



# EIB's Transparency Performance

RULES AND DAY-TO-DAY  
PRACTICE IN ACCESS TO INFORMATION

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## Executive summary

**A**s a financial institution of the EU, the European Investment Bank should be subject to European legislation, including this on access to information and public participation. However, for decades the EIB has acted as an independent bank responding mainly to its clients and remained largely unknown to the general public.

This situation is changing now. In 2006 the EIB organised its first-ever public consultation process for a review of its Public Disclosure Policy. As access to information on the EIB's operations is a prerequisite for public involvement in decision-making and for good governance over public funds, more than 30 civil society groups actively engaged in the process which resulted in positive features in the policy document. This was an important step in the right direction for the EU's multi-billion euro lending house bank which had been lagging for many years behind other international financial institutions in terms of transparency.

One year after the policy's approval, Bankwatch, within the framework of the Global Transparency Initiative, analysed the EIB's transparency performance in the policy making process and the implementation of rules on access to information.

This report reveals that the EIB is able to deliver a participatory process in the formulation of the Public Disclosure Policy (PDP), but at the same time it sheds new light on the EIB's in-compliance with European Community rules on access to information as well as missing obligations towards the Aarhus Convention on access to information, public participation and access to justice in environmental matters.

The EIB has improved its transparency score and become comparable to the World Bank in terms of the standards set by the Global Transparency Initiative, however still has a long way to go to deliver a right to know for the public that is meaningful. Routine disclosure of project information needs to be improved and to some extent more substantial changes to the EIB's approach to keeping the public aware of its decision-making processes at the earliest possible stage of discussion.

There should not be any distinction between the release of information related to projects for the public and private sector as this creates efficiency problems in making the whole regime of disclosure work for the benefit of public. Much more attention than was given by the EIB in 2006 should be given to publishing in advance environmental and social assessments as complementary documents to Project Summaries. And finally requested documents containing information about possible environment and/or social project impacts must be provided, especially to the potentially affected people, with no exceptions regardless of whether it is the appraisal, monitoring or project competition phase, or whether there is involvement of the private or public sector.

To achieve some of these goals, a short list of recommendations is presented in the last chapter of this report, with the intention of aiming for better EIB transparency performance in terms of policy implementation and the application of new standards to reinforce agreed principles on public accountability and good governance.



This report is part of CEE Bankwatch Network's advocacy efforts within the context of its Global Transparency Initiative activities<sup>1</sup> to make the European Investment EIB (EIB) open and transparent.

As part of the journey to bring about greater credibility and accountability to the public at the international financial institutions (IFIs), we consider access to information as the most essential prerequisite of good governance. People have a right to know about procedures, operations and projects that are being considered for financing, as well as what happens during their implementation.

This study is focused on the EIB's performance in policy making and its implementation on the field of access to information one year on from the approval of a new Public Disclosure Policy for the EIB. We are attempting to answer these simple questions: what are the main policy changes and deficiencies? what are the rules and day-to-day practices in public disclosure of information? and what needs to be done in order for the EIB to meet European and international requirements and best practices?

Within the research we have used several methodological approaches. To get a better overview we have monitored the EIB's website very closely, taking records of its projects pipeline list, analysing the content of the website, comparing EIB's official data with statistical outcomes of our research, analysing the content of correspondence with civil society groups and verifying policy requirements against the IFI's Transparency Charter<sup>2</sup>. Moreover, Bankwatch commissioned a legal analysis of the Public Disclosure Policy's compliance with EU legislation on access to information and the Aarhus Convention.

To make a reality check of policy implementation on routine disclosure we have scrutinised the availability of documents in the appropriate language regime and the availability of project information posted in advance before project approval or after loan signature (the policy sets different rules for public and private sector projects). For the assessment of projects' information routine disclosure, we have been following closely the pipeline list published on the EIB's website and archiving the whole project list in the following months: March, April, July, October, November and December of 2006, and January-May 2007.

For the purpose of the research on policy implementation for request-driven information disclosure we have elaborated a checklist for the EIB's procedures in processing applications. The most objective indicator which we could use was prescribed time limits (set by the policy) in providing an applicant with requested information, reasons for delays or reasons for confidentiality/non-disclosure decisions. The second one was related to the supplied version or format of information accordance with the EIB's disclosure policy statements. Both indicators have been used in analysing 12 cases of information requests submitted by NGOs from Hungary, Poland, Bulgaria, Slovakia, Macedonia, Serbia and Argentina. As such the research can be treated as representative in the way of Bank's response to NGO requests but obviously does not cover the entire set of information requests directed to the EIB.

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<sup>1</sup>The Global Transparency Initiative (GTI) is a network of civil society organisations promoting openness in the International Financial Institutions (IFIs), such as the World Bank, the IMF, the European Investment Bank and Regional Development Banks.

<sup>2</sup>The Transparency Charter has been prepared by Global Transparency Initiative and sets out the standards and norms that should govern the disclosure policies of the IFIs, and the principles that should guide their practice.

# Major policy changes

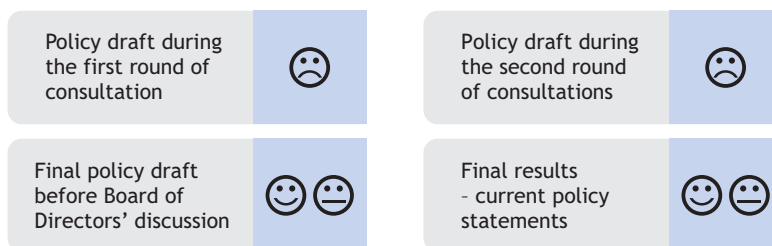
For many years the EIB was considered to be one of the least transparent of the institutions established under the Treaty of the European Union. The EIB argues that its secretiveness is due to its function as a financial institution. However, in 2004 a study by the Bank Information Center in Washington DC and Freedominfo in New York revealed that the EIB was by far the most non-transparent when compared to other public multilateral financing institutions such as the World Bank and the European Bank for Reconstruction and Development (EBRD). At the same time those institutions are still criticised by advocacy groups for their slow transparency performance and implementation of public participation principles.

After several years of discussion with civil society organisations and against a new wave of criticisms (including the involvement of members of the European Parliament), in 2005 the EIB decided to organise its first-ever public consultation process on the revision of its disclosure and information policy. At the very beginning, President of the EIB Mr. Philippe Maystadt was approached by advocacy groups with a proposal for the consultation framework to be followed in considering policy changes. Though the proposal was initially rejected, it ultimately turned out that most of the recommendations were not only taken into account but also implemented.

Within one year of the public consultation on disclosure policy, the EIB has proved that it is able to deliver a participatory process in its policy-making, but since it is not a part of binding policy rules we hope that it will become a common practice in the formulation and revision of other key documents.

Taking the aforementioned into consideration, while explaining the major changes in the EIB's information policy from March 28, 2006, we have used a simplified assessment of public consultation outcomes at the different stages of the document formulation. This starts from the [NGO Proposal to the EIB on Principles and Standards of Information Disclosure](#) (June, 2005) to proposed amendments to final policy draft presented for approval of country representatives in Board of Directors (March, 2006).

## Policy review and formulation



Tab. Reflection of comments in the policy document formulation process

The EIB's Public Disclosure Policy - unlike that of the EBRD - still does not provide any framework for reviewing EIB documents of significant public interest. However, in the introduction text of the new policy there is a strong commitment towards policy evaluation and its official revision over a three year cycle.

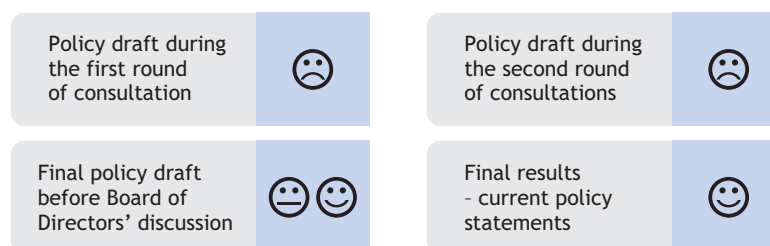
The public consultations themselves were based on two rounds of consultations, the disclosure of policy drafts and received comments on the EIB website and public consultation meetings. The whole process can be deemed to be an educational one. We would like to believe that the same standard, even improved as a result of the learning process, will be upheld for the forthcoming revision of the EIB's Environmental Statement and any other subsequent policy revisions or preparations. Therefore, we are outlining the three main stages of the held public consultations and acknowledging the EIB's flexibility in terms of the timetable and procedures with the aim to respond to issues raised during the process (timetable of the consultation process can be found in Appendix 2).

- Stage 1. Announcement of the policy review, followed by the launch of a 45 working day public consultation process on the revised policy (Draft 1). This included consultations over the website and a workshop with interested parties, which resulted in the extension of the consultation process.
- Stage 2. Launch of a 20 working day consultation process on the re-edited draft policy (Draft 2), accomplished with a consultation meeting in Brussels.
- Stage 3. Approval by the Management Committee of the final draft Public Disclosure Policy and the Consultation Report. Publication of the document 21 calendar days prior to the Board of Directors' consideration. This allows members of the public to know to what extent the final policy proposal responded to provided comments and enforced the dialogue at the national level with their country representatives in the Board, before the final decision was taken.

Civil society groups are in favour of the concept of a three stage consultation process, which covers relations not only between the EIB, its shareholders and external players, but also stimulates communication with governments at national levels. However, the groups believe that the 45 working day period should be upheld also for the second round of consultations and a more proactive approach for seeking feedback and consulting with the public additionally applied at least in developing countries where the EIB has offices.

### Policy structure





Tab. Policy structure. Reflection of comments in the policy document formulation process



The previous EIB information and disclosure policy had a very confusing structure. Various aspects of the policy were spread out over four key documents and some subsidiary notes published on the EIB website (*Information Policy Statement, Rules on Public Access to Documents, How EIB communicates - an overview, Code of Good Administrative Behavior for the Staff of the EIB in its Relations with the Public + EIB's transparent information policy, EIB Transparency - Report and Proposals*). This was very unclear for users, making it difficult to understand how different provisions work together and creating problems in the legal interpretation of different statements, especially when it came to exceptions for information disclosure. Moreover, those documents mixed two very different forms of access to information - routine disclosure and the request-driven system. The present policy is a single comprehensive document outlining objectives, rules and procedures in access to information. Routine and request-driven disclosure is sufficiently distinguished.

# Major policy changes

## EIB accountability





Policy draft during the first round of consultation		Policy draft during the second round of consultations	
Final policy draft before Board of Directors' discussion		Final results - current policy statements	

Tab. EIB accountability. Reflection of comments in the policy document formulation process

New acknowledgments of the EIB's accountability can be found in the policy: *“Through the governments of the EU Member States, the EIB is accountable to the citizens of the Union”, or that “the EIB considers. (...) The EIB considers that as a public institution, openness and transparency on how it makes decisions, works and implements EU policies, strengthen its credibility and its accountability to Europe’s citizens”.*

Compared to the statement given in 1998 by EIB's Director Communication, that the EIB is *“accountable only to the market”*, the aforementioned should be considered as a positive policy change. In practice, the new policy formulation in this field brings more clarity to the EIB's EU institutional framework and relations with the Court of Justice, European Court of Auditors, European Anti-Fraud Office or European Ombudsman.

## Presumption of disclosure

Policy draft during the first round of consultation		Policy draft during the second round of consultations	
Final policy draft before Board of Directors' discussion		Final results - current policy statements	

Tab. Presumption of disclosure. Reflection of comments in the policy document formulation process

The policy sets out a strong and well-worded presumption of disclosure, namely that all information held by the EIB is subject to disclosure for every member of the public unless there is a compelling reason for non-disclosure listed in the section of constraints. *“The EIB’s disclosure policy is founded on a presumption of disclosure of information, in line with EU legislation, those of the EU Member States, and internationally accepted principles. All information held by the EIB is subject to disclosure upon request, unless there is a compelling reason for non-disclosure”*<sup>3</sup>. Partial disclosure is foreseen whenever only parts of the requested document are covered by any of the constraints.





This presumption is a necessary ingredient for any institution that is serious about transparency, but in fact needs to be followed by a very clear regime of exemptions in order to judge its real value and policy change. Nevertheless, we score highly the language performance on this principle, and make further assessment of reasons for confidentiality.

<sup>3</sup> Point 22 of Public Disclosure Policy, 28 March 2006



## Reasons for confidentiality and overriding public interest





Tab. Reasons for confidentiality. Reflection of comments in the policy document formulation process

Policy draft during the first round of consultation		Policy draft during the second round of consultations	
Final policy draft before Board of Directors' discussion		Final results - current policy statements	

Reasons for confidentiality are outlined in the policy section describing constraints on disclosure of information. Unfortunately, they are not based on the definition of harm which is sought to be avoided and covers also particular documents like the proposal from the Management to the Board on private sector projects, voting records or Finance Contracts. On the other hand, to some extent the policy includes a public interest override mechanism, but still in general the proposed regime of exceptions is more restricted than described in Regulation 1049/2001 of the European Parliament, Commission and the Council regarding public access to European Parliament, Council and Commission documents. Moreover, it does not comply with Regulation 1367/2006 on the application of the Aarhus Convention (consult chapter 3.1 on the policy's compliance with EU legislation).

## Routine disclosure





Tab. Routine disclosure. Reflection of comments in the policy document formulation process

Policy draft during the first round of consultation		Policy draft during the second round of consultations	
Final policy draft before Board of Directors' discussion		Final results - current policy statements	

The policy lists key documents routinely disclosed in the area of policies, strategies, lending and borrowing operations as well as decision-making processes. Unfortunately, this list is narrowed by constraints, especially when it comes to dissemination of information related to private sector projects (project summaries for certain private sector projects are not published before loan approval or even signing, other project related documents may not be published even after signing of the loan) or the decision-making process (i.e. minutes from the meetings). From the perspective of affected communities, the main change in this area is related to the endorsement of the principle for timely disclosure of project summaries for the public sector (to be published at the same time the EIB asks the Commission and member states for their opinion - at least 60 days before approval), which should include also either an electronic version or link to non-technical summaries of the Environmental Impact Assessment, if applicable.

# Major policy changes





## Disclosure on request

Policy draft during the first round of consultation		Policy draft during the second round of consultations	
Final policy draft before Board of Directors' discussion		Final results - current policy statements	

Tab. Disclosure on request. Reflection of comments in the policy document formulation process

Since the EIB founded its policy on a presumption of disclosure of information, all information not covered by constraints should be accessible on request. Therefore, information listed in the policy under the section Disclosure on request is considered only as examples to give a better understanding of what type of information the EIB may possess. A significant policy change in this area must be noticed in relation to the timeline of processing information requests. The previous policy allowed the EIB staff to reply as soon as possible, but not later than two months following receipt of an inquiry. In the new policy, this period has been shortened to 20 working days (further explanations can be found in chapter 5.2).

