



Croatia

Европейска инвестиционна банка
Evropská investiční banka
Den Europæiske Investeringssbank
Europäische Investitionsbank
Euroopa Investeeringuspank
Ευρωπαϊκή Τράπεζα Επενδύσεων
European Investment Bank
Banco Europeo de Inversiones
Banque européenne d'investissement
An Banc Eorpach Infheistíochta
Evropska Investicijska banka
Banca europea per gli investimenti
Eiropas Investīciju banka
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Európska Investičná banka
Evropska Investicijska banka
Euroopan Investointipankki
Evropska Investeringssbanken

Luxembourg, 13 September 2019

IG/CM/DP/nh
EIB – Public

Ref: SG/E/2019/05

EXP BEI-EIB
B 010639 13.SEP 19

Dear Madam,

We refer to our email of 15 April 2019 in which we informed you that the EIB Group Complaints Mechanism Division (EIB-CM) is carrying out a review of your complaint, submitted by an email on 31 March 2019.

Your complaint concerns exceedance of ambient standards for hydrogen sulphide (H₂S), poisonous gas with odour of rotten eggs¹, near the County Waste Management Centre (CWMC) Marišćina in Croatia. The EIB partially financed the construction of the CWMC², operated by Ekoplus. The CWMC officially started working in February 2017³.

The EIB Group Complaints Mechanism Policy and Procedures task the EIB-CM with addressing complaints concerning alleged maladministration by the EIB. Maladministration means poor or failed administration and it occurs when the EIB Group fails to act in accordance with a rule that is binding upon it⁴. The EIB Group's responsibilities concerning compliance of projects with national law are defined in its policies and procedures⁵.

The EIB's policies require the project to comply with the applicable environmental law⁶. This includes the relevant national environmental law⁷, such as the Croatian Government Regulation on Levels of Pollutants in Air⁸. The Regulation sets ambient standards for H₂S and prohibits exceedance of the set daily limit values more than seven times in one calendar year⁹. Ensuring compliance with the set limit values is the task of the competent national inspection¹⁰. In respect to the ambient standards, the inspection may do this by bringing in line emissions of specific polluters, such as the CWMCs.

The national law sets that the inspection is carried out by a competent national environmental inspector¹¹. The law further states that the inspection can be conducted regularly (annually) or

¹ <https://www.eionet.europa.eu/gemet/en/concept/4197>, accessed on 25 July 2019.

² The financing for the project had been provided under the Finance Contract on Co-financing EU IPA ISPA 2007-2011 between the Republic of Croatia and the European Investment Bank dated 30 September 2010 (O.G. – International Agreements of the Republic of Croatia No. 10/10) and Sections 4 and 6 of Annex of the Bilateral Project Agreement Between the Government of the Republic of Croatia and the European Commission Concerning the Co-financing of the Major Project «County Waste Management Centre Marišćina» CCI No: 2007HR16IPR001 Under the Instrument for Pre-accession Assistance (IPA) IPA Component III – Regional Development (O.G. – International Agreements of the Republic of Croatia No. 8/09, 11/11 and 3/13).

³ <http://www.novlist.hr/index.php/layout/set/print/Vijesti/Rijeka/Konacno-stoje-pravomocne-privremena-dozvola-Centar-Marišćina-poceti-zaprimati-otpad-na-obrađu>, accessed on 25 July 2019.

⁴ § 3.1 of the EIB Group Complaints Mechanism Policy.

⁵ § 3.3 of the EIB Group Complaints Mechanism Policy.

⁶ Article 36 of the 2009 EIB Statement of Environmental and Social Principles and Standards.

⁷ Article 6.05 (f) of the Finance Contract.

⁸ (O.G. No. 117/2012 and 84/2017).

⁹ Annex 1, section D of the Regulation on Levels of Pollutants in Air.

¹⁰ Article 125 of the Air Protection Act (O.G. No. 130/11, 47/14, 61/17, 118/18).

¹¹ Article 224(1) of the Environmental Protection Act (O.G. No. 80/13, 153/13, 78/15, 12/16 and 118/18).



irregularly¹². The law authorises the inspector to carry out various activities to check compliance¹³. The inspector is required to record the findings of the inspection¹⁴. In case of breach of the environmental law, the inspector is required to order the operator to ensure compliance with the law¹⁵.

The Finance Contract between the EIB and Croatia requires the borrower¹⁶ to inform the EIB promptly of any non-compliance of the project with the applicable environmental law and the related remediation actions¹⁷. The EIB's procedures require the EIB to monitor whether the project complies with the environmental law¹⁸.

As part of its inquiry, the EIB-CM reviewed your complaint; analysed the applicable environmental law; and requested clarifications from the EIB Group operational services. Given the content of your complaint, the EIB-CM deemed appropriate to reply by letter in line with the EIB Group Complaints Mechanism Procedures¹⁹. The EIB-CM made the following findings.

