information policy“ to conform to EU Directives when lending outside the EU. EU EIA Directive(85/337) also says (Article 6):

“ 2. Member States shall ensure that:

- any request for development consent and any information gathered pursuant to Article 5 are made available to the public, the public concerned is given the opportunity to express an opinion before the project is initiated.“

There is also some question as to the legality of the Environmental Impact Assessment. The EIA was performed under the old EIA law, and was initially rejected. While the area of the road under construction was not the primary concern raised in the old EIA, when the project went forward on the other section an EIA in conformity with the much stricter EIA law of 1996 has not been performed..

5. What previous administrative approaches have you made to the European Community institution or body concerned?

The attached letter has been sent to European Investment Bank requesting the withhold of disbursement. Through personal communication the supposable illegal steps of construction was mentioned to specialists of EIB.

6. If the complaint concerns work relationships with the Community institutions and bodies: have you used all the possibilities for internal administrative requests and complaints, in particular the procedures referred to in Article 90 (1) and (2) in the Staff regulations? If so, have the time limits for replies by the Institutions already expired?

We have sent letter to President of EIB on 12th November 1998.

7. Has the object of your complaint already been settled by a court or is it pending before a court?

The local environmental organisation (KKKE) and Clean Air Action Group has taken the case of Northern part of M0 into court in May 1998, the defendant is the investigator of the Hungarian State. The object of the complaint is pending before Hungarian court (Budapest, District 2.) The first trial will be in January 1999 despite of out of order legal process.

8. Do you agree that your complaint may be passed on to another authority (European or national) if the European Ombudsman decides that he is not entitled to deal with it?

Yes.

Date and signature:

John Hontelez

European Environmental Bureau

N.B 1: Please note that the European Ombudsman should deal with complaints in a public way but that confidential treatment may be granted on request.

N.B 2: Please send only copies of documents necessary to support your complaint during its preliminary examination.

The European Ombudsman 1 avenue du Président Robert Schuman B.P. 403 F-67001 Strasbourg Cedex

Verdict on the suspension of the motorway constructions

Capital City Court of Budapest

Ref. No.: 5.P.23.097/1999/10

V e r d i c t

In the matter of the suit by Plaintiff "Air Work Group" (Levegő Munkacsoport) against Defendant "State Motorways Management Public Service Company" (Állami Autópályakezelő Közhasznú Társaság), the Court hereby issues a temporary injunction binding Defendant to refrain from the continuation of the construction of that section of the M0 motorway which passes by the Káposztásmegyer housing estate.

An appeal may be lodged against the present Verdict within fifteen days of receipt hereof, without any effect of abeyance, however, on the execution of the Verdict.

G r o u n d s

Plaintiff submitted a suit against Defendant, asking the Court to bind Defendant to refrain from any future conduct likely to further the continuation of the construction of the M0 motorway; Plaintiff also asked the Court for a temporary injunction to restrain Defendant from constructing the Káposztásmegyer section of the M0 motorway. Plaintiff attached with their petition analyses made by Dr. Dezső Radó and Dr. Ildikó Farkas, which analyses show the following: that the threat to the environment in the form of noise and air pollution has been established already; that maximum acceptable pollution levels are likely to be exceeded even on the basis of the findings of the preliminary studies; that the results of the studies concerning dust pollution are not yet available; that a very significant increase in the occurrence of pollen allergy is probable; and that the environment protection action plan contains numerous deficiencies.

Defendant asked the Court to reject both the suit and the petition for the temporary injunction on the grounds that Defendant was acting in possession of the required public authority permits and licenses and observed the relevant provisions of applicable environment protection regulations; Defendant also disputed the professional qualifications of Dr. Dezső Radó to act as an expert consultant in that he is not a member of the Chamber of Engineers; however, Defendant made no response to the merits of the scientific findings or analyses made by Dr. Dezső Radó and Dr. Ildikó Farkas, who gave expert testimony before the Court.

The Court finds that the petition for a temporary injunction is well founded.

On the basis of the expert testimony available to the Court (in deciding on the qualifications of an expert, it is not the fact of his or her membership in the Chamber of Engineers which is decisive) it is probable that if the M0 motorway is built along its planned section along the Káposztásmegyer housing estate, the market value of the some five thousand homes situated in the immediate vicinity will suffer a substantial decrease, but in addition to that fact there is also a realistic danger of noise, environment pollution, dust, and a massive appearance of allergies – there are several tens of thousands of inhabitants in the area – therefore the Court has come to the conclusion that the potential benefits of the project – the partial completion of the M0 motorway – are significantly exceeded by the hazard and damage to the health of several tens of thousands of people, and, consequently, the Court has made the Verdict specified in the dispositive part hereof, pursuant to paragraph 4 of Article 156 of Rules of Civil Procedure.