## Right to appeal

Policy draft during the first round of consultation		Policy draft during the second round of consultations	
Final policy draft before Board of Directors' discussion		Final results - current policy statements	

Tab. Right to appeal. Reflection of comments in the policy document formulation process

The fact that the EIB is situated within the EU framework provides relatively strong provisions on appeals to the European Ombudsman. However, the novelty of this policy is the new 20 working days timeline for complaints and responses, as well as the first attempt to address the problem of complaints by non-EU residents or citizens. By setting a new body - Inspector General - the EIB wants to provide a recourse mechanism for investigating complaints from non-EU citizens that the European Ombudsman may consider to be outside his remit. Nevertheless, the policy document does not provide an appealing framework for an Inspector General and gives a general concern about the feasibilities of proposed solutions for objective investigations of eventual allegations. The appeal procedures for EU citizens do not change from previous (Confirmatory application -> Secretary General -> European Ombudsman).

The positive features of the EIB's Public Disclosure Policy are widely recognised and briefly described in the chapter on major policy changes, but we should not forget that the aforementioned gives an overview of the EIB's transparency performance in comparison to the previous policy. Unfortunately, the document approved by the Board of Directors in March 2006 is still far from being perfect. Detailed analysis of the EIB's compliance with international standards in the field of access to information proves that the new policy neither conforms to best available practices nor to binding EU legislation for Community institutions and bodies.

### Policy compliance with EU legislation and the Aarhus Convention

According to the legal opinion of Dr. Jerzy Jendrośka, of Jendroska Jerzmanski Bar & Partners, Environmental Lawyers, the EIB should be treated as a "Community institution or body"<sup>4</sup> which is subject to the obligations stemming from both the Aarhus Convention and Regulation 1367/2006. The EIB's Public Disclosure Policy was approved by the Board of Directors on 28 March 2006, thus before Regulation 1367/2006 was finally adopted. However, at the same time the European Commission, on 17 February 2005, approved the Aarhus Convention which says in Article 20 para 3 that enters into force in relation to a Party on the ninetieth day after the date of deposit of the instrument. Thus, the relevant obligations stemming from the Aarhus Convention have applied for Community institutions and bodies since May 2005 and should be already reflected in the current EIB's disclosure policy.

The aforementioned findings of the legal analysis have shed new light on the EIB's responsibilities towards implementation of the Aarhus Convention, but the most important parts - for the scope of this report - are the conclusions and recommendations concerning the policy compliance with EU legislation on access to "environmental information". Therefore, we would like to present only general related comments and leave an opportunity for reviewing the full text of the legal opinion (Appendix 1).

#### Conclusions regarding the Public Disclosure Policy (PDP):

- Generally, PDP follows the language and approach to public access to information taken in Regulation 1049/2001 and Regulation 1367/2006, which is slightly different than those of the Aarhus Convention.
- PDP does not reflect all the obligations stemming from Regulation 1367/2006 and the Aarhus Convention.
- Some of the provisions of PDP are not in line with the obligations stemming from Regulation 1367/2006 and the Aarhus Convention.

#### General recommendations:

- The EIB needs to reconsider its approach towards the Aarhus Convention and acknowledge its situation as one of the institutions subjected to the obligations stemming from the Convention and Regulation 1367/2006.
- In particular the EIB needs to carefully examine which of the obligations stemming from the Convention and Regulation 1367/2006 apply to it and how best to adapt its internal rules to assure compliance with these obligations.

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<sup>4</sup>Legal analysis of 30 March 2007 on the EIB's compliance with EU legislation on access to information and Aarhus Convention. Dr. Jerzy Jendrośka, Jendroska Jerzmanski Bar & Partners. Environmental Lawyers

- There is no doubt that PDP is best suited to provide the internal legal basis for fulfilling the obligations concerning access to environmental information.
- As for public participation in the EIB's plans and programs relating to the environment, one can envisage either using the Environmental Statement or elaborating a special instrument in this respect.
- There is no doubt however that the Environmental Statement is the best instrument to establish policies to promote the Aarhus Convention principles.

## Policy compliance with GTI standards

The Global Transparency Initiative (GTI), a network of civil society organisations committed to openness, prepared and launched in September 2006 the Transparency Charter for International Financial Institutions, claiming people's rights to information and participation in the development policies and projects of international public institutions.

The Charter is the GTI's flagship statement of the standards to which IFIs' information disclosure policies should conform. It encapsulates the standards drawn from international law and best practices adopted by democratic states<sup>5</sup>. The Charter itself is comprised of the Preamble and the nine Principles, which have been used to examine the EIB's Public Disclosure Policy in accordance with the GTI comments and Transparency Scorecards (see Appendix 3).

### General conclusion:

- The EIB's new policy in a vast range of transparency standards sees it catching up to other similar multilateral financing institutions like the World Bank, the International Finance Corporation or the EBRD. However, the EIB can not be considered as a leader in the transparency rankings of the IFIs - in various aspects it does not conform with the GTI's Charter, as briefly set out below.

### Findings on policy non-compliance with GTI standards:

- The "Right of Access" principle applies to *all* information *held* by an IFI, regardless of who produced it (whether this was the IFI itself or some other public or private actor), when it was produced, the form in which it is held (a document, electronically and so on) and its official status<sup>6</sup>. Unfortunately, apart from a clear statement on "presumption on disclosure" and a declaration that "all information held by the EIB is subject to disclosure upon request, unless there is a compelling reason for non-disclosure", the policy does not provide comprehensive access to information in principle to global loans allocations or loan contracts.
- All communication is going through the Communication and Information Department, unless someone wishes to lodge a complaint or report corruption. The EIB does not disclose staff contact information and no directory is available to the public.
- Financial reports do not provide information on the EIB's operational budgets for individual departments.

<sup>5</sup>Transparency Charter for International Financial Institutions: Claiming our Right to Know, page 1.

<sup>6</sup>Ibid, page 4.

- Evaluations of individual projects are considered as internal documents and are not made public in principle.
- The policy makes exception on disclosure of information based on projects' affiliation to the private or public sector - i.e. some private sector projects might be excluded from the Project List published on the EIB's website before its approval or even loan signature.
- Some basic project information, like EIA reports, can not effectively reach those likely to be affected by decisions, since information on projects which the EIB is considering for financing are published after the decisions are made (see chapter 5.1 Routine disclosure of information).
- All interested parties can not be effectively consulted before a project's approval, since the timeline for the appraisal process and the key dates for the decisions are never made public.
- The policy does not allow the public to know the plan or outline of matters scheduled for discussion by the Board of Directors, or any transcripts of official business conducted and formal decisions taken, including the statements of individuals or voting records.
- Outlined constraints on information disclosure are broadly drawn, especially those related to "protection of the EIB's internal decision making", global loans, or "information typically forming part of the EIB's confidential relationship with its business partners" Moreover, the formulated exceptions do not indicate harm which is sought to be avoided by non-disclosure decision.
- The EIB's disclosure policy lacks a whistleblower protection mechanism; the anti-fraud policy also does not tackle this issue<sup>7</sup>.
- Besides the general statement on promotion of freedom of information by "awareness-building sessions for staff members on transparency and disclosure issues", the public is not informed about any of the mechanisms the EIB has in place for application<sup>8</sup>, like for example its central system for tracking information requests or individual sanctions for wilful obstruction of access to information.

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<sup>7</sup>The EIB is currently revising its Anti-Fraud Policy, however according to Transparency International's opinion on the new policy draft the "present design does not provide a comprehensive system to ensure that the necessary mechanisms are actually in place to protect whistle-blowers."

<sup>8</sup>According to EIB explanations, the Bank is running an *inhouse awareness and capacity building programme on the EIB's interaction with civil society (...)* for all interested staff members, which includes public disclosure of information.

While the EIB's Public Disclosure Policy does not reflect all the proposals put forward by civil society organisations, some positive features in the new information policy are widely recognised and briefly described in the chapter on major policy changes. However, for many years the EIB lacked the transparency and access to information standards and procedures comparable to other IFIs<sup>9</sup>. Twelve months after approval of the new Public Disclosure Policy we are making a reality check on the EIB's rules and practice related to how it provides the public with information on its operations and decision-making processes.

## 5.1 Routine disclosure of information

The new policy outlined the scope of the documents and information routinely disclosed over the EIB's website. Therefore, for the last 12 months, we have been closely monitoring the EIB website, scrutinising the list of published documents and posted advanced information on projects that the EIB is considering for financing with associated summaries.

### Disclosure of statutory and lending documents

All documents from the routine dissemination list of Public Disclosure Policy are easily accessible on the EIB website through the publications search engine. Most of them are published in at least three languages (DE, EN, FR), however, according to the policy statement, "documents with a particular importance for the public, such as "Codes of Conduct", and are also published in all official EU languages (...). Translation in to other languages can be considered whenever a wide interest arises for a particular document<sup>10</sup>."

<sup>9</sup>A Comparative Analysis of IFIs Transparency from February 2005 published by the Bank Information Center in Washington DC and Freedominfo.org in New York revealed that the EIB was less transparent in some critical areas than other public international financial institutions, such as the World Bank Group or European Bank for Reconstruction and Development, both of which operate in the public and private sectors, which includes public disclosure of information.

<sup>10</sup>Public Disclosure Policy of 28 March 2006, point 24 / Policy considerations, page 7/21.

**Table 1.** The following table shows missing translations.

Name of the document	Current translation	Missing translations	Comment
Staff Code of Conduct	DE   EN   FR	BG   CS   DA   EL   ES   ET FI   HU   IT   LT   L   V MT   NL   PL   PT   RO   SK SL   SV	Obligatory according to point 24 of the Public Disclosure Policy
Code of Conduct for the members of the Audit Committee of the EIB	EN	BG   CS   DA   EL   ES   ET FI   HU   IT   LT   L   V MT   NL   PL   PT   RO   SK SL   SV   DE   FR	Obligatory according to point 24 of the Public Disclosure Policy
Management Committee Code of Conduct	DE   EN   FR	BG   CS   DA   EL   ES   ET FI   HU   IT   LT   L   V MT   NL   PL   PT   RO   SK SL   SV	Obligatory according to point 24 of the Public Disclosure Policy
Code of Conduct for the members of the Board of Directors of the EIB	DE   EN   FR	BG   CS   DA   EL   ES   ET FI   HU   IT   LT   L   V MT   NL   PL   PT   RO   SK SL   SV	Obligatory according to point 24 of the Public Disclosure Policy
Public Disclosure Policy	DE   EN   FR	BG   CS   DA   EL   ES   ET FI   HU   IT   LT   L   V MT   NL   PL   PT   RO   SK SL   SV	Obligatory translation to all EU languages can be argued for all EIB policies, which are in particular public importance
Guidelines on Fighting Corruption and Fraud	DE   EN   FR	BG   CS   DA   EL   ES   ET FI   HU   IT   LT   L   V MT   NL   PL   PT   RO   SK SL   SV	Obligatory translation to all EU languages can be argued for all EIB policies, which are in particular public importance



'Environmental Statement'	EN	BG   CS   DA   EL   ES   ET FI   HU   IT   LT   L   V MT   NL   PL   PT   RO   SK SL   SV   DE   FR	Obligatory translation to all EU languages can be argued for all EIB policies, which are in particular public importance
Environmental Procedures	EN	ES   FR   RU	Translation into French, Spanish and Russian is highly recommended since the document is in the interest of people from ACP and ALA countries
The Social Assessment of Projects outside the European Union: the Approach of the European Investment EIB	DE   EN   FR	ES   RU	Translation into French, Spanish and Russian is highly recommended since the document is in interest of people from ACP and ALA countries
Development Impact Assessment Framework of Investment Facility Projects	EN	ES   FR   RU	Translation into French, Spanish and Russian is highly recommended since the document is in interest of people from ACP and ALA countries

## Timely disclosure of Project Summaries

For those communities that might be adversely affected by EIB projects, it is very important to have timely access to all project related information and documents before the decision on the loan has been taken. According to the Public Disclosure Policy, advance information on the projects the EIB considers for financing is published on its website as Project Summary documents. However, there are two very important factors: a) the time when the projects are introduced onto the Project List, b) the inclusion of an electronic version or a link to the environmental impact documents, whenever applicable according to the so-called EIA Directive. Within the existing EIB rules and statements, Bankwatch conducted research of the published information in the so called project pipeline list (Project List), screening one by one project with approval and signed status.

## Publication of Project Summaries on the website

According to the policy statement after signature, projects remain on the list until they are published in the EIB's Annual Report. Therefore, we used an approach that all projects approved in 2006 for which summaries were published in the pipeline, should still be there until at least June 5th 2007 when the Annual Report is released. Our systematic screening of the pipeline gives a record of projects which were accessible in 2006 and 2007 as a reference period. The conducted research confirmed NGO concerns about the missing publication of project information. According to the EIB, 351 projects were approved in 2006.

At the time of research (May 2007) only 73 projects were available with a status 'approved' and 80 projects with status 'signed' in 2006, all of them within entry date to the website from 1958-2006. Taking into account that some projects approved in 2006 could have been changed in status to 'signed' in 2007, we add an additional 47 projects from the pipeline which were signed in 2007. If we assume that the EIB is following its policy and does not remove projects from the list before their publishing in the Annual Report, the overall number of projects routinely disclosed and approved in 2006 will reach a maximum 200 projects<sup>11</sup> out of 351 reported by the EIB. This proves that a very significant number of projects were not published on the website Project List<sup>12</sup>.

<sup>11</sup>These calculations have some margin of inaccuracy derived from the fact that all projects from the pipeline list with status 'signed' in 2006 were considered also as 'approved' in 2006. Also projects which possibly were 'approved' in 2006 but reported as 'signed' in 2007 were included. From the experience of the EIB approval and signature cycle, we know that some projects 'signed' in 2006, does not need to represent the group of projects 'approved' in 2006, because some of the projects 'signed' in 2006 could be 'approved' before 2006. In addition projects 'signed' in 2007 could have been approved before 2006 or already in 2007. In both situation however the amount of projects approved in 2006 for which information was available on the website would lower and not increase, proving our findings to be generally correct.

<sup>12</sup>In reply to a request for an opinion about these particular findings the EIB informed that only 9 percent of projects approved in 2006 were not published. To clarify this outstanding issue Bankwatch sent an application for disclosure of the full list of 351 approved projects to check all of them against records taken from the pipeline list over 2006 and the beginning of 2007. Unfortunately, at the time of publishing this report, the EIB's reply was not available.

### Posted information in advance

Regarding the time for website posting of information on projects, the new policy sets two different approaches for public and private sector loans. Information on all public sector projects should be published at least two months in advance before consideration by the EIB's Board of Directors (reference to EIB requests for the opinions of the Member States and Commission set by the Article 21 of EIB's Statute), and similar for the private sector, however, some of them might not be published before Board approval or loan signature to protect justified commercial interest. Constraints related to private sector projects were highly criticised by NGOs, arguing that this provision gives a freedom to the EIB staff and promoters on deciding when the public should be informed about projects. The EIB responded that this would be very exceptional and only for commercial sensitive cases.