According to information provided on the website of the Institute of Public Health of the Primorje Gorski Kotar County, the Viškovo-Mariščina monitoring station²⁰, located in the vicinity of the CWMCM, recorded 14 breaches of daily limit values for H₂S in the period 5 February to 7 April 2019. On 18 February 2019, the competent environmental inspector inspected the CWMCM. The inspection noted higher levels of H₂S on a degasification system on the landfill cell 1A. The inspection ordered the operator to implement degasification measures on the cell²¹.

On 15 March 2019, the works on the degasification²² commenced. The degasification system became operational on 25 May 2019²³.

On 4 July 2019, the inspection confirmed that the operator complied with the order and closed the case²⁴. The inspection noted that following the finalisation of the works on degasification of the landfill cell, there are no recorded exceedances of the ambient standards for H₂S²⁵. The Viškovo-Mariščina monitoring station has not recorded any exceedances of H₂S daily limit values between 7 April and 11 September 2019. Also, according to the information provided by the competent authorities in Croatia in July, the hourly H₂S limit values have not been breached since May 2019²⁶.

Once you provided the information on the non-compliance of the project with the environmental law in April, the EIB contacted the competent authorities and requested clarifications²⁷. The EIB maintained the contact with the competent authorities collecting information about the ongoing activities to bring the levels of H₂S in line with the set standards²⁸. The EIB also monitored impact of these measures on the set ambient standards. The EIB reminded the competent authorities in Croatia of their obligation to

¹² Article 227 of the Environmental Protection Act.

¹³ Articles 81 – 88 of the State Inspectorate Act (O.G., No. 115/18) and Article 230 of the Environmental Protection Act.

¹⁴ Article 228(3) of the Environmental Protection Act.

¹⁵ Article 231 – 255 of the Environmental Protection Act.

¹⁶ Ministry of Finance of the Republic of Croatia.

¹⁷ Article 8.01(c)(iii) of the Finance Contract.

¹⁸ § 259 of the 2010 v. of the EIB Environmental and Social Practices Handbook and § 271, Volume II of the 2013 v. of the EIB Environmental and Social Handbook.

¹⁹ § 4 of the EIB Group Complaints Mechanism Procedures - The simplified procedure applies to complaints which, because of their subject, are of easy and prompt resolution. In the case of simplified procedure, the response of the EIB Group will be a letter from the EIB-CM [...].

²⁰ N45°24'08" / E14°23'18" / 447 m/nm.

²¹ Decision of the inspection, KLASA: UP/I 351-02/19-09/02, No. 517-08-1-4-19-1.

²² Information provided by the operator on 16 April 2019.

²³ Note on the carried out inspection, KLASA: 351-02/19-09/02, No. 443-15-8-1-4-19-12DJur.

²⁴ Note on the carried out inspection, KLASA: 351-02/19-09/02, No. 443-15-8-1-4-19-12DJur.

²⁵ Note on the carried out inspection, KLASA: 325-01/19-01/264, No. 443-17-08-3-1-19-2.

²⁶ Information provided by the Croatian Ministry of Environmental Protection and Energy on 17 July 2019.

²⁷ Email from the EIB to the Croatian Ministry of Finance and Ministry of Environmental Protection and Energy, sent on 10 April 2019.

²⁸ Email correspondence from 17 April, 20 June and July 2019.



inform the EIB of any non-compliance of the project with the applicable environmental law and the related remediation actions.

The EIB-CM concludes that the reviewed evidence shows that the ambient standards for H₂S in the vicinity of the CWMC Marišćina have been breached in the past, but that this issue has since been resolved. In the past: (i) Viškovo-Marišćina monitoring station noted numerous breaches of the ambient standards for H₂S; (ii) competent inspection noted higher levels of H₂S at the CWMC landfill cell. The competent national environmental inspector set specific measures to remedy the problem. There have not been any recorded breaches of the set ambient standards (daily limit values) for H₂S since the completion of the remediation measures in May 2019.

In addition, the EIB-CM concludes that the allegation is ungrounded with respect to the role of the EIB. Once informed of the problem, the EIB maintained regular contact with the competent authorities in Croatia and monitored implementation of the remediation measures and their impact on the ambient standards for H₂S in the vicinity of the CWMC. Therefore, the EIB-CM does not make any specific recommendations in this respect.

Please note that complainants who are not satisfied with the outcome of the procedure before the EIB-CM can file a complaint of maladministration against the EIB Group with the European Ombudsman²⁹.

Yours sincerely,

EUROPEAN INVESTMENT BANK

S. Derkum
Head of Division
Complaints Mechanism

D. Petrović
Complaints Officer

²⁹ § 4.5.1 of the EIB Group Complaints Mechanism Policy. Please see the European Ombudsman's Guide to complaints (in Croatian): <https://www.ombudsman.europa.eu/hr/make-a-complaint>, accessed on 25 July 2019.