In bringing the above Verdict, the Court has also considered the circumstance that the completion of the given section of the motorway would in no sense mean the completion of the entire M0 motorway, since, according to information available to the Court, the continuation of the construction of the motorway is not anticipated in the foreseeable future. In the light of that circumstance, the completion of the section concerned would not in itself significantly contribute to the completion of the M0 motorway, which is truly a project of serious public interest.

The finding on preliminary executability is based on paragraph /5/ of Article 156 of the Rules of Civil Procedure.

Issued in Budapest, June 21, 1999

In witness of the authenticity of theses presents:

(illegible signature)

(signed)

Dr. Ágnes Szentes

Presiding Judge

Annex V. - Other NGOs' Recommendations to the EIB

Lankowski's Key Recommendations to the EIB⁷⁰

- Establish a standing committee on sustainability on the Board of Directors, which among other things should certify the Bank's annual environmental review.
- Hire additional staff with new skills, including an environment or sustainable development coordinator, who would write an annual environmental review, monitor environmentally sensitive projects, assist appraisal teams, receive and respond to inquiries involving environmental aspects of EIB lending, etc.
- Improve the ability of the EIB to affect outcomes in its infrastructure lending in terms of environmental and sustainability factors, by fostering greater use of environmental impact assessment on a larger spatial and temporal framework, fostering more dialogue among senior Bank officials, Board members, public authorities and the interested public about options, reinforcing environmental policy integration into all projects at all stages, and by encouraging sustainability analysis in all sector studies.
- Enhance transparency by routinely encouraging promoters to invite public participation in project planning and implementation, by adopting an internal policy guideline requiring systematic consultations or interviews with those on site.
- Publish an annual review of EIB's sustainability initiatives, which would be a key tool for fostering dialogue with the public on a regular basis. Lankowski, pp. 36-37.

Wenning's Key Recommendations to the EIB⁷¹

- EIB environmental policies should emphasize lending for activities that contribute directly to sustainable development. Sectors such as transport and agriculture need to be reviewed from an environmental perspective.
- EIB project engineers need a knowledge of and sensitivity to environmental problems that goes beyond purely technical and legislative issues.
- There should be generally acknowledged and verifiable procedures that guide the project engineers on environmental issues, and these should be available for public inspection and comment.
- The EIB should systematically and more frequently employ environmental specialists who can provide the necessary expertise and train its staff in environmental analysis and procedures.
- The EIB should introduce and make public a project categorization procedure in order to better define the appropriate type and detail of an environmental assessment.
- The Preliminary Opinion on a project should be expanded to identify all key environmental issues, indicate the category of potential environmental impact, and provide a preliminary environmental assessment schedule. A copy of this document should go to the Board of Directors, and should be published regularly as an Operational Summary, which should be made available to the public. The Environmental Fiche seems to respond to this recommendation.
- General Environmental Assessment Guidelines specifying standard terms of reference for promoters to following in carrying out an assessment should be prepared and made public.
- The EIB should adopt a system of reviewing the quality of environmental assessments submitted by promoters.
- Final Project Appraisals should contain a summary of the Environmental Assessment or Statement, any mitigation measures required and a timetable for implementation and monitoring.

⁷⁰ Lankowsky, C. Environmental Impact Review in the European Investment Bank:: a report on current practices. Washington, 1994. p. 41

⁷¹ M.Wenning , WWF Internal Discussion Paper, December 1992

- Monitoring of projects should be improved, with strict standards both for promoters, who should be required to carry out monitoring and submit regular reports, and for EIB staff. Standards should be enforced using penalty measures such as the withholding of funds.
- The EIB should establish an environmental evaluation process regarding completed projects.

The EIB should publish reference manuals containing all of the guidelines and other materials meant to inform and guide its staff, consultants and promoters about consideration of environmental issues. This manual should include any guidelines that apply to intermediary lenders who receive "global" loans.

Annex VI. - EIB Board of Directors, as for April 1999

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Drs. Jos de VRIES
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