The timely disclosure of project information would never be possible as long as information is not posted on the Project List. However, there are additional concerns about the EIB's fulfilment of its own policy. Most of the signed loans which appear in the pipeline do not have information about the date of approval making an assessment of its timely disclosure impossible, but there are still examples of projects which breached the two month period of advance publishing (See examples in the Table 2) and/or the EIB's statutory obligations for giving the opinion of shareholders. This is an additional premise to charge the Bank with failure in the timely disclosure of information on projects it considers for financing.

**Table 2.**

Examples of projects posted on the pipeline with less than 2 months advance notice

Country	Name of the project	Date of entry	Possible dates of approval <sup>13</sup>	Date of signature
Belgium	SWDE Water Supply. Water supply and distribution networks in Walloon region.	23/10/2006	Board meeting before date of entry and signature was in November 21.	08/12/2006
Denmark	Statens Serum Institut II. Installation of multi-purpose production facility and related capital expenditure on vaccines and diagnostics in Copenhagen.	05/12/2006	Board meeting on 12 of December.	08/12/2006
France	Acquisition of rolling stock for regional express train (TER) lines of Pays de la Loire region.	06/10/2006	Board meeting on 21 of November.	24/11/2006
Turkey	Construction of high-speed railway line between Istanbul and Ankara.	20/10/2006	Board meeting on 12 of December.	14/12/2006

<sup>13</sup>According to the EIB's internal rules, the approval of projects can be decided remotely via mail.



## Publication of environmental impact documents

For all projects which require an Environmental Impact Assessment (EIA), the EIB should post the Non-Technical Summaries (Environmental Impact Statement for non-EU countries), or links to where it can be consulted, on the project pipeline list. This commitment in the new policy was very welcomed by civil society groups, as the EIA documents are crucial for gaining a better understanding of possible adverse effects. Unfortunately, a lot of projects from the pipeline do not meet this requirement.

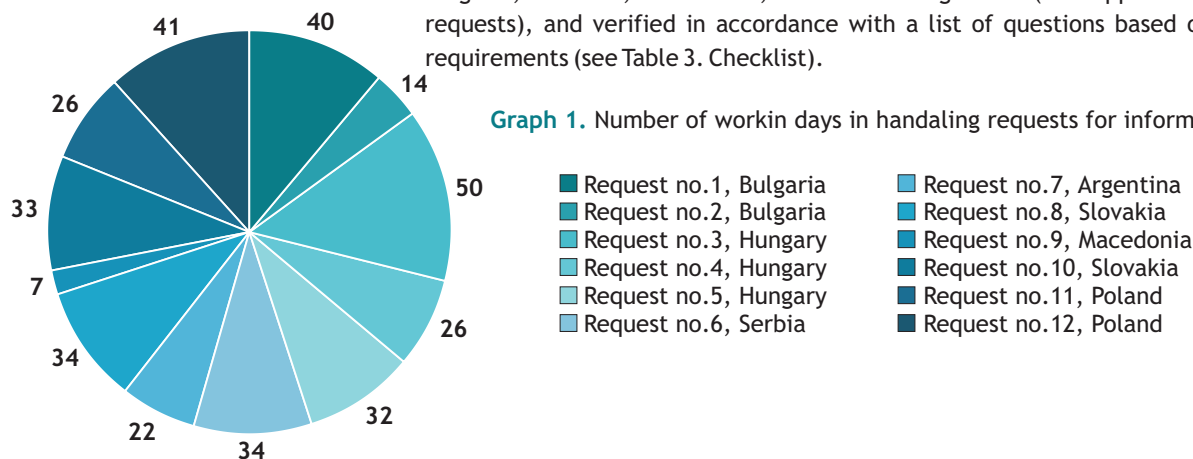
The screening of 30 projects which fall under Annex I of Directive 97/11/EC on Environmental Impact Assessment, posted on the EIB's website, shows that only 12 projects have a link or attached electronic version of Non-Technical Summaries of EIA. This gives the rough estimation that less than 50 percent of published projects with a significant environmental impact fail to comply with the policy and agreed procedures for giving the public an opportunity to make comments before the funding decisions are taken. To illustrate the problem we can take as examples the construction of five new motorway sections in Slovenia, the A51 motorway in France, the M2 in Northern Ireland or the construction of wastewater collection and treatment facilities in Morocco (see Appendix no. 4).

The other findings of our research give a very worrying indication that there are projects which are approved and signed before the EIA procedure is accomplished. This situation applies to projects with a full EIA requirement and has become a common practice for projects where the screening process needs to be done in the first place, before deciding about possible impact and mitigation measures. A project of new motorway sections in Slovenia serves as an example here. According to the EIB's Project Summary: *"All schemes financed under the proposed project will be required (underline added) to comply with the relevant national legal framework, to be acceptable in environmental terms to EIB and in line with EU environmental policy"*.

## 5.2 Disclosure on request

Since the EIB founded its policy on the presumption of disclosure all information not covered by the list of exceptions described under the "constraints" section should be accessible on request. The new policy gives a better understanding about the type of information that the EIB possesses (explicit list of documents), but the most significant change is related to procedures for handling information requests. The previous policy allowed the EIB staff to reply as soon as possible, but not later than two months following receipts, while the new one shortened this period to 20 working days.

Within the monitoring period we carefully followed 12 cases of NGO requests and EIB replies to check the implementation of procedures for processing requests of information. The correspondence was provided by groups from Hungary, Poland, Bulgaria, Slovakia, Macedonia, Serbia and Argentina (see Appendix 5. Table of requests), and verified in accordance with a list of questions based on the policy requirements (see Table 3. Checklist).



Graph 1. Number of working days in handling requests for information

# Reality check of policy implementation

The outcomes of the conducted analysis show that the EIB failed to reply within the prescribed 20 working days time limit in 9 out of 12 researched cases. At the same time the EIB does not inform requestors about possible delays or the complexity of the issues raised, causing problems in keeping agreed time limits - as stated in the policy's chapter on procedures for handling information requests. The longest awaited time for an EIB reply was 50 working days in the case of the Arcades loan for construction and long term management of shopping centres in Hungary, while the shortest time for the processing of a request was 7 working days for information disclosure on the North-South highway in Macedonia. The average time for disclosure of information for all analysed cases was 30 working days.

This reality check differs from policy rules setting a 20 working day period for reply, or 40 day for complex issues precluded by notification of problem in keeping prescribed time limit send no later than 10 working days following receipt<sup>14</sup>. The situation looks a lot better when it comes to the format and version of supplied information. In all of the analysed cases the EIB ensured access in accordance with its policy principles and constraints. However, on this occasion one very important observation has to be made. Out of 12 cases, 3 were primary related to the private sector and for none of them basic information was disclosed. In general, these non-disclosure decisions comply with the policy constraints, but seem to be very far from the exceptional approach to projects which would not be disclosed on the pipeline list before its approval or loan signature, as promised by the EIB.

**Table 3.**  
Checklist for handling information requests

CHECKLIST for 12 information disclosure requests	YES	NO	N/A
1. A reply without delay	2	10	-
2. A reply not later than 20 working days	2	9	1
3. Application not sufficiently precise, EIB staff asking for clarification	-	1	11
4. Information about the possible delays in 20 working days time limit	1	9	2
5. Information about the complexity of the issue(s) raised causing delays in keeping prescribed time limit, sent in 10 days after receipt	-	10	2
6. A reply to a complex request provided no later than 40 working days	1	-	11
7. Information supplied in an existing version and format, if feasible, in a format according to specific needs of the requestor	7	-	5

<sup>14</sup> Please note that the researched cases might be not representative of the whole basket of requests. According to the EIB in 2006 there were 74 queries from advocacy NGOs and the average time of processing them was 21 working days.

*The EIB's disclosure policy was improved last year and has become comparable to the World Bank's standards. However, this should not obscure that both institutions still have a long way to go to reach meaningful transparency and accountability standards.*

This report has provided information about the EIB's transparency performance from the policy formulation process to its implementation and day to day practice. Our aim was to identify deficiencies at the EIB together with those areas of civil society concern to boost improvements in reaching the best available disclosure requirements (i.e. Global Transparency Initiative's set of standards). An additional opportunity for doing so is the need for policy amendments in line with Regulation 1367/2006 on the application of the Aarhus Convention.

#### **The research findings revealed the following:**

- The EIB's transparency performance has been improved due to well recognised changes in the Public Disclosure Policy of March 2006, but still differs from the expected level of access to information in a modern public institution which annually approves projects worth 47 billion euros and that is supported by EU taxpayers' money.
- EIB policy does not comply with the Aarhus Convention and still has disclosure requirement gaps in comparison to other similar financial institutions. These gaps include among others existing EIB right to withhold information on projects planned for financing for private sector projects, the non-disclosure of agendas and minutes of Board meetings or denying release of financial agreements which may include important environmental and social requirements to the project sponsor.
- There are numerous deficiencies in the policy implementation on the field of routine disclosure of information: the language availability of documents, systematic publication of project summaries or observing the prescribed time for consultations and decision-making.
- The positive feature of the Public Disclosure Policy on timely disclosure of documents containing information on projects' environmental impacts has to a large extent been undermined by its poor implementation.
- The disclosure of information on request differs from the procedural requirements for its handling, especially in notifying the requestor about the complexity of the issue(s) causing delays in replying within the prescribed time limit.

## RECOMMENDATIONS

Within given opportunity for the policy amendments on the application of the Aarhus Convention following recommendations should be carefully considered as they are driven from national and international disclosure requirements as well as specific findings of this report:

1. **The EIB should acknowledge its formal status as an institution of the European Community with all legal consequences.** Both its Public Disclosure Policy and Environmental Statement require amendments in order to provide a sufficient basis for the EIB to meet its obligations in relation to access to environmental information and public participation. Therefore, all specific issues steaming out from the legal analysis of EIB's compliance with EU legislation on access to information and Aarhus Convention should be reflected in the policy documents.
2. **Presumption of disclosure needs to be followed by a regime of narrowly defined exceptions.** The current formulation of the policy constraints on disclosure of information - by listing in example all Finance Contracts or conditionalities of Global Loans as confidential only by the name of document - undermines the principle on presumption of disclosure. The regime of exceptions must be explicit and indicate precisely the harm that would result from disclosure, in order to avoid confusions and ensure legitimate access to information of public interest.
3. **Routine disclosure of public and private project information before approval.** Distinctions in the disclosure policy between public and private sector projects goes against the practices of other similar public institutions such as the EBRD or the World Bank, creates confusion, and should be abandoned. It is not acceptable that some of those projects with adverse environmental and social impacts avoid public scrutiny before Board approval due to promoters' claims of commercial sensitivity.
4. **The EIB must be more rigorous in the promotion and implementation of the public's right to know.** The revealed deficiencies on the policy implementation argue for all possible measures for improvements, including increasing EIB staff capacity, additional training, an effective and progressive system of record management, a central system for tracking requests, providing for individual sanctions for willful obstruction of access to information, publishing and widely disseminating an annual review of the implementation of the openness policy, and regular internal audits.
5. **All project related information should be accessible on the EIB website after a project's signing.** Project information, when taken from the pipeline list, disappears from the public domain. This information, as well as updated news on project implementation, should be posted on the EIB website in the section devoted to 'Loans activity'. At the moment projects' descriptions in this section only consist of the name of the project, the amount lent and the country of operation; no further details on the loan related environmental, social or development aspects are given.

**In addition to the above recommendations, we believe that:**

6. **The EIB needs to ensure its accountability to the public in practical terms.** The public must be notified of upcoming consultations of all EIB policies, which should be ruled by the disclosure policy. EIB should make utmost effort to reach public in the consultations, especially in the developing countries which become increasingly Bank's area of operations. Further, all formal meetings with decision-making powers should be open to the public, as well as information about the operations of the Board, such as work plan, agendas of meetings; summaries of lending and policy discussions also need to be disclosed.

**Appendix 1. LEGAL ANALYSIS** of 30 March 2007  
on the EIB's compliance with EU legislation on access to information and the Aarhus Convention

**LEGAL ANALYSIS**

of 30 March 2007  
on the EIB's compliance with EU legislation on access to information and the Aarhus Convention  
prepared by Dr. Jerzy Jendrośka of Jendroska Jerzmanski Bar & Partners. Environmental Lawyers

**Content:**

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**I. Scope of the opinion**

1. The opinion, as indicated in TOR, examines EIB's Public Disclosure Policy (PDP) and Environment Statement (ES) against Regulation 1367/2006 on the application of the Aarhus Convention to EC institutions and bodies (Regulation 1367/2006) and against the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters itself (Aarhus Convention), with a view to check compliance of PDP and ES with the two legal instruments.
2. The Regulation 1049/2001 is covered only insofar as it is applicable through Regulation 1367/2006.
3. Other pieces of EU legislation on access to information - as being not applicable to EIB - are not covered.
4. Except for PDP and ES, no other EIB documents which potentially may relate to the issues of public participation and access to information, in particular those which set any EIB's consultation procedures, are covered by the current opinion.
5. The opinion is not meant to examine the mutual relations between Regulation 1367/2006 and Aarhus Convention.
6. As envisaged in TOR, the opinion is confined to examining only the issues of access to information and public participation and does not cover access to justice.
7. The paper of Ludwig Kramer "Mechanism at EC level to hold the European Investment Bank accountable" provides the background for the opinion, thus the opinion generally does not address issues sufficiently covered in the paper.
8. The opinion is focused on examining provisions of PDP and ES with a view to identify potential non-compliance with the Regulation 1367/2006 and/or Aarhus Convention, or to identify obligations stemming from the two instruments not sufficiently addressed in PDP and ES. Thus the opinion does not specifically point out to the provisions of PDP and ES which are fully in line with the two instruments.

**II. General remarks**

9. Both PDP and ES are policy documents which are not legally binding. Therefore their language is not always precise enough and often quite different than the language of legally binding acts.
10. Despite the fact that PDP and ES refer verbally to the Aarhus Convention, neither of them is meant specifically to implement it. Moreover, the language and concepts used in these documents are rather different than those used in the Aarhus Convention and, to some extent, in Regulation 1367/2006.
11. According to Article 14 of Regulation 1367/2006 it shall apply from 28 June 2007.
12. The EC approved the Aarhus Convention on 17 February 2005. According to Article 20 para 3 of the Aarhus Convention, it enters into force in relation to a Party on the ninetieth day after the date of deposit of the instrument. Thus, the relevant obligations stemming from the Aarhus Convention have applied for its institutions since May 2005.
13. Examining compliance of the EIB with the Aarhus Convention and Regulation 1367/2006 assumes that the EIB is subject to obligations stemming from both instruments. The first task is to check if this is the case.
14. The next task would be to examine if - and to what extent - specific obligations concerning access to information and public participation are applicable to the EIB.
15. Only after having examined the above issues one can examine the compliance of PDP and ES with the relevant applicable obligations.

