

Complaints Mechanism - Complaints Mechanism - Complaints Mechanism - Complaints Mechanism

Larnaca Sewerage and Drainage I
Cyprus

Complaint SG/E/2012/07

MEDIATION REPORT

25 February 2014

Prepared by

Complaints Mechanism

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External Distribution

Complainant:

Promoter: Larnaca Sewerage and Drainage Board

Internal Distribution

Secretary General,
Inspector General
EIB services concerned

The EIB Complaints Mechanism

The EIB Complaints Mechanism intends to provide the public with a tool enabling alternative and pre-emptive resolution of disputes in cases whereby the public feels that the EIB Group did something wrong, i.e. if they consider that the EIB committed an act of maladministration. When exercising the right to lodge a complaint against the EIB, any member of the public has access to a two-tier procedure, one internal – the Complaints Mechanism Division (EIB-CM) - and one external – the European Ombudsman (EO).

Complainants that are not satisfied with the EIB-CM's reply have the opportunity to submit a confirmatory complaint within 15 days of the receipt of that reply. In addition, complainants who are not satisfied with the outcome of the procedure before the EIB-CM and who do not wish to make a confirmatory complaint have the right to lodge a complaint of maladministration against the EIB with the European Ombudsman.

The EO was "created" by the Maastricht Treaty of 1992 as an EU institution to which any EU citizen or entity may appeal to investigate any EU institution or body on the grounds of maladministration. Maladministration means poor or failed administration. This occurs when the EIB Group fails to act in accordance with the applicable legislation and/or established policies, standards and procedures, fails to respect the principles of good administration or violates human rights. Some examples, as set by the European Ombudsman, are: administrative irregularities, unfairness, discrimination, abuse of power, failure to reply, refusal to provide information, unnecessary delay. Maladministration may also relate to the environmental or social impacts of the EIB Group activities and to project cycle related policies and other applicable policies of the EIB.

The EIB Complaints Mechanism intends to not only address non-compliance by the EIB to its policies and procedures but endeavours to solve the problem(s) raised by Complainants such as those regarding the implementation of projects.

For further and more detailed information regarding the EIB Complaints Mechanism please visit our website: <http://www.eib.org/about/cr/governance/complaints/index.htm>

Acknowledgements

The EIB-CM would like to thank all people and organisations with whom they have interacted during the investigation of this complaint, and expresses its appreciation to the EIB staff that has provided the required information.

Without the support and valuable contributions of everybody concerned, the preparation of this report would not have been possible.

MEDIATION REPORT

The Complainant : [REDACTED]

Date of the complaint: 21 May 2012

Subject of complaint: Construction of a sewerage pumping station close to the complainant's house

1. THE COMPLAINT

- 1.1 On 21 May 2012, [REDACTED] (hereinafter the complainant) lodged a complaint with the EIB Complaints Mechanism (hereinafter EIB-CM) concerning the construction of a sewage pumping station only few meters away from his house in Larnaca. The pumping station is a sub-component of a project financed by the EIB and managed by the Larnaca Sewerage and Drainage Board (hereinafter the Promoter or LSDB).
- 1.2 The project consists of Phase B II (2007-2012) of the LSDB sewer network expansion and wastewater treatment plant capacity increase in order to service the entire urban area of Larnaca and ensure full compliance with the requirements of EC Directive 91/271 on Urban Wastewater Treatment (as amended by Directive 98/15/EC) (the "Project"). The project also includes investments in the urban storm water drainage systems. The complaint however pertains to the sewer networks part which, more specifically, comprises, among other, extension and upgrading of sewer networks, trunk sewers, and finally, pumping stations.

2. THE INITIAL ASSESSMENT

- 2.1 The EIB-CM carried out an initial investigation of the allegations made by the complainant and, following a fact-finding mission to Cyprus in October 2012, on 22 July 2013 issued its Initial Assessment Report (IAR).
- 2.2 The IAR concluded that the allegations concerning (i) the public consultation on the EIA and (ii) the modification of the location of the pumping station appeared to be unfounded insofar as (i) the European Commission (EC) had confirmed that there was no breach of EU environmental legislation concerning the EIA and (ii) the Cypriot authorities had stated that the modification of the location did not require additional studies on the environmental impact of the project.
- 2.3 With reference to the building and planning permits, the EIB-CM concluded that these issues concerned the actions or omissions of the national authorities, which are not in principle subject to the EIB-CM's control.
- 2.4 Regarding the allegations related to the Da2 zone, the ground complications and the devaluation of the complainant's property, the EIB-CM considered that, based on the elements provided by the parties, there were not enough grounds to justify further inquiry into these allegations.

- 2.5 Finally, the EIB-CM took into account the complainant's concerns related to the noise and odour hazard and, although potential noise pollution and odour impacts had been correctly addressed in the project's EIA, it proposed the monitoring of the noise and odour levels within the first six months of the pumping station's operation.
- 2.6 The IAR also emphasised that, during the initial assessment, both parties demonstrated willingness to compromise with a view to finding an appropriate solution. The Promoter stated it was willing to incorporate different mitigating measures that would address the complainant's concerns whilst the complainant made concrete proposals, such as to assume the cost of the relocation of the pumping station.
- 2.7 The EIB-CM took into account all the involved parties' concerns as well as the need to find solutions acceptable to them. In that respect, it proposed to engage in a mediation process and invited the Promoter and the complainant to a first meeting facilitated by the EIB-CM, whose purpose was to give the involved parties the opportunity to discuss the way forward as well as new concerns raised by the parties during the inquiry.

3. THE MEDIATION PROCESS

- 3.1 Both parties accepted the EIB-CM's invitation for a mediation meeting which took place on 23 and 24 September 2013 in Larnaca.
- 3.2 On 23 September, the EIB-CM team held separate meetings with the complainant, the project