

To:
European Investment Bank
Board of Directors

24 January 2017

Briefing for the EIB's Directors for the seminar with civil society on 30/01/2017

Principles of effectiveness for the EIB Complaints Mechanism Office

Dear Board of Directors,

A year ago, in a joint statement on "[Principles of effectiveness for the EIB Complaints Mechanism Office](#)" sent to the EIB Board, civil society organizations (CSOs) highlighted the need to strengthen the EIB's Complaints Mechanism Office (CMO) in order to reinforce its legitimacy, accessibility, predictability, equitability and transparency. Indeed, the CMO is a key tool to ensure the accountability of the EIB towards its various stakeholders and to allow the voices of those affected by EIB's operations to be heard. However, in order to realize this potential, the CMO must be further improved. Due to the importance of the upcoming review of the CMO, we call on the Board to participate actively in this process in 2017 and provide leadership to ensure a strong accountability framework and an effective avenue for remedy for those who have been harmed by EIB-supported projects.

We sincerely hope that the delay in the launch of the consultation process on the revised rules and procedures of the CMO is the result of efforts to prepare solid and ambitious proposals for a strengthened mechanism. As CSOs committed to ensuring that the EIB is an open, accountable and transparent institution, we would like to express once more our expectations that this revision would lead to genuine and necessary improvements. Experience shows that despite its efforts and largely due to internal dynamics and pressure of other services of the bank, the CMO seems hindered from achieving its mission independently, efficiently and in a meaningful way – by meeting deadlines in its current policy for example - for those impacted by EIB operations. For instance, three CSOs recently lodged a complaint to the European Ombudsman because the EIB disagreed with the CMO's initial admissibility assessment and did not deem admissible a complaint about its Transparency Policy, potentially limiting the CMO's mandate to the project level only. In addition, unlike many other independent accountability mechanisms (IAMs), the CMO does not have a formal reporting line or relationship to the EIB Board of Directors, and the mechanism remains under pressure from EIB management.

We would also like to recall the latest [resolution](#) of the European Parliament on EIB operations adopted in April 2016 which states that: "[The Parliament] *expects that the ongoing revision of the Complaints Mechanism will improve and enhance its independence and effectiveness and will contribute as well to the greater effectiveness and efficiency of the Complaints Mechanism Office; calls on the EIB Management Committee to take on board the recommendations of that office and to act on the opinions of the European Ombudsman; calls for a steady flow of information between the EIB Complaints Mechanism Office and the EIB Board of Directors; believes that there is a need to update the Memorandum of Understanding between the EIB and the European Ombudsman in order for the Ombudsman to exercise external scrutiny over the EIB more actively and to improve monitoring procedures and further accountability of the EIB.*"

With this letter, we would urge the EIB Board of Directors to adopt the following recommendations to ensure a robust public consultation process and a strengthened CMO:

- Two rounds of public consultation on the revised rules and procedures open to all stakeholders, including civil society, following the successful model set out by the 2013 revision of the EIB energy policy.

- Publication of the report of the Experts' Panel prior to the launch of the public consultation. Access to this report and the recommendations it contains should be at the core of the revision process in order to ensure meaningful and informed public participation. In addition, we expect the EIB to demonstrate publicly in writing how it has addressed the report's recommendations.

- The future institutional set-up of the CMO should be complemented by a renewed Memorandum of Understanding between the EIB and the European Ombudsman enabling the Ombudsman's office to exert genuine external scrutiny on the EIB operations.

- An open and transparent selection process for the new CMO director. In order to bring further democratic legitimacy to the CMO, a selection committee should be established according to best practice as found at other IAMs. For example, the selection process for the Vice President of the Compliance Advisor Ombudsman (CAO) at the International Finance Corporation (IFC) involves a committee made up entirely of external stakeholders, which greatly increases complainants' confidence in the mechanism. Furthermore, the selection committee for the Project Complaint Mechanism (PCM) Officer and PCM Experts at the European Bank for Reconstruction and Development (EBRD) includes external stakeholders. The selection committee for the new CMO director should be composed of external stakeholders, including CSOs as well as representatives of the European Parliament, and the European Ombudsman as an observer. The selection committee would review applications, select candidates and then express its preference to the EIB Board of Directors, which would then appoint the head of the CMO.

The upcoming revision process offers the opportunity to address critical shortcomings of the EIB's CMO and reinforce the accountability and transparency of the EU Bank. Therefore we hope to have a fruitful and beneficial collaboration with you and your colleagues in this process and look forward to hearing from you on the points raised in this letter.

Yours Sincerely,

List of signatories

Accountability Counsel

Both ENDS

Buliisa Initiative for Rural Development organisation (BIRUDO) Uganda

CEE Bankwatch Network

Center for International Environmental Law (CIEL)

Counter Balance

Crude Accountability

Friends with Environment in Development (FED) – Uganda

International Accountability Project

Les Amis de La Terre France

Observatoire d'Etudes et d'Appui à la Responsabilité Sociale et Environnementale (OEARSE, Democratic Republic of Congo)
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