### III. Applicability of the Aarhus Convention and Regulation 1367/2006 to the EIB

16. EIB does not belong to the main institutions of EC listed in Article 7 of EC Treaty. It is however mentioned in Article 9 of EC Treaty and therefore can be treated as its institution *sensu largo*.
17. The Aarhus Convention defines "Public authority" in relation to EC in Article 2 d) which reads: *"(d) The institutions of any regional economic integration organisation referred to in article 17 which is a Party to this Convention. This definition does not include bodies or institutions acting in a judicial or legislative capacity"*.
18. The above definition, according to paragraph 7) of the preamble to Regulation 1367/2006 defines "public authorities in a broad way" and "it is therefore necessary that the Community institutions and bodies covered by this Regulation be defined in the same broad and functional way".
19. Therefore Article 2.1.c) of the Regulation 1367/2006 defines "Community institution or body" as "any public institution, body, office or agency established by, or on the basis of, the Treaty except when acting in a judicial or legislative capacity".
20. In light of the above the EIB should be treated as being subject to the obligations stemming from both the Aarhus Convention and Regulation 1367/2006.
21. Obligations concerning access to information under both the Aarhus Convention and Regulation 1367/2006 are put on those "public authorities"/"Community institutions or bodies" which hold "environmental information".
22. Definitions of "environmental information" under both the Aarhus Convention and Regulation 1367/2006 are very similar. Both cover *inter alia* the "activities affecting or likely to affect the elements of the environment" as well as relevant "cost-benefit and other economic analyses and assumptions".
23. There is no doubt that due to the nature of EIB activities most of the information held by EIB should be treated as falling within the ambit of "environmental information" as defined by both the Aarhus Convention and Regulation 1367/2006. This is somehow being confirmed by EIB itself by referring in paragraph 20 of PDP to the Regulation 1367/2006.
24. The issue of public participation is in fact not covered specifically neither in PDP nor in ES.
25. EIB does not issue decisions subject to Article 6 of the Convention, as it does not have any regulatory powers. Its decisions about financing particular projects, although they often do relate to projects belonging to activities listed in Annex I to Aarhus Convention, can not be treated as "decisions on whether to permit proposed activities" because in the current legal framework within the EU, such decisions are taken solely by the national authorities.
26. EIB does not issue any generally applicable legally binding executive regulations or other normative instruments subject to Article 8 of the Convention.
27. EIB however seems to be preparing plans and programs which are relating to the environment since environmental lending is one of the main Lending Targets of EIB.
28. Whether EIB is subject to Article 9 of the Regulation 1367/2006 is not quite clear. While its definition of plans and programmes provided in Article 2 (1c) excludes "financial and budget plans and programmes, namely those laying down how particular projects or activities should be financed" one may argue that setting the lending objectives does not fall into such an exemption and therefore for example setting the environmental lending objectives by EIB in its Corporate Operational Plan should be subject to public participation as envisaged in Article 9 of the Regulation 1367/2006.
29. Moreover, Article 7 of the Aarhus Convention does not exclude from its ambit neither financial nor budget plans.
30. Thus, EIB is subject to the obligations stemming from the relevant provisions, in particular Articles 4 and 5, and Article 7, of the Aarhus Convention.

#### IV. PDP and Regulation 1367/2006

31. PDP was approved by the EIB Board of Directors on 28 March 2006, thus before the Regulation 1367/2006 was finally adopted. Therefore para 20 PDP claims that “EIB will also respect the tenor, aims and provisions” of the Regulation. This statement seems to not sufficiently reflect now the legally binding nature of the obligations stemming from the Regulation.
32. According to Article 13 of the Regulation 1367/2006, where necessary the Community institutions shall adapt their rules to the provisions of the Regulation with effect from 28 June 2007. There is no doubt in the case of EIB it is necessary.
33. Para 23 PDP proclaims non-discrimination principle. It does not make it sufficiently clear however that it covers also “discrimination as to citizenship, nationality or domicile” etc as required by Article 3 of the Regulation 1367/2006.
34. Para 27 PDP envisages that access to information will be refused where disclosure would undermine inter alia “integrity of the EIB’s internal decision-making process” while under Article 4 (3) of Regulation 1049/2001 as applied by virtue of Article 3 of Regulation 1367/2006, access may be refused only in case where disclosure would “seriously undermine” (and not only “undermine”!) institution’s decision-making process. The threshold set by the Regulation is much higher then.
35. Regulation 1367/2006 states in Article 6 (1) that “an overriding public interest in disclosure shall be deemed to exist where the information requested relates to emissions into the environment” while PDP does not include any statement to that effect.
36. Regulation 1367/2006 requires in Article 6 (1) that “grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information requested relates to emissions into the environment” ” while PDP does not include such a requirement.
37. PDP does not seem to include clearly the requirement for “onward referral” as stipulated in Article 7 of the Regulation 1367/2006.
38. PDP does not seem to include clearly the requirement for cooperation with and assistance to public authorities in case of imminent threat to human health or the environment as stipulated in Article 8 of the Regulation 1367/2006.
39. PDP does not seem to address clearly the requirement for assuring that the information that is compiled by EIB is “up-to-date, accurate and comparable” as stipulated in Article 5 of the Regulation 1367/2006.
40. PDP in para 89 envisages 20 working days to process the application while the Regulation 1049/2001 envisages in Article 7 only 15 days for processing applications.
41. PDP in para 95 envisages that a reply to a complex request is provided no later than 40 working days following receipt while the Regulation 1049/2001 allows that only in exceptional cases the original 15 days can be extended by another 15 days.

#### V. PDP and the Aarhus Convention

42. PDP was approved by the EIB Board of Directors on 28 March 2006, thus at the time when the Aarhus Convention was already in force in relation to Community institutions.
43. Para 23 PDP proclaims non discrimination principle. It does not make it sufficiently clear however that it covers also “discrimination as to citizenship, nationality or domicile” etc as required by Article 3 (9) of the Aarhus Convention.
44. Para 27 PDP envisages that access to information will be refused where disclosure would undermine inter alia “integrity of the EIB’s internal decision-making process”. This exemption is worded in terms different from the relevant exemption provided by the Aarhus Convention which allows a request to be refused if it “concerns internal communications of public authorities where such exemption is provided for in national law or customary practice”. Nevertheless it would be in line with the Aarhus Convention if it was in line with the relevant provision of the Regulation 1049/2001, which in that case serves as “national law” applicable to EIB by virtue of Article 3 of Regulation 1367/2006. The Regulation 1049/2001 provides - as already indicated - that access may be refused only in case where disclosure would “seriously undermine” (and not only “undermine”!) institution’s decision-making process.
45. Para 27 PDP, following Article 4 (2) of the Regulation 1049/2001, envisages that access to information will be refused where disclosure would undermine the protection of inter alia “court proceedings and legal advice”. The corresponding provision of the Aarhus Convention (article 4 (4c) allows a request to be refused if the disclosure would adversely affect “the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or a disciplinary nature”. It seems that the scope of the exemption as envisaged in the Aarhus Convention is somewhat more limited then that envisaged in PDP or, in other words, PDP allows more information to be refused than the Aarhus Convention allows under that provision.
46. Paras 28, 30, 32 and 33 PDP list types of information that should be considered confidential, the reasons being mainly protection of commercial interests. All of those are listed in an arbitrary way, without any requirement for individual balancing the interests for and against the disclosure, and without taking into account whether the information relate to emissions. As already mentioned PDP

- does not require also that “grounds for refusal shall be interpreted in a restrictive way”. This is against the obligations stemming from Article 4 (4) of the Aarhus Convention.
47. PDP does not seem to include clearly the requirement for “onward referral” as stipulated in Article 4 (5) of the Aarhus Convention.
  48. PDP does not seem to include clearly the requirement stipulated in Article 5 (1c) of the Aarhus Convention that in the case of imminent threat to human health or the environment certain information is disseminated immediately.

## **VI. ES and Regulation 1367/2006**

49. ES was approved by the EIB Board of Directors on 5 May 2004, thus before the Regulation 1367/2006 was finally adopted.
50. According to Article 13 of the Regulation 1367/2006, where necessary the Community institutions shall adapt their rules to the provisions of the Regulation with the effect from 28 June 2007. There seems to be reasons to believe that also in case of the EIB's ES it is necessary.
51. ES does not mention the Regulation 1367/2006 at all.
52. ES does not seem to address at all the need for providing public participation in preparing their plans and programs relating to the environment.
53. In particular, ES does not provide any procedural steps concerning public participation required by Article 9 of the Regulation 1367/2006.

## **VII. ES and the Aarhus Convention**

54. ES was approved by the EIB Board of Directors on 5 May 2004, thus at the time when the Aarhus Convention was not yet in force in relation to Community institutions.
55. ES does not require that plans and programmes relating to the environment which are prepared by EIB are subject to public participation procedures as required by Article 7 of the Aarhus Convention.
56. Although EIB does not itself issue any decisions subject to Article 6, it claims to address the issue in its policies and requires projects financed to be subject to relevant procedures. However the issue is addressed not consistently enough in ES.
57. ES requires (page 4) that all projects likely to have a significant effect on the environment be subject to EIA according to the requirements of EIA Directive. However ES mentions here only the requirements of the original Directive 85/337 and Directive 97/11 amending it, while omitting Directive 2003/35 which was meant to implement the Aarhus convention and introduced extended public participation requirements to EIA procedure.
58. ES envisages (page 5) that project Directorate takes into account several factors while carrying out environmental assessment of the project but does not take into account the need for- and outcomes of - public participation, as required under Article 6.8 of Aarhus Convention.
59. ES requires (page 6) “to respect the Convention’s aims and principles” in countries where Aarhus applies. This in legal terms means less than conforming to its “requirements”.

## **VIII. General conclusions**

60. EIB acknowledges existence of the Aarhus Convention and seems to be generally supportive to its goals.
61. The approach of EIB is however characteristic for a sympathetic but distant observer of the Aarhus Convention rather than for an institution which is legally bound by its provisions.
62. There is no doubt that EIB, as an institution of EC mentioned in Article 9 of the Treaty, is covered by the obligations stemming from the Aarhus Convention.
63. There is no doubt that EIB holds environmental information and prepares plans and programs relating to the environment and therefore it is subject to the relevant obligations of the Aarhus Convention, in particular those stemming from Articles 4, 5 and 7 thereof.
64. There is no doubt that provisions of Regulation 1367/2006 regarding access to information apply to EIB.
65. It is not quite clear if the provisions of Regulation 1367/2006 exempting financial and budgetary plans and programs from its obligations regarding public participation cover all plans and programs being prepared by EIB.
66. Neither PDP nor ES reflect properly the fact that EIB is an institution covered by the obligations stemming from the Aarhus Convention and Regulation 1367/2006.
67. Both PDP and ES require amendments in order to provide a sufficient basis for EIB to meet its obligations in relation to access to environmental information and public participation.



## **IX. Conclusions concerning PDP**

68. In principle, PDP is meant to serve as the main legal instrument to provide internal rules of EIB concerning access to information. In fact it does so - albeit it is not intended to implement and adapt to the needs of EIB of the generally applicable rules of Regulation 1367/2006 and Aarhus Convention.
69. Generally, PDP follows the language and approach to public access to information taken in the Regulation 1049/2001 and Regulation 1367/2006, which is slightly different than those of the Aarhus Convention.
70. PDP does not reflect all the obligations stemming from Regulation 1367/2006 and the Aarhus Convention.
71. Some of the provisions of PDP are not in line with the obligations stemming from Regulation 1367/2006 and the Aarhus Convention.

## **X. Conclusions concerning ES**

72. Generally, ES is neither meant to serve as the main legal instrument to provide internal rules of EIB concerning public participation nor in fact performs such a role.
73. However, ES may well be treated as an appropriate legal instrument to provide internal rules of EIB concerning public participation in preparation of plans and programmes relating to the environment.
74. ES provides some guidance concerning EIB policies in relation to issues of some relevance for public participation (like EIA) without however always sufficiently reflecting the Aarhus principles.

## **XI. General recommendations**

75. EIB needs to reconsider its approach towards the Aarhus Convention and acknowledge its situation as one of the institutions subjected to the obligations stemming from the Convention and Regulation 1367/2006.
76. In particular EIB needs to carefully examine which of the obligations stemming from the Convention and Regulation 1367/2006 apply to it and how best to adapt its internal rules to assure compliance with these obligations.
77. There is no doubt that PDP is best suited to provide the internal legal basis for fulfilling the obligations concerning access to environmental information.
78. As for the public participation in EIB's plans and programs relating to the environment one can envisage either using ES or elaborating a special instrument in this respect.
79. There is no doubt however that ES is the best instrument to establish policies to promote the Aarhus principles.

## **XII. Recommendations concerning PDP**

80. PDP should be adapted, according to Article 13 of the Regulation 1367/2006, to the provisions of the Regulation, with effect from 28 June 2007.
81. Para 20 PDP should be changed to reflect the binding nature of the obligations stemming from the Regulation 1367/2006.
82. Para 23 PDP should be amended with the aim to make it sufficiently clear that EIB does not discriminate "as to citizenship, nationality or domicile" etc as required by Article 3 of the Regulation 1367/2006.
83. Para 27 PDP should be amended in relation to "integrity of the EIB's internal decision-making process" to follow Article 4 (3) of Regulation 1049/2001 as applied by virtue of Article 3 of Regulation 1367/2006, which allows that access may be refused only in case where disclosure would "seriously undermine".
84. PDP should be amended with the aim to include the statement as provided for by Article 6(1) of the Regulation 1367/2006 that "an overriding public interest in disclosure shall be deemed to exist where the information requested relates to emissions into the environment".
85. PDP should be amended in order to include the requirement as provided for by Article 6(1) of the Regulation 1367/2006 that "grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information requested relates to emissions into the environment".
86. PDP should be amended to include clearly the requirement for "onward referral" as stipulated in Article 4 (5) of the Aarhus Convention and in Article 7 of the Regulation 1367/2006.
87. PDP should be amended to include clearly the requirement stipulated in Article 5 (1c) of the Aarhus Convention and in Article 8 of the Regulation 1367/2006 that in the case of imminent threat to human

- health or the environment EIB disseminates certain information immediately and cooperates with and provide assistance to relevant public authorities.
88. PDP should be amended to include clearly the requirement for assuring that the information that is compiled by EIB is “up-to-date, accurate and comparable” as stipulated in Article 5 of the Regulation 1367/2006.
  89. Para 89 PDP should be changed to envisage 15 (instead of 20) working days to process the application - to follow Article 7 of the Regulation 1049/2001.
  90. Para 95 PDP should be changed to envisage that a reply to a complex request is provided no later than 30 (instead of 40) working days following receipt - to follow Article 7 of the Regulation 1049/2001.

