

Ευρωπαϊκή επενδυτική τράπεζα
Evropská investiční banka
Den Europæiske Investeringsbank
Europäische Investitionsbank
Euroopa Investeeringispank
Ευρωπαϊκή Τράπεζα Επενδύσεων
European Investment Bank
Banco Europeo de Inversiones
Banque européenne d'investissement
Banca europea per gli investimenti
Eiropas Investīciju banka
Europos investicijų bankas
Európai Beruházási Bank
Bank Ewropew ta' l-Investment
Europese Investeringsbank
Europejski Bank Inwestycyjny
Banco Europeu de Investitōi
Banca Europeană de Investiții
Európska investičná banka
Evropska investicijska banka
Euroopan investointipankki
Europeiska investeringsbanken

Secretary General

EXP BEI-EIB
B 002947 25 JUL 14

Christian Aid

Luxembourg, 25 July 2014

Dear I

I refer to the letter of the EIB Complaints Mechanism (EIB-CM) dated 5 July 2013 acknowledging the receipt of your complaint concerning the Bank's decision against publication of the report and conclusions of its investigation into allegations that Mopani Copper Mines plc (MCM) evaded tax in Zambia and informing you that the EIB-CM had started a review of your complaint.

The EIB-CM has completed its review of the matter and has submitted its Conclusions report to the Management Committee of the EIB, which has taken note of the EIB-CM findings and conclusions and its preference to disclose a redacted version of the report and conclusions of the EIB's Inspectorate General investigation, following a review of the parts of that report that may fall within the exceptions to the principle of disclosure of information established by the EIB Transparency Policy. In this context, I would like to highlight that the Bank is committed to maintain the highest levels of transparency and acknowledges the EIB-CM's value as a key element of the EIB's accountability mechanisms to address concerns from external parties on important issues such as transparency and public access to information.

In light of the recommendations made by the EIB-CM, I would like to inform you that the Bank is of the opinion that there are justified and legitimate reasons for the Bank not to disclose or publish documents related to its own investigations either in full or in a redacted form. On the basis of Art 15 (3) of the Treaty on the Functioning of the European Union (TFUE), the EIB is submitted to the Treaty-based duty of transparency only as far as administrative tasks are concerned. In this context the Bank considers that investigations into matters relating to financing of the EIB, which are carried out by the EIB Inspectorate General's Fraud Investigations Division within the framework of the contracts signed between the EIB and its counterparts, do not fall within the definition of "administrative tasks" and are therefore not covered by the obligation to disclose.

Moreover, the Bank considers that the presumption of disclosure provided in the EIB Transparency Policy should be reconciled with the specific presumption of non-disclosure of documents and information relating to EIB investigations, based on the legitimate interest to protect investigations as expressed in the EIB Anti-Fraud Policy. The Bank estimates that its capacity to investigate its operations, as well as to request and obtain frank and reliable internal or external advice necessary to carry out these investigations would be seriously undermined should the Bank be under the obligation to publish or publicly disclose such information, even when the disclosure would follow the completion of an investigation.

The EIB takes the view that disclosure of fraud and corruption investigations should take into account the necessity to strike the right balance between the interest of the public to obtain information on the Bank's investigative activities, and the public interest to maintain the effectiveness of present or future investigations.

However, the Bank acknowledges that, given that, in this case, the launch of the EIB investigation was publicly announced, there might be a legitimate interest on behalf of the public to be informed about the outcome of such investigation, and has therefore updated the information relating to this case published on the EIB website accordingly. In the light of the above, I am herewith providing you with the EIB-CM Conclusions Report concerning the Complaint SG/A/2013/01 (Mopani Copper Mines) as well as the Bank's Management Response to the said report.

Additional information about the EIB Complaints Mechanism is available at <http://www.eib.org/about/accountability/complaints/index.htm>.

I trust that this reply and the action foreseen by the EIB services will be helpful in clarifying the issues raised in your complaint.

Yours sincerely, /

A. Querejeta

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