

The CEE Bankwatch Networks Mission is to prevent environmentally and socially harmful impacts of international development finance, and to promote alternative solutions and public participation

Bulgaria:

Centre for Environmental Information and Education (CEIE)

Environmental Association Za Zemiata (For the Earth)

Czech Republic:

Centrum pro dopravu a energetiku

Hnutí Duha

Estonia:

Estonian Green Movement-FoE

Georgia:

Green Alternative

Hungary:

Nature Protection Club of Eotvos Lorand University (ETK)

National Society of Conservationists-FoE (NSC)

Latvia:

Latvian Green Movement

Lithuania:

Atgaja

Macedonia:

Eko-svest

Poland:

Polish Green Network (PGN)

Institute of Environmental Economics (IEE)

Russia:

Sakhalin Environment Watch

Slovakia:

Friends of the Earth - Center for Environmental Public Advocacy (FoE-CEPA)

Ukraine:

National Ecological Centre of Ukraine (NECU)

Anna Roggenbuck

CEE Bankwatch Network

/co Polish Green Network

ul. Kaszubska 57/204

70-402 szczecin, Poland

Philippe Maystadt, President
European Investment Bank
100 boulevard Konrad Adenauer
L-2950 Luxembourg

13 October 2008

Dear President Maystadt,

The CEE Bankwatch Network welcomes the decision of the European Investment Bank to prepare and publish its lending policy on municipal waste. Taking into account the EIB's activity in this sector and the new municipal waste recycling targets included in the revised Waste Framework Directive, we believe that the new policy has the potential to align the EIB's operations with EU objectives in this sector and to direct the EIB's lending to waste prevention, equipment for separated collection, recycling and composting.

We would however like to point out that the way this policy is being prepared appears not to fulfill the EIB's obligations under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

Article 7 of the Aarhus Convention states:

"Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public (...) to the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment"

The European Community approved the Aarhus Convention on 17th February 2005 which became an integral part of EC law further to article 300(7) of EC Treaty. The obligations required by the Aarhus Convention have therefore applied to the EC institutions since May 2005. According to article 2(d) of the Convention, the institutions of any regional economic integration organisation which is a Party to the Convention (as the European Community) are considered as public authorities under the convention and are therefore subject to the obligations thereof. The European Investment Bank is not one of the main institutions of the EC listed in Article 7 of the EC Treaty however it is mentioned in Article 9 of the EC Treaty and can therefore be considered as an EC institution sensu largo.

Moreover, the European Community adopted Regulation n°1367/2006 on the application of the Aarhus Convention to EC institutions and bodies, which is applicable to the European Investment Bank as well. The European Investment Bank

is thus subject to both the Aarhus Convention and the Regulation n°1367/2006. Article 9 of Regulation n°1367/2006 requires EC bodies to “provide early and effective opportunities for the public to participate during the preparation, modification or review of plans and programmes relating to the environment when all options are still open.” Moreover, paragraph 17 of the Regulation’s preamble recalls article 7 of the Aarhus Convention since it states that “the Aarhus convention also requires that, to the extent appropriate, parties shall endeavour to provide opportunities for the public participation in the preparation of policies relating to the environment.”

According to the EIB’s Environmental Statement (2004), EIB Environmental Lending includes waste management. There is therefore no doubt that the Municipal Waste Lending Policy which the EIB is preparing constitutes a background for the EIB Environmental Lending and that the activities that will be undertaken further to the policy may have a significant effect on the environment. Moreover the new version of the EIB Environmental and Social Statement currently under consultation states that “the types of project the EIB finances for environmental and social reasons are described in the Corporate Operational Plan (COP) 1, and elaborated in sector specific lending policies.” These sector policies should therefore be subject to public participation.

We believe that the EIB should carry out the Municipal Waste Lending Policy preparation process in accordance with its obligations required by the Aarhus Convention and Regulation n°1367/2006. While the stakeholders’ workshop held in Brussels on this issue on 26th September was very useful, we must emphasise that it cannot be regarded as a public consultation, in the meaning of article 9 of Regulation n°1367/2006, as there was no draft policy to comment on and as only a limited number of stakeholders were involved (is it because the EIB did not contact the stakeholders or because it did not communicate enough on the workshop? If yes, we could also say that the EIB did not identify the public likely to have an interest in the policy which would be contrary to article 9 of Regulation 1367/2006). We call on the EIB to organise a public consultation enabling all interested parties to comment on the draft policy and and to ensure that the outcome of the public participation will be taken into account further to article 9 of Regulation n°1367/2006.

We look forward to hearing from you,

Yours sincerely

Anna Roggenbuck
CEE Bankwatch Network
International Coordinator