### **XIII. Recommendations concerning ES**

91. ES may well serve as a main internal instrument to provide rules for public participation in preparation of EIB’s plans and programs relating to the environment. To this effect it needs to be seriously amended either following specific obligations stemming from the Regulation 1367/2006 or at least general requirements of Article 7 of the Aarhus Convention.
92. While referring to the EIA Directive (page 4 and Box 4) it is necessary to mention also the Directive 2003/35.
93. Provisions of ES indicating factors (page 5) that project Directorate takes into account while carrying out environmental assessment of the project should include also the need for - and outcomes of - public participation, as required under Article 6.8 of the Aarhus Convention.
94. ES should be amended to require (page 6) not only “to respect the Convention’s aims and principles” in countries where Aarhus applies but to respect “the Convention’s provisions and requirements”.

Jerzy Jendrośka

## **Appendix 2. EIB’s Public Consultation Report**

## Public Consultation Report - Timetable of the consultation process

<b>14 December 2004</b>	First announcement on the EIB website of the policy review and public consultation process. Targeted mailing to interested organizations and individuals.
<b>19 May 2005</b>	Launch of a 45 working-day public consultation process on a revised draft policy (Draft I).
<b>22 June 2005</b>	Public Consultation Workshop, Brussels.
<b>19 July 2005</b>	Announcement of an extension of the consultation process beyond the closing date of 21 July.
<b>21 July 2005</b>	Completion of the 45 working-day consultation process.
<b>21 October 2005</b>	Launch of a 20 working-day consultation process on a re-edited draft policy (Draft II) taking into consideration stakeholder comments from the first round of public consultation. Public comments from the first consultation round published, for information, on the EIB website.
<b>18 November 2005</b>	Public Consultation Meeting, Brussels. Completion of the 20 working-day public consultation process.
<b>2 December 2005</b>	Meeting of EIB-President Philippe Maystadt with Gabrielle Zimmer and Alain Lipietz, Members of the European Parliament
<b>6 January 2006</b>	Public comments from the second round of consultation published, for information, on the EIB website.
<b>21 February 2006</b>	Approval by the Management Committee of the draft Public Disclosure Policy and the Consultation Report.
<b>7 March 2006</b>	Draft Policy and Consultation Report published, for information, on the Bank's website (prior to Board consideration).
<b>[28 March] 2006</b>	Approval by the Board of Directors of the new Public Disclosure Policy
<b>[ ] 2006</b>	Completion of the Policy Review by publishing the new Disclosure Policy Consultation Report on the EIB website.

## Appendix 3. Transparency Scorecards, May 2007

### Principle 1. The Right of Access

	WB	IFC	MIGA	EBRD	EIB
Disclosure Policy	✓	✓	✓	✓	✓
Maximum disclosure	~	~	~	~	~
Comprehensive scope	✗	✗	✗	✗	~

### Principle 2. Automatic Disclosure

	WB	IFC	MIGA	EBRD	EIB
Basic institutional information	✓	✓	✓	✓	✓
Directory of contact information	✗	✗	✗	✗	✗
Financial and budgetary information	✓	~	~	~	~
Institutional policies, strategies and procedures	✓	✓	~	✓	✓
Country analyses and strategies	~	~	NA	✓	NA
Project and program information	✓	~	✗	~	~
Institutional performance audits and evaluations	✓	~	✗	✓	~

### Principle 3. Access to Decision-Making

	WB	IFC	MIGA	EBRD	EIB
Advance notice	~	✗	✗	✓	~
Timely access to iterative project and program documents throughout the operational cycle	~	~	✗	~	~
Agendas and minutes of Board meetings	✓	✓	✗	✓	✗
Transcripts of Board meetings	✗	✗	✗	✗	✗
Open Board meetings	✗	✗	✗	✗	✗
Dissemination and translation strategy	~	~	~	~	~

### Principle 4. Right to request information

	WB	IFC	MIGA	EBRD	EIB
Clarity on how to submit a request for information	~	✓	✓	✓	✓
Document register	~	✗	✗	✗	✗
Prescribed timelines	✗	~	✗	✓	~
Obligation to disclose whole documents, justifying any redactions	✗	✗	✗	✗	✗
Appropriate fees, possibility of fee waiver	~	~	~	~	✓
Rules on the right to specify the form of receipt and language of information	✗	~	✗	✓	~

### Principle 5. Limited Exceptions

	WB	IFC	MIGA	EBRD	EIB
Narrowly drawn exceptions to disclosure	✗	✗	✗	✗	✗
Harm-based exceptions	✗	✗	✗	~	✗
Public interest override	✗	~	✗	~	~

### Principle 6. Appeals

	WB	IFC	MIGA	EBRD	EIB
Administrative appeals	✗	✓	✗	✓	✓
Independent appeals	✗	✗	✗	~	~
Appeals disposed of in a timely fashion	NA	NA	NA	✓	✓
Enforcement of recommendations	NA	NA	NA	NA	NA

### Principle 7. Whistleblower Protections

	WB	IFC	MIGA	EBRD	EIB
Broad coverage of policy	~	~	~	~	✗
Independent adjudication forum	✗	✗	✗	✗	NA
Fair burden of proof rules	~	~	~	✗	NA
Comprehensive relief, including reinstatement	~	~	~	✗	NA
Corrective action	✗	✗	✗	✗	NA

### Principle 8. Promotion of Freedom of Information

	WB	IFC	MIGA	EBRD	EIB
IFI staff training on access to information rules	~	~	✗	✗	~
Access to information as part of the corporate incentive structures and staff evaluation procedures	✗	✗	✗	✗	✗
Requests tracking and records management	~	✓	~	~	~
Individual sanctions for willful obstruction of access to information	✗	✗	✗	✗	✗

### Principle 9. Regular Review

	WB	IFC	MIGA	EBRD	EIB
Periodic disclosure policy reviews	~	✓	~	✓	✓
Annual review of disclosure policy implementation and effectiveness	✗	✓	✗	✓	✓

# Transparency Scorecard

## European Investment Bank



May 2007

### Legend

Scores are based on research available in the IFI Transparency Resource (IFITR) ( <a href="http://www.ifitransparencyresource.org">www.ifitransparencyresource.org</a> ). For a complete list of relevant IFITR reference indicators, please see Annex 1.	✓	~	✗
	<b>Acceptable.</b> The institution has adequate transparency policy in place.	<b>Needs Improvement.</b> The institution's policies provide for partial disclosure or disclosure on an occasional basis.	<b>Unacceptable.</b> The institution does not have policy requirements that meet the transparency indicator.

## Principle 1. Right of Access

*The right to access information is a fundamental human right which applies to, among other things, information held by international financial institutions, regardless of who produced the document and whether the information relates to a public or private actor.*

	World Bank	IFC	MIGA	EBRD	EIB
<b>Disclosure policy</b> <i>Transparency rules are established and articulated in a binding institutional policy</i>	✓	✓	✓	✓	✓
	The Bank established a disclosure policy in 1994.	IFC established a disclosure policy in 1997.	MIGA established a disclosure policy in 1999.	EBRD established a disclosure policy in 2000.	The EIB established a disclosure policy in 1996. The current policy was approved in 2006
<b>Maximum disclosure</b> <i>Disclosure rules are based on a presumption of access subject to limited exceptions</i>	~	~	~	~	~
	The Bank's policy states a "presumption in favor of disclosure" and includes a list of constraints. However, the presumption is not implemented in practice.	The IFC's policy states a "presumption in favor of disclosure" and includes a list of exceptions. However, the presumption is not implemented in practice.	MIGA's policy states a "presumption in favor of disclosure" and includes a list of exceptions. However, the presumption is not implemented in practice.	The EBRD's policy states a presumption in favor of disclosure "in the absence of a compelling reason for confidentiality" and includes a list of constraints. However, the presumption has not so far been implemented in practice.	The EIB's policy states a "presumption of disclosure, unless there is a compelling reasons for non-disclosure"; in its section on constraints. However, the presumption is not implemented in practice.
<b>Comprehensive scope</b> <i>Disclosure rules apply to all information held by the institution</i>	✗	✗	✗	✗	~
	Disclosure rules only apply to information specifically mentioned in the disclosure policy.	Disclosure rules only apply to "institutional information" and "information regarding activities supported by IFC."	Disclosure rules only apply to information specifically mentioned in the disclosure policy.	Disclosure rules only apply to information specifically mentioned in the disclosure policy and Environmental Policy. The EBRD reserves the right "to protect the confidentiality of commercially sensitive information".	Disclosure rules apply to all information held by the EIB. However there are examples of information which is not disclosed in principle without compelling reasons.

## Principle 2. Automatic Disclosure

International financial institutions should automatically disclose and broadly disseminate, for free, a wide range of information about their structures, finances, policies and procedures, decision-making processes, and country and project work.

	World Bank	IFC	MIGA	EBRD	EIB
<b>Basic institutional information</b> <i>Founding documents including the statutes and by-laws of the institution, and basic information on the organizational structure</i>	✓	✓	✓	✓	✓
	Legal documentation including the Bank's Articles of Agreement and by-laws can be found on the Bank's website along with an organizational chart.	Legal documentation including IFC's Articles of Agreement and by-laws can be found on the IFC's website along with an organizational chart.	Legal documentation including the Convention establishing MIGA, MIGA's by-laws and an organizational chart can be found on or ordered from MIGA's website.	Legal documentation including the Agreement establishing the EBRD, its by-laws and organizational charts can be found on the EBRD's website.	Legal documentation including the EIB's Statute, policies, guidelines and organisational structure can be found on the website.
<b>Directory of contact information</b> <i>Detailed contact information (including title, phone, fax, email and mailing address) for the various departments and staff that make up the institution, including the various country offices located outside of the institution's headquarters</i>	✗	✗	✗	✗	✗
	The disclosure policy states that the staff directory is publicly available, but the Bank stopped disclosing a public version in 2006. The Bank provides an inconsistent degree of contact information for departments and staff throughout its website. The bank identifies area and thematic experts on its website but guides the public to Media Relations for contact.	There is no policy requirement to disclose staff contact information and no directory is publicly available. IFC lists names of senior management on its website and in its annual report.	There is no policy requirement to disclose staff contact information and no directory is publicly available. MIGA provides contact information for a small number of department heads on its website and gives names of the senior management team without contact information.	There is no policy requirement to disclose staff contact information. EBRD provides contact information for selected department heads and local offices on its website. EBRD gives names of a small number of the senior management team with limited or no contact information. The EBRD does not release contacts to its Board members.	There is no policy requirement to disclose staff contact information and no directory is publicly available. The whole correspondence must go through Communication and Information Department, unless one is lodging a complaint or reporting corruption.
<b>Financial and budgetary information</b> <i>Detailed description of the financial position each fiscal year and estimates of all expenditures and outlays as well as information about the operational budgets of individual departments and units within the institution</i>	✓	~	~	~	~
	The disclosure policy provides for public access to annual audited financial statements, the annual report, and administrative budget. The bank releases a wide range of other financial information.	IFC disclosure policy provides for disclosure of annual audited financial statements, an annual report and quarterly financial statements. IFC policy requires the disclosure of the Budget and Business Plan, but it is not yet available online.	MIGA'S disclosure policy provides for disclosure of annual audited financial statements and an annual report. MIGA does not disclose a detailed operational budget.	EBRD's disclosure policy provides for disclosure of its annual report, which includes a financial report. Other financial documents, including the annual budget, are made available on the Bank's website in a form of a summary after Board approval.	The disclosure policy provides for public access to the EIB Group financial report, including auditors statements, and the Corporate Operational Plan. However, there is no data about operational budgets for individual departments.
<b>Institutional policies, strategies and procedures</b> <i>Overall plans that outline the general goals, overarching development objectives, administrative functioning, and the procedures by which all the operations of the institution are developed and implemented</i>	✓	✓	~	✓	✓
	The WB discloses its final policies and strategies, after their approval by the Board. In addition, the World Bank makes a wide range of guidelines, including its Staff Manual, available to the public.	IFC discloses all policies that are approved by IFC's Board of Directors "unless the Board decides that disclosure may have an adverse impact on the financial condition or business interests of IFC." It is unclear if other IFC procedures, staff manuals and guidelines are publicly available.	"MIGA produces booklets and reports describing its investment policies and procedures, which are periodically updated." However, only a few policy papers are available on MIGA's website, and it makes no mention of others.	EBRD discloses all policy and strategy papers after approval by the Board of Directors. In addition, it discloses a wide range of internal procedures and guidelines. The EBRD does not keep an archive of older policies, strategies and procedures.	The EIB's policy ensures routine disclosure of approved policies, strategies, procedures, codes of conduct and the Corporate Operational Plan. All documents are available through the website.
<b>Country analyses and strategies</b> <i>Reports that examine a borrowing member country's economic status, lending portfolio, and various country-specific themes or issues; these can</i>	~	~	NA	✓	NA
	The World Bank discloses most Country Assistance Strategies, in their final form, along with a number of other country studies. However, it does not disclose all country Economic and Social	IFC discloses Country Assistance Strategies jointly prepared with the World Bank "in accordance with the World Bank's Policy on Disclosure of Information." It is unclear	MIGA does not prepare country strategies or analyses.	EBRD discloses all Country Strategies along with a summary of comments received and management's response after the Strategy has been approved. The EBRD does not keep an archive of older Country	EIB does not prepare country strategies or analyses, occasionally publishing aggregated data about financing it has provided to particular countries or

	World Bank	IFC	MIGA	EBRD	EIB
<i>include poverty strategies, environmental strategies, and general country strategies</i>	Work, Country Portfolio and Performance Reviews.	what other country documents are produced and available from IFC.		Strategies.	regions.
<b>Project and program information</b> <i>Documents related to a specific lending, grant, investment or guarantee operation available on an anticipated basis throughout the project or program cycle including:</i> <ul style="list-style-type: none"> <li>▪ <i>Project or program documents</i></li> <li>▪ <i>Social and environmental documents</i></li> <li>▪ <i>Supervision and monitoring reports</i></li> <li>▪ <i>Completion and evaluation reports</i></li> </ul>	✓	~	✗	~	~
	The Bank releases a number of project documents including Project Information Documents and Environmental Assessments before project approval and Project Appraisal Document (PAD) or Program Document (PDs), Loan Agreements and Implementation Completion Reports after approval by the Board of Directors. In addition, the Bank produces a very brief summary of projects under implementation on an annual basis. The Bank does not disclose staff supervision and monitoring reports.	IFC discloses a brief project summary about each of its operations and social and environmental information about projects with adverse negative impacts. IFC does not disclose Project Board Reports or Loan Agreements. IFC requires the disclosure of an "Action Plan", annual reports on Action Plan implementation and some "ongoing" information to communities in the project area. IFC does not require client disclosure of Annual Monitoring Reports or completion and evaluation reports.	MIGA discloses little information about its guarantees. It publishes a quarterly report with brief summaries of projects insured by MIGA and requires clients to disclose environmental assessments. MIGA does not require the disclosure of detailed Board reports or contracts.	EBRD discloses a brief Project Summary Document about each of its operations which includes a short summary of social and environmental information. EBRD discloses Project Board Reports on public sector projects on request, excluding potential confidential information. The EBRD does not disclose Board Reports on private sector projects. There is no policy requirement to disclose full EIA, Environmental Action Plans, annual reports on EAP implementation and other project-specific information. The EBRD posts certain evaluation reports which are subject to clearance in respect of commercial confidentiality.	All public sector Project Summaries with links to electronic versions of EIA non-technical summaries (if applicable) are disclosed in advance. For some private sector projects, this information can be disclosed after approval or even signing of the project.
<b>Institutional performance audits and evaluations</b> <i>Assessments of the institutions' operations, impacts, and performance that are carried out by internal evaluation units</i>	✓	~	✗	✓	~
	The WB Independent Evaluation Group (IEG) discloses a wide range of project, country, sector or thematic evaluations, including: the Annual Report on Operations Evaluations; Project Performance Assessment Reports (PPARs); Impact Evaluation Reports (IERs); and Country Assistance Evaluations.	IEG-IFC discloses sector, thematic and country evaluations, including Country Impact Reviews. However, key project evaluations such as Expanded Project Supervision Reports and Project Evaluation Summaries, and complete annual portfolio reviews, such as the Annual Review of Evaluations Findings, are not disclosed.	According to available research, there are no specific rules governing disclosure of IEG-MIGA products. IEG-MIGA makes "annual reports" available on its website, but complete evaluation reports are not available.	The EBRD independent Evaluation Department discloses a wide range of evaluations, including its: Annual Evaluation Overview Report, Operation Performance Evaluation Reviews, Technical co-operation operations reviews and special studies on Bank programmes, sectors and countries.	EIB discloses ex-post thematic, sector and regional / country evaluations. Also an annual Operations Evaluation Overview Report is published. Evaluations of individual projects are still for internal use only and not made public.

