

Call for action - Review of EIB Complaints Mechanism

Briefing for EIB Directors

September 2018

As NGOs committed to enhancing the accountability and transparency of public financial institutions, we urge you not to adopt the new policy and procedures of the EIB Complaints Mechanism (EIB-CM) at the October 9th meeting of the EIB Board of Directors unless at least the below changes are made. The EIB Complaints Mechanism is a key accountability tool for citizens, NGOs and communities affected by the operations of the EIB. The mechanism is often the only way that the EIB hears the voices of the people whom the EIB is intended to benefit. The current draft, if adopted, would result in a mechanism that lacks operational independence and legitimacy, not fit for purpose.

In the course of the public consultation organised by the EIB, together with a group of 25 NGOs we highlighted via a [joint submission](#) the best practices of other Independent Accountability Mechanisms (IAMs) that ensure their operational independence, legitimacy, transparency, accessibility and effectiveness. Despite some improvements from the previous draft, **the proposed draft CM Policy and Procedures fall far short of best practice and fail to address the recommendations of the External Quality Review.**

We urgently call on you, as Directors of the EIB to address at least the following two key issues:

1/ Better Governance: Complaints Mechanism Should Report Findings to the Board of Directors

For the Board to discharge its statutory functions, including ensuring that the Bank is properly run and managed in accordance with the provisions of the Treaties and its Statute, **the Board Committee on Complaints should receive the CM's reports, together with the Management responses, for each case.** It is not sufficient for the Board to receive the CM's annual report--and then only after approval by the Management Committee--and updates on the EO cases. Accountability of the EIB requires that the Board of Directors understands the weaknesses in the Bank's operations and functioning to be able to address them in a systematic way, including through amending the relevant policies and procedures of the bank. Making this change will put the CM on an equal footing with the Operations Evaluation Division, which is similarly placed within the Inspectorate General and whose aims are to ensure accountability and lessons learned. The 2015 External Quality Review - which has unfortunately been largely ignored by the review also highlighted *"the need [...] to achieve a greater ownership of the Mechanism by the EIB Board of Directors"*.

In its reply to stakeholder's submission on this point, the EIB misleadingly argued that the EIB has a two-tier Board - therefore claiming that the involvement of the Management Committee in complaints is equivalent to an involvement of the "board of directors". As described below, the Management Committee is currently allowed both to influence the contents of the CM's report and approve a response to it. There is an urgent need for the Board to impartially exercise its supervisory duties to ensure that the Management Committee's response adequately addresses the CM's findings.

Thus we call for the Board to require the revision of relevant provisions of Articles 5.1 and 5.4 of the draft Policy. It is urgent for the Board of Directors to increase its engagement with and responsibility for complaints lodged at the bank, especially at a time when the EIB is ramping up its operations inside and outside of Europe.

2/ Independence: Complaints Mechanism Should Handle Complaints without Interference or Pressure by EIB

Under the proposed policy and accompanied procedures, the CM Division will be hindered from completing its tasks in an independent and efficient manner that is meaningful for the complainants and for the institution as such. The mechanism must be granted at least the same level of independence as the Operations Evaluation Division and its peer IAMs. We would like to recall the following conclusion of the 2015 External Quality Review: *“We strongly urge avoiding giving responsibility for handling complaints to those against whose decisions or actions a complaint has been lodged. Doing so would be a step backwards and contradict best practice in other institutions”*.

Unfortunately, the policy and procedures not only allows the EIB’s staff to review and comment on the draft Conclusion Report before it is shared with complainants, the EIB is also allowed to review and comment on the draft up to three times before the complainants review the draft report: first by EIB Services, then by the Directors General, and in the event of a disagreement, by the Management Committee. In case of disagreement with EIB services or the Management, the procedures allow the Inspector General to request the CM to review its final Conclusions Report. **This is an unacceptable and unparalleled level of pressure codified in the Policy, designed to influence and subordinate the outcome of the CM’s analysis.** It not only undermines the fairness of the process, but it also compromises the independence of the CM in making its findings by formally establishing a process for bank management to control the contents of CM reports at each stage before sharing with the complainant.

Thus further changes should be introduced to articles 1.6.1 and 1.6.2. of the procedures in order to restructure and improve the complaint handling process.

Conclusion

In this context, we ask you, as Director of the EIB, to carefully analyze the proposed draft Policy and Procedures together with the NGO joint submission and address at least the above-mentioned issues, ensuring that this review process leads to a genuine improvement of the independence, legitimacy and efficiency of the EIB-CM.

At times when the democratic gap between the European Union and its citizens seems – for a wide set of reasons – to be widening, we consider it crucial that citizens affected by EIB operations have their voices heard and their concerns adequately addressed. A step backwards in this regard would be a disturbing signal sent to citizens in and outside the EU.

We look forward to hearing from you soon on the points raised in this letter and remain available should you have any questions.

Sincerely,

Accountability Counsel

Both Ends

CEE Bankwatch Network

Counter Balance

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