## Principle 3. Access to Decision-Making

International financial institutions should disseminate information which facilitates informed participation in decision-making in a timely fashion, including draft documents, and in a manner that ensures that those affected and interested stakeholders can effectively access and understand it; they should also establish a presumption of public access to key meetings.

	World Bank	IFC	MIGA	EBRD	EIB
<p><b>Advance notice</b> This includes access to, among other things: timelines for the development of policies and strategies, projects and programs cycles, consultation plans, and key dates for decisions</p>	~	✘	✘	✓	~
<p>The Bank discloses a project cycle and some key dates for decisions on projects, programs and policies. However, it does not require advance notice of policy reviews or the development of country strategies or analyses.</p> <p>While IFC makes information on some policy reviews and investment decision dates available in advance, advance notice of decision-making processes is very limited and no policy requirement for this exists.</p> <p>MIGA does not require or provide on a routine basis advance notice to its policy and strategy or guarantee and operations decision-making processes.</p> <p>EBRD provides advance notice to its policy, strategy and operations decision-making processes. The EBRD discloses a list of policies and strategies scheduled for development or review in the year ahead. It posts dates of upcoming Board Meetings over projects, programs and policies.</p> <p>EIB discloses information in its project cycle, but does not provide dates for key project decisions. Formal reviews of the disclosure policy take place every three years. For the other "selected policies", consultations are expected, but with no specific requirements.</p>					
<p><b>Timely access to iterative draft documents</b> The provision of iterative versions (at least one draft and one final draft) of documents related to core operations in sufficient advance of document finalization - ;core operations include:</p> <ul style="list-style-type: none"> <li>Policy and strategy formulation</li> <li>Country strategy formulation</li> <li>Project and program development</li> <li>Social and environmental assessment</li> </ul>	~	~	✘	~	~
<p>The Bank requires the disclosure of at least one draft social and environmental assessment document for medium and high-risk projects early in project preparation. The Bank requires the release of a project summary several months before project approval. The Bank does not disclose draft project documents. On an <i>ad hoc</i> basis, the Bank discloses draft operational policies and draft country strategies under review or development. The Bank has a pilot program to disclose final draft operational policies, but has not yet implemented this program.</p> <p>IFC requires its clients to disclose social and environmental information "early" in the assessment process and, for projects with significant impacts, to engage in "free, prior, informed consultation" with affected communities. These concepts imply, but do not specify, availability of draft documents for such projects. The IFC does not release draft investment information nor does it disclose investment summaries in a timely manner (prior to 60 days) before finalization. IFC may disclose one or more draft policies if they are "likely to have a broad impact on IFC's operations or a direct impact on communities."</p> <p>MIGA does not provide any information early in the development of its guarantee operations. It does not disclose draft guarantee documents. MIGA does require, for high-impact projects, that the project sponsor disclose "relevant materials in a timely manner in a form and language that are understandable to the groups being consulted." MIGA may, on an <i>ad hoc</i> basis, disclose draft policies for public comments.</p> <p>The EBRD requires that the investor discloses social and environmental impact assessment documents for high-risk projects from 90 to 120 days before project approval. Implementation in practice has been problematic. The Bank requires the release of a Project Summary Document from 30 to 60 days before project approval. EBRD discloses draft strategies and policies under review or development. EBRD does not disclose final draft strategies and policies before Board approval.</p> <p>The EIB does not require specific timelines and procedures for drafting policies; however there is a good practice of disclosing first and final policy drafts in advance. There are quite good rules for disclosing in advance information on public sector projects and environmental information, if applicable, but very often not followed in practice. Moreover, some private sector projects might be outside the pipeline until its approval or even signing.</p>					
<p><b>Agendas and minutes of Board meetings</b> A list, plan or outline of matters scheduled for discussion by the Board of Directors,</p>	✓	✓	✘	✓	✘
<p>A publicly available monthly calendar lists some issues to be discussed at upcoming Board meetings. Minutes of the Board of Directors</p> <p>A publicly available monthly calendar lists a very limited number of issues to be discussed at upcoming Board</p> <p>A publicly available monthly calendar lists a very limited number of issues to be discussed at upcoming Board meetings. MIGA does not</p> <p>A publicly available half to a bi-monthly calendar lists policies, strategies and operations to be discussed at upcoming Board meetings. Minutes</p> <p>The only disclosed document is the annual calendar of Board of Directors' meetings, which includes a short notice of voting</p>					



	World Bank	IFC	MIGA	EBRD	EIB
<i>organized according to the specific days upon which the discussions are scheduled to take place, followed by a record of official business conducted and formal decisions taken, including voting records</i>	meetings are publicly available and include: directors, officers and staff in attendance, approval of the previous minutes, titles and agendas, agreements and decisions reached, and names of Directors wishing to be recorded as abstaining or objecting.	meetings. Minutes of the Board of Directors meetings are publicly available and include: directors, officers and staff in attendance, approval of the previous minutes, titles and agendas, agreements and decisions reached, and names of Directors wishing to be recorded as abstaining or objecting.	require the disclosure of Board meeting minutes.	of the Board of Directors meetings are publicly available after they are approved and include: directors, officers and staff in attendance, approval of the previous minutes, titles and agendas, agreements and decisions reached.	abstentions in cases of conflicts of interest.
<b>Transcripts of Board meetings</b> <i>A verbatim account of a meeting of the Board of Directors including any statements (written or oral) provided by individual participants</i>	✘	✘	✘	✘	✘
	There are no publicly available transcripts of meetings; there are no publicly available written statements from meeting participants.	There are no publicly available transcripts of meetings; there are no publicly available written statements from meeting participants.	There are no publicly available transcripts of meetings; there are no publicly available written statements from meeting participants.	There are no publicly available transcripts of meetings; there are no publicly available written statements from meeting participants.	There are no publicly available transcripts of meetings; there are no publicly available written statements from meetings' participants.
<b>Open Board meetings</b> <i>The public and press are allowed to view the meetings of the Board of Executive Directors</i>	✘	✘	✘	✘	✘
	The meetings of the Board of Directors are not open to the public.	The meetings of the Board of Directors are not open to the public.	The meetings of the Board of Directors are not open to the public.	The meetings of the Board of Directors are not open to the public.	The meetings of the Board of Directors are not open to the public.
<b>Dissemination and translation strategy</b> <i>A plan of action outlining how to expand communications and improve the provision of information as well as respond to public demand; this includes ensuring the provision of information in appropriate forms and languages</i>	~	~	~	~	~
	The World Bank Group has a strategy on improving public information centers and a framework on translation of Bank Group documents but, to date, it is unclear how either of these are being implemented. For projects with significant impacts, the Bank is required to provide social and environmental information in an accessible form and language to local communities.	The World Bank Group has a strategy on improving public information centers and a framework on translation of Bank Group documents but, to date, it is unclear how either of these are being implemented. For projects with significant impacts, IFC is required to provide social and environmental information in an accessible form and language to local communities.	The World Bank Group has a strategy on improving public information centers and a framework on translation of Bank Group documents but, to date, it is unclear how either of these are being implemented. For projects with significant impacts, MIGA is required to provide social and environmental information in an accessible form and language to local communities.	The EBRD has no strategy on improving information centers and a framework on translation of EBRD documents. EBRD routinely translates Project Summary Documents, Country Strategies. It provides EIA summaries in local languages.	The EIB disclosure policy requires that documents with particular importance for the public, such as Codes of Conduct, are published in all EU languages. However, most are published in at least three languages. Some should be translated in other languages. The EIB does not have a communication strategy, at least not available to the public.

## Principle 4. The Right to Request Information

Everyone has the right to request and to receive information from international financial institutions, subject only to a limited regime of exceptions, and the procedures for processing such requests should be simple, quick and free or low-cost.

	World Bank	IFC	MIGA	EBRD	EIB
<p><b>Clarity on how to submit a request for information</b>  <i>Clear identification of where requests for information can be sent, in what form and language, and how assistance will be provided to requestors who have difficulty formulating their requests</i></p>	~	✓	✓	✓	✓
<p>While in practice, requests for information can be sent to the Bank's InfoShop or public information centers, the Bank does not clearly indicate in its policy where information requests should be sent. The Bank's website provides details on ordering information from the InfoShop.</p> <p>IFC's Policy on Information Disclosure provides information on where and how to send requests for information. The IFC provides the mailing and web address of the World Bank InfoShop along with the telephone and fax numbers and the mailing and web address of their Corporate Relations Unit.</p> <p>MIGA's disclosure policy states that requests for information may be sent through the internet or to the World Bank Group's InfoShop's offices in London, Paris and Tokyo or to IBRD resident missions.</p> <p>EBRD's procedural provisions for information requests and appeals provide information on where and how to send requests. The procedures state that requests may be submitted through an online form, fax or regular mail to the Communications Department or directed to the resident office. Requesters are not encouraged to contact Bank staff directly.</p> <p>EIB's Public Disclosure Policy outlines clear procedures for requests, including staff obligations to ask applicants for clarification if their application is not sufficiently precise.</p>	~	✗	✗	✗	✗
<p><b>Document register</b>  <i>A catalogue of all documents produced and held by the institution including the document name and a brief description of the document's function, content and disclosure status</i></p>	✗	~	✗	✓	~
<p>The World Bank's "document glossary" is still incomplete and does not include the documents' disclosure status or how to request information not available on the website.</p> <p>The IFC does not make a document register publicly available.</p> <p>MIGA does not make a document register publicly available.</p> <p>EBRD does not maintain a publicly available document register.</p> <p>EIB does not have a document register – at least not publicly available.</p>	✗	✗	✗	✗	✗
<p><b>Prescribed timelines</b>  <i>Timetable for processing information requests including clear maximum time limits for acknowledging the receipt of a request and providing a full response (within 15 days)</i></p>	✗	~	✗	✓	~
<p>The World Bank does not have defined timelines for responding to requests for information.</p> <p>The IFC "endeavors" to respond to requests for information "within thirty days of the receipt of a written request."</p> <p>MIGA does not have prescribed timelines for responding to requests for information.</p> <p>EBRD will acknowledge receipt of a request within 5 working days, but in any case not more than 10 days. EBRD will respond within 20 working days after receiving the request or clarification or, if a timely explanation for a further delay is provided (within 10 working days following receipt), no later than 40 working days.</p> <p>The EIB prescribed timelines are as follow: a reply should be provided without delay and not later than 20 working days following receipt; in the case complex requests, staff should inform the applicant not later than within 10 working days, but in general the replay should be provided no later than 40 working days. Prescribed timelimits are very often not implemented.</p>	✗	✗	✗	✗	✗
<p><b>Obligation to disclose whole documents, justifying any redactions</b>  <i>In every case possible, entire texts or documents are disclosed and redactions of any confidential information are justified</i></p>	✗	✗	✗	✗	✗
<p>There is no obligation to disclose whole documents. While in practice some documents and reports are released in their entirety, this is not guaranteed and there is no requirement to identify or justify redactions.</p> <p>There is no obligation to disclose whole documents. While in practice some documents and reports are released in their entirety, this is not guaranteed and there is no requirement to identify or justify redactions.</p> <p>There is no obligation to disclose whole documents. While in practice some documents and reports are released in their entirety, this is not guaranteed and there is no requirement to identify or justify redactions.</p> <p>There is no obligation to disclose whole documents. While in practice some documents and reports are released in their entirety, this is not guaranteed and there is no requirement to identify or justify redactions. Some documents are explicitly "subject to clearance in respect of commercial confidentiality".</p> <p>There is no obligation to disclose whole documents but only information from parts not covered by constraints.</p>					

	World Bank	IFC	MIGA	EBRD	EIB
<p><b>Appropriate fees, possibility of fee waiver</b></p> <p><i>Reasonable charges related to the materials provided in response to information requests, including fee waiver procedures</i></p>	~	~	~	~	✓
	<p>All documents that are ready for download online are free to the public, but any requests for hardcopies are subject to fees of USD 20 or more. If ordered from the InfoShop, discounts are available to non-profits, academics and government institutions. Additionally, some fee waivers exist for information requested by persons in countries that borrow from the World Bank.</p>	<p>The information that is available on the website is free of charge. There are fees that are charged for printed copies of information and CD-ROM copies (SPLs and ESRS are the exceptions). If ordered from the InfoShop, discounts are available to non-profits, academics and government institutions. Additionally, some fee waivers exist for information requested by persons in WBG borrowing countries.</p>	<p>The information that is available on the website is free and a charge is only levied on hardcopies that are attained from MIGA and by the InfoShop. If ordered from the InfoShop, discounts are available to non-profits, academics and government institutions. Additionally, some fee waivers exist for information requested by persons in WBG borrowing countries.</p>	<p>All documents that are ready for download online are free to the public, but any requests for hardcopies are subject to fees on a case by case basis.</p>	<p>All documents that are ready for download online are free to the public. An applicant may be charged a fee to cover the costs of making available requested document(s). However, in practice the EIB does not charge CSOs for disclosure of documents or information.</p>
<p><b>Rules on the right to specify the form of receipt and language of information</b></p> <p><i>Guidelines regarding the requestors' prerogative to specify in what form they would like to receive the information, i.e. electronic or hardcopy, and, when reasonable, in what language</i></p>	✗	~	✗	✓	~
	<p>The World Bank does not specify if it will provide information in the form and language requested.</p>	<p>The IFC does not specify if it will provide information in the form requested. IFC will "endeavor" to respond to requests for information in relevant languages.</p>	<p>MIGA does not specify if it will provide information in the form and language requested.</p>	<p>Requests made in languages other than EBRD's four working languages will be responded to in English. When a requester specifies a language preference for a document, EBRD will comply if it holds the documents or information requested in that language.</p>	<p>Information should be supplied in the existing version and format, or, if feasible, according to specific needs of requestor. EIB staff should ensure that, where possible, a requestor writing in one of the EU working languages receives a reply in that same language. However, this will affect disclosure timelines, without mention of requests in non-EU languages.</p>

## Principle 5. Limited Exceptions

The regime of exceptions should be based on the principle that access to information may be refused only where the international financial institution can demonstrate (i) that disclosure would cause serious harm to one of a set of clearly and narrowly defined, and broadly accepted, interests, which are specifically listed; and (ii) that the harm to this interest outweighs the public interest in disclosure.

	World Bank	IFC	MIGA	EBRD	EIB
<p><b>Narrowly drawn exceptions to disclosure</b>  <i>The scope of exceptions apply to a specific type of information so as to limit broad interpretation and, at the same time, not exempt entire categories of documents</i></p>	<b>×</b>	<b>×</b>	<b>×</b>	<b>×</b>	<b>×</b>
	Most of the World Bank's disclosure exceptions are broadly drawn and could relate to almost all information held by the institution. Among other things, the "constraints" apply to: all information referred to in the Disclosure Policy; proceedings of the Board of Directors; third party information; internal documents; and information related to the deliberative process.	Most of the IFC's disclosure exceptions are broadly drawn. Among other things, IFC will not disclose: "communications" that relate to "the deliberative process" and "any internal documents."	Most of MIGA's disclosure exceptions are broadly drawn. While MIGA lists one more narrowly drawn exception ("evaluations of future economic and political scenarios, legal assessment of projects, and related reports"), others, like documents "that are related to the decision-making processes," could apply to a vast amount of information held by MIGA.	Most of EBRD's disclosure exceptions are broadly drawn and could relate to almost all information held by the institution. Among other things, the "constraints" apply to: proceedings of the Board of Directors; third party information; and internal documents.	There are some broadly drawn constraints, especially those related to "protection of the Bank's internal decision making", global loans, or "information typically forming part of the Bank's confidential relationship with its business partners".
<p><b>Harm-based exceptions</b>  <i>Exceptions indicate that disclosure would cause serious harm to legitimate interests</i></p>	<b>×</b>	<b>×</b>	<b>×</b>	~	<b>×</b>
	Many of the World Bank's disclosure policy exceptions are not harm-based.	Many of IFC's disclosure policy exceptions are not harm-based.	Many of MIGA's disclosure policy exceptions are not harm-based.	EBRD may disclose confidential information if, in connection with a project in which the Bank has invested, the EBRD's management determines that the disclosure of certain "confidential information" would be likely to avert imminent and serious harm to public health or safety, and/or imminent and significant adverse impacts on the environment.	EIB disclosure policy constrains are not based on potential harm.
<p><b>Public interest override to exceptions</b>  <i>In cases where information falls within the definition of confidential, disclosure will nonetheless occur if access to information would protect the public interest including human health, livelihood or property</i></p>	<b>×</b>	~	<b>×</b>	~	~
	The World Bank does not have a public interest override for normally confidential information.	The IFC may disclose information that is normally confidential if disclosure "would be likely to avert imminent and serious harm to public health or safety, and/or imminent and significant adverse impacts on the environment." However, Senior IFC Management is the only party given authority to make that decision and IFC only makes such disclosure "after informing a client of IFC's concerns and considering the client's plans to address and mitigate the potential harm involved."	MIGA does not have a public interest override for normally confidential information.	EBRD may disclose confidential information if, in connection with a project in which the Bank has invested, the EBRD's management determines that the disclosure of certain "confidential information" would be likely to avert imminent and serious harm to public health or safety, and/or imminent and significant adverse impacts on the environment.	The overriding public interest is to some extent included in constraints, but should be clearly stated as a separate paragraph to avoid misinterpretation.

## Principle 6. Appeals

Anyone who believes that an international financial institution has failed to respect its access to information policy, including through a refusal to provide information in response to a request, has the right to have the matter reviewed by an independent and authoritative body.

	World Bank	IFC	MIGA	EBRD	EIB
<b>Administrative appeals</b> <i>An internal review that has full discretion in interpreting the policy and authority in overturning a denial of information</i>	✘	✔	✘	✔	✔
	Administrative appeals are not available.	The IFC allows for an appeal to the Disclosure Policy Advisor. "if a requester believes that a request for information from IFC has been unreasonably denied, or that this Policy has been interpreted incorrectly." The Disclosure Policy Advisory reports directly to IFC's Executive Vice President."	Administrative appeals are not available.	EBRD allows for an appeal lodged by "a member of the public whose request for information covered by the PIP has not been satisfied" with the Secretary General, who is responsible for overseeing the implementation of the disclosure policy.	The EIB clearly defines a two-stage procedure for appeals of EU and non-EU citizens, indicating a crucial role for the European Ombudsman.
<b>Independent appeals</b> <i>A body that is wholly independent from the institution, vested with the power to consider disclosure appeals, and whose interpretation of the policy and the resulting decisions are binding</i>	✘	✘	✘	~	~
	Independent appeals are not available.	Independent appeals are not available.	Independent appeals are not available.	EBRD's Independent Recourse Mechanism (IRM) receives complaints from groups who are, or are likely to be, directly and adversely affected by a Bank-financed project, to determine whether there has been material non-compliance by the Bank with specified policy requirements. The IRM's focus is to examine project-related issues. If appropriate, a group filing a complaint with the IRM may indicate that, in their opinion, the Bank has failed to comply with a project-specific requirement of the disclosure policy.	The European Ombudsman can be named as an independent appeal body within the EU legal framework, however its ruling- while respected- is not legally binding. Nevertheless, it is not clear to what extent appeals from non-EU countries can be handled by the European Ombudsman.
<b>Appeals disposed of in a timely fashion</b> <i>Decisions are transparent and considered in brief timeframes; delays in consideration and the handing down of the decision are anticipated and justified</i>	NA	NA	NA	✔	✔
	Not applicable because appeals process does not exist.	Not applicable because it is a new procedure that has not been tested.	Not applicable because appeals process does not exist.	The Secretary General will notify the appellant in writing of his decision on the appeal, giving the reasons, no later than 20 working days after receiving the appeal or clarification.	The Bank should acknowledge the receipt of an appeal without delay and the Secretary General's reply not later than 20 working days following receipt.
<b>Enforcement of recommendations</b> <i>Recommendations, interpretations, and decisions of the appeals body are adhered to in terms of immediate action and future interpretation of the policy</i>	NA	NA	NA	NA	NA
	Not applicable because appeals process does not exist.	Not applicable because there is a new procedure that has not been tested.	Not applicable because appeals process does not exist.	Not applicable because the appeals process is still new.	Not applicable because these rules are still new.

## Principle 7. Whistleblower Protections

*Whistleblowers – individuals who in good faith disclose information revealing a concern about wrongdoing, corruption or other malpractices – should expressly be protected from any sanction, reprisal, or professional or personal detriment, as a result of having made that disclosure.<sup>1,2,3</sup>*

	World Bank	IFC	MIGA	EBRD	EIB
<b>Broad coverage of policy</b> <i>Scope of whistleblower protections articulates types of disclosure that are protected and who is covered</i>	~	~	~	~	×
<p>Only staff, not consultants or others, are covered by the WBG Whistleblower Policy. However, the Bank does have adequate protections against the full scope of potential harassment and provides assistance to guide whistleblowers through possible options.</p> <p>Only staff, not consultants or others, are covered by the WBG Whistleblower Policy. However, the Bank does have adequate protections against the full scope of potential harassment and provides assistance to guide whistleblowers through possible options.</p> <p>Only staff, not consultants or others, are covered by the WBG Whistleblower Policy. However, the Bank does have adequate protections against the full scope of potential harassment and provides assistance to guide whistleblowers through possible options.</p> <p>Only staff, not consultants or others, are covered by the EBRD Whistleblower Policy. However, the Bank does have adequate protections against the full scope of potential harassment and provides assistance to guide whistleblowers through possible options.</p> <p>The EIB's disclosure policy lacks a whistleblower protection mechanism, and the anti-fraud policy does not tackle this issue.</p>					
<b>Independent adjudication forum</b> <i>A forum to adjudicate a whistleblower's rights which is independent from the institution, free from institutional conflicts of interest, operating under rules of due process and which can pass binding judgments in whistleblower cases</i>	×	×	×	×	NA
<p>Current policy fails to provide a forum for the whistleblower's defense of his or her rights that is free of institutional self-interest due to, in part, the lack of independence of adjudicators, the lack of a verifiable record of appeals and the arbitrary substitution of secret investigations for due process rights.</p> <p>Current policy fails to provide a forum for the whistleblower's defense of his or her rights that is free of institutional self-interest due to, in part, the lack of independence of adjudicators, the lack of a verifiable record of appeals and the arbitrary substitution of secret investigations for due process rights.</p> <p>Current policy fails to provide a forum for the whistleblower's defense of his or her rights that is free of institutional self-interest, partially due to the lack of independence of adjudicators, the lack of a verifiable record of appeals and the arbitrary substitution of secret investigations for due process rights.</p> <p>Current policy fails to provide a forum for the whistleblower's defense of his or her rights that is free of institutional self-interest.</p> <p>Not applicable because the EIB does not have a whistleblower policy.</p>					
<b>Fair burden of proof rules</b> <i>Fair and impartial standards that must be met in order to establish that a disclosure has standing under the whistleblower policy</i>	~	~	~	×	NA
<p>The WBG has some appropriate, objective standards to determine whether a disclosure deserves protection and provides a realistic statute of limitations time frame. But, it also includes subjective tests (of "good faith") that put an employee's motives on trial.</p> <p>The WBG has some appropriate, objective standards to determine whether a disclosure deserves protection and provides a realistic statute of limitations time frame. But, it also includes subjective tests (of "good faith") that put an employee's motives on trial.</p> <p>The WBG has some appropriate, objective standards to determine whether a disclosure deserves protection and provides a realistic statute of limitations time frame. But, it also includes subjective tests (of "good faith") that put an employee's motives on trial.</p> <p>EBRD has no publicly available objective standards to determine that a disclosure has standing under the whistleblower policy. It has subjective tests (ie of "good faith") that put an employee's motives on trial.</p> <p>Not applicable because the EIB does not have a whistleblower policy.</p>					
<b>Comprehensive relief, including reinstatement</b> <i>Relief compensates for any hardship born by the whistleblower, by reimbursing any loss</i>	~	~	~	×	NA
<p>Prevailing whistleblowers do not have a right to reinstatement, a specific guarantee of attorney fees (although it is awarded regularly), initial interim relief (although offered in rare</p> <p>Prevailing whistleblowers do not have a right to reinstatement, a specific guarantee of attorney fees (although they are awarded regularly), initial interim relief (although it</p> <p>Prevailing whistleblowers do not have a right to reinstatement, a specific guarantee of attorney fees (although they are</p> <p>There is no public record of comprehensive relief, including reinstatement.</p> <p>Not applicable because the EIB does not have a whistleblower policy.</p>					

<sup>1</sup> The whistle-blower policy assessment is based on the transparency index produced by the Government Accountability Project ([www.whistleblower.org](http://www.whistleblower.org)).

<sup>2</sup> There is one set of staff rules on whistleblower protections that covers all arms of the World Bank Group.

<sup>3</sup> The WBG is scheduled to revise its rules governing whistleblower protections in 2006. However, as of August 2006, these revised rules were not publicly available.

	<b>World Bank</b>	<b>IFC</b>	<b>MIGA</b>	<b>EBRD</b>	<b>EIB</b>
<i>of salary, reinstatement of position, and damage to reputation that occurs as a consequence of the dispute</i>	occurrence), nor the right to be transferred (although this occurs on an ad hoc basis).	is offered in rare occurrence), nor the right to be transferred (although this happens on an ad hoc basis).	awarded regularly), initial interim relief (although it is offered in rare occurrence), nor the right to be transferred (although this happens on an ad hoc basis).		
<b>Corrective action</b>	×	×	×	×	NA
<i>Remedial and corrective outcomes stemming from whistleblower cases are enforced through strengthened institution-wide standards of accountability and transparency</i>	There is no public record of institutional corrective actions stemming from whistleblower cases.	There is no public record of institutional corrective actions stemming from whistleblower cases.	There is no public record of institutional corrective actions stemming from whistleblower cases.	There is no public record of institutional corrective actions stemming from whistleblower cases.	Not applicable because the EIB does not have a whistleblower policy.

## Principle 8. Promotion of Freedom of Information

*International financial institutions should devote adequate resources and energy to ensuring effective implementation of their access to information policies, and to building a culture of openness.*

	World Bank	IFC	MIGA	EBRD	EIB
<b>IFI staff training on access to information rules</b> <i>Trainings for every staff member on the scope, constraints, and appeals procedures of all access to information rules</i>	~	~	×	×	~
<p>The Bank conducts general institutional staff training on the disclosure policy but more details regarding these trainings are not currently available.</p> <p>IFC conducts general institutional staff training on the disclosure policy but more details regarding these trainings are not currently available.</p> <p>No information available regarding MIGA staff training on implementation of its disclosure policy.</p> <p>No information is available regarding EBRD staff training on implementation of its disclosure policy.</p> <p>The Bank runs awareness-building sessions for staff members on transparency and disclosure issues, however more details are not currently available.</p>					
<b>Access to information as part of the corporate incentive structures and staff evaluation procedures</b> <i>Employee evaluations and promotions, including departmental, title and/or salary transitions, are connected to the practical implementation of and adherence to transparency rules and a spirit of openness</i>	×	×	×	×	×
<p>No information available on staff incentives for meeting transparency requirements.</p> <p>No information available on staff incentives for meeting transparency requirements.</p> <p>No information available on staff incentives for meeting transparency requirements.</p> <p>No information is available on staff incentives for meeting transparency requirements.</p> <p>No information is available on staff incentives for meeting transparency requirements.</p>					
<b>Requests tracking and records management</b> <i>A central system for tracking information requests and a progressive system of records management</i>	~	✓	~	~	~
<p>It is unclear if or how the World Bank tracks information requests and what type of records management system is in place.</p> <p>IFC will report on an "ongoing" basis "the types of information being requested or accessed by the public and the general responsiveness of IFC staff to requests for information."</p> <p>It is unclear if or how MIGA tracks information requests and what type of records management system is in place.</p> <p>It is unclear if or how EBRD tracks information requests and what type of records management systems are in place.</p> <p>It is unclear if or how EIB tracks information requests and what type of records management systems are in place.</p>					
<b>Individual sanctions for willful obstruction of access to information</b> <i>Sanctions are in place that penalize staff who knowingly obstruct access to information.</i>	×	×	×	×	×
<p>It is unclear if sanctions exist for non-disclosure of public information. The World Bank's Staff Manual is required to be disclosed but is not currently available on the Bank's website.</p> <p>It is unclear if sanctions exist for non-disclosure of public information. The IFC does not disclose organizational manuals and procedures that may provide this information.</p> <p>It is unclear if sanctions exist for non-disclosure of public information. MIGA does not disclose organizational manuals and procedures that may provide this information.</p> <p>It is unclear if sanctions exist for non-disclosure of public information. EBRD does not disclose organizational manuals and procedures that may provide this information.</p> <p>It is unclear if sanctions exist for non-disclosure of public information. EIB does not disclose organizational manuals and procedures that may provide this information.</p>					



## Principle 9. Regular Review

Access to information policies should be subject to regular review to take into account changes in the nature of information held, and to implement best practice disclosure rules and approaches.

	World Bank	IFC	MIGA	EBRD	EIB
<p><b>Periodic disclosure policy reviews</b>  <i>An independent and consultative comprehensive review of disclosure requirements resulting in improved standards conducted every two to three years</i></p>	~	✓	~	✓	✓
	World Bank has no policy requirement for periodic review. However, Bank has updated its disclosure policy on an ad hoc basis.	IFC will conduct an overall review of its disclosure policy and transparency standards no more than 5 years after disclosure policy effectiveness.	MIGA has no policy requirement for periodic review of the disclosure policy. However, MIGA is scheduled to publicly review and update its disclosure policy in 2006/2007.	The EBRD disclosure policy is subject to review on a three year cycle, especially in regard to such matters as the definition of confidentiality. A draft text is posted on the Bank's website for 45 days of public comment.	Formal reviews of the disclosure policy will take place every three years. The EIB maintains a dedicated mailbox on its website to receive comments throughout the year.
<p><b>Annual review of disclosure policy implementation and effectiveness</b>  <i>Annual audits or evaluations of implementation and effectiveness of transparency requirements</i></p>	✗	✓	✗	✓	✓
	No requirement for annual audits or evaluations of its disclosure policy.	IFC's Corporate Relations Unit will monitor and report on the implementation of the disclosure policy on an "ongoing basis".	MIGA has no requirement for annual audits or evaluations of its disclosure policy.	EBRD Management reports to the Board on implementation of the Policy on an annual (calendar year) basis and the findings therein are made public on the Bank's website.	EIB disclosure policy is subject to "continuous internal evaluation and quality assessment under the direction of the Bank's Management Committee". Moreover, disclosure issues are addressed in "ongoing dialogue with civil society" and other EU and international institutions and bodies.

#### Appendix 4. Project Pipeline Table and EIA

No.	Country	Name of the project	Name of promoter	Date of Entry	Date of approval	Date of signature	M.EURO	EIA Requirement	EIA availability
1	Barbados	Construction of wind farm on north-east coast of Barbados	The Barbados Light and Power Company Ltd	16/10/2006		21/12/2006	9,8	Yes	Yes
2	Belgium	Water supply and distribution networks in Walloon region	Société Wallonne des Eaux	23/10/2006		08/12/2006	125	Yes	No
3	Cyprus	The project consists of Phase II (2006-2012) of Greater Larnaca's sewerage and drainage systems' and treatment facilities' expansion.		07/06/2006		25/05/2007	70	Yes	No
4	Czech Republic	Prevention schemes throughout Czech Republic implementing National Strategy for Protection Against Floods	Czech Republic	16/08/2006		11/12/2006	321,8	Yes	No
5	Egypt	Construction of two natural gas-fired combined-cycle power generation units in El Atf and Sidi Krir	Egyptian Electricity Holding Company	17/08/2006		21/12/2006	260	Yes	Yes
6	Egypt	Construction of gas transmission pipeline between Abu Qurqas and Asyut in south of Egypt	Egyptian Natural Gas Holding Company	17/08/2006		21/12/2006	50	Yes	Yes
7	France	Construction of Coynelle - Col du Fau section of A51 motorway, south of Grenoble (Rhône-Alpes region)	AREA - Société des autoroutes Rhône-Alpes SA	25/07/2006		22/12/2006	100	Yes	No
8	France	Construction of section of A85 European motorway between Tours and Saint-Romain-sur-Cher (Centre region)	Compagnie financière et industrielle des autoroutes	29/03/2006	26/09/2006		260	Yes	Yes
9	Germany	Development, construction and operation of a 750 MW hard coal-power plant in an Objective 2 area, Duisburg-Walsum/ North-Rhine Westphalia (NRW).	STEAG Aktiengesellschaft, Germany	07/07/2006	21/11/2006			Yes	No
10	Ireland	M7 - M8 Portlaoise PPP. The project comprises 41km of dual carriage way and associated link roads connecting a Priority TEN route (the M8) with a TEN route (the M7).	ENV AG, Austria	29/05/2006		16/07/2006		Yes	Yes
11	Ireland	Construction of 400 MWe natural gas-fired combined-cycle power plant in Huntstown, north of Dublin	Viridian Power Ltd	13/06/2006		october	115	Yes	No
12	Italy	Extension of four municipal solid waste incineration plants and construction of natural gas-fired combined cycle power plant in Emilia-Romagna region (central-north Italy)	Hera S.p.A.	18/10/2006	28/11/2006	27/12/2006	180	Yes	Yes
13	Morocco	Construction of wastewater collection and treatment facilities	Office national de l'eau potable	27/07/2006		14/12/2006	40	Yes	No

14	Fiji	Construction of hydropower plant in north of Viti Levu island	Fiji Electricity Authority	22/11/2006		28/11/2006	24,5	Yes	Yes
15	Portugal	Construction of flue gas abatement systems as retrofit of three coal-fired power plants in Sines (Portugal) and Aboño and Soto (Spain)	EDP - Energias de Portugal SA	24/07/2006		14/12/2006	121,6	Yes	No
16	Romania	Upgrading of several sections of national road network	Romania	13/06/2006		22/12/2006	450	Yes	No
17	Slovakia	Improvement of regional infrastructure, with major investment in road infrastructure and cultural sectors in Košice region	Kosicky Samospravny Kraj	21/07/2006		07/12/2006	39,4	Yes	No
18	Slovenia	Construction of five new motorway sections	Družba za avtoceste v Republiki Sloveniji d.d. (DARS)	27/04/2006		18/12/2006	300	Yes	No
19	South Africa	Construction of high voltage power transmission interconnection between Johannesburg and Cape Town	Eskom Holdings Limited	12/09/2006		27/12/2006	80	Yes	Yes
20	Spain	Expansion of facilities and construction of new container terminal at port of Algeciras (Cádiz)	Autoridad Portuaria de la Bahía de Algeciras	27/04/2006		27/11/2006	105	Yes	No
21	Spain	Reinforcement and extension of electricity distribution networks in six Spanish regions	Endesa Red, S.A.U.	28/06/2006	19/10/2006		300	Yes	No
22	Spain	Investment in series of wind farms in regions of Castilla-La Mancha, Andalusia, Galicia and Cantabria	Iberdrola Energías Renovables II, S.A.U.	10/07/2006		27/10/2006	350	Yes	Yes
23	Tunisia	Upgrading and extension of wastewater collection networks and treatment plants in various cities	Republic of Tunisia	15/06/2006		15/12/2006	40	Yes	No
24	Tunisia	Construction and operation of dual-fired combined-cycle power plant in Ghannouch	Société tunisienne de l'électricité et du gaz	29/05/2006		15/12/2006	114	Yes	No
25	Turkey	Construction of high-speed railway line between Istanbul and Ankara	Republic of Turkey	20/10/2006		14/12/2006	120	Yes	No
26	United Kingdom	Water supply and wastewater treatment schemes in Thames Valley and London	Thames Water Utilities Ltd	17/08/2006		04/10/2006	221,3	Yes	No
27	United Kingdom	Extension and renovation of electricity distribution network in Manchester and north-west England	United Utilities Electricity Plc	12/04/2006		21/12/2006	74,2	Yes	No
28	West Africa	Construction of 60 MW run-of-river (without reservoir) hydropower plant near Kayes, Mali	Islamic Republic of Mauritania	06/06/2006		23/11/2006	11	Yes	Yes
29	West Africa	Construction of pipeline system for transporting natural gas from Nigeria to Ghana, Togo and Benin	Republic of Ghana	13/09/2006		14/12/2006	75	Yes	Yes
30	Zambia	Development of new copper mine near Lumwana in north-western province of Zambia	Lumwana Mining Company Ltd	06/07/2006		29/11/2006	85	Yes	Yes

## Appendix 5. Table of requests

Requestor	Requested information	Time of handling requests	Results
Request no. 1 Environmental Association "Za Zemiata", Bulgaria	<p>The expert/s report from EIB mission in Bulgaria conducted at the end of October 2006, related with the Sofia waste management crisis.</p> <p>The complete list of documents produced by or requested by EIB (JASPERS) in relation to the Sofia waste management crisis.</p>	<p>Sent: 11 December 2006. Replay: 8 February 2007</p> <p>Further inquiry regarding missing list of documents: 20 February 2007 Replay: 6 March 2007</p>	<p>Copy of a report received.</p> <p>There was no other documents produced or requested by the EIB (JASPERS).</p>
Request no. 2 Environmental Association "Za Zemiata", Bulgaria	Request for information about any mission of JASPERS team or expert(s) hired on behalf of JASPERS took place in relation to the National Hazardous Waste Centre project.	<p>Sent: 28 December 2006 Replay: 2007-01-18</p>	No mission during 2006.
Request no. 3 Friends of the Earth, Hungary	<p>Project Summary Documents of the following projects:</p> <p>16/12/2002 ROADS III (ISPA) 01/09/2003 <a href="#">ROADS IV - AFI</a> 2005/07/11 <a href="#">ECE ARCADES</a></p>	<p>Sent: 13 April 2006 Repeated: 30 June 2006</p> <p>Replay: 4 August 2006 - because of holiday season, EIB is not able to provide it in time. Final Replay: 14 September 2006</p>	Documents received
Request no. 4 Friends of the Earth, Hungary	General request about the EIB's plans for financing shopping centres ECE ARCADES in Hungary.	<p>Sent and confirmed: 13 April 2006 Replay: 23 October 2006</p>	Replay confirming that EIB still planning to finance shopping centres, and it does not appear in the pipeline, because of justified commercial interests.
Request no. 5 Friends of the Earth, Hungary	<p>Proposal from the Management Committee to the Board of Directors for the following projects:</p> <p>Global loans 30/11/2006 MFB INFRASTRUCTURE AND FLOOD RELIEF GL Transports 30/11/2006 M3 MOTORWAY - PPP Transports 30/11/2006 FRAMEWORK LOAN Water/sewerage 30/11/2006 FRAMEWORK LOAN</p>	<p>Sent: 6 December 2006 Replay: 24 January 2007</p>	Documents received
Request no 6. CEKOR, Serbia	<p>Project-specific information about the Gazela Bridge which would include:</p> <ul style="list-style-type: none"> <li>• Project status in the EIB project cycle</li> <li>• EIB financing objectives</li> <li>• Proposed EIB finance and the project total costs</li> <li>• Environmental aspects</li> <li>• Public Consultation and Disclosure Plan (PCDP) - especially with regard to the Roma community to be directly affected by the project</li> </ul>	<p>Sent: 7 November 2006 Replay: 27 December 2006</p>	<p>The possible EIB loan aims at maintaining the bridge in operation under safe conditions and will improve traffic flows on the access roads. Regarding environmental issues, the project does not fall neither under Annex I nor under Annex II of the EIA Directive, thus it does not require an EIA.</p> <p>The project has no significant environmental problems, apart from the temporary movement of some of the population living along the R251 road due to some heavy</p>

	<ul style="list-style-type: none"> <li>• contact person in the Serbian government appointed to coordinate communication with the EIB</li> <li>• a formal document requesting the EIB financing for the project from the side of the Serbian Government</li> </ul>		traffic diversion during bridge reconstruction. It will also involve the displacement of families currently resident beneath the bridge in informal accommodation.
Request no. 7 Centro de Derechos Humanos y Ambiente (CEDHA), Argentina	<p>Request for information about the loan agreement between the EIB and Aguas Cordobesas, especially:</p> <ul style="list-style-type: none"> <li>• the area/extent of popul Cordoba under control</li> <li>• the expansion of the area managed by Aguas Cordobesas</li> <li>• the expansion of infrastucture</li> <li>• water quality requirements stipulated in the contract</li> <li>• pro-poor initiatives</li> <li>• information about non-convertibility</li> </ul>	<p>Sent: 7 March 2006 Replay: 30 March 2006</p>	Reasonable information provided - however some covered by confidentiality.
Request no. 8 Friends of the Earth / CEPA, Slovakia	<p>Request for more information about the EIB loan made on 22/12/2005 to Volkswagen and possible disclosure of whole contract.</p>	<p>Sent: 19 July 2006 Replay: 7 September 2006</p>	Satisfactory replay, however the conract not diosclosed as confidential document.
Request no. 9 Eco-sense, Macedonia	<p>General information regarding the Construction of Skopje bypass and upgrading of north-south highway project in Macedonia.</p>	<p>Sent: 23 June 2006 Replay: 4 July 2006</p>	Upgrade of highway was withdraw from the EIBs financing.
Request no. 10 Friends of the Earth / CEPA, Slovakia	<p>Project Summary Documents (respectively copies of information disclosed in the "Project list") for two projects, both named SKODA / VW SK CAPACITY DEVELOPMENT (one in Services sector and one in Industry sector).</p>	<p>Sent: 23 February 2006 Replay: 11 April 2006</p>	Requested documents were not disclosed as covering the EIB's working relationship with a private sector promoter.
Request no. 11 CEE Bankwatch Network	<p>Agenda of the Board of Directors meeting held in Luxembourg on 13 of March 2007.</p>	<p>Sent: 14 March 2007 Information about the delay in replay: 2 April 2007 Replay: 19 April 2007</p>	Not disclosed with aim to protect the integrity of the Bank's internal decision-making process.
Request no. 12 Polish Green Network, Poland	<p>Request for disclosure of the following documents regarding the projects "Poland Motorways" and "Poland Road Modernisation":</p> <ul style="list-style-type: none"> <li>• Proposals from the Management to the Board of Director for Financing</li> <li>• Topical Project Briefs</li> <li>• Project Reports prepared by the Project Directorate on the appraisal stage on the basis on the EIB Environmental Procedures 2002.</li> </ul>	<p>Sent: 1 of February 2007 Replay: 3 of April 2007</p>	<p>Proposals from the Management to the Board of Director for Financing - disclosed. No Topica Project Brief were made.</p> <p>Project Reports prepared by the Project Directorate on the appraisal stage on the basis on the EIB Environmental Procedures 2002 - not disclosed as part of internal decision-making.</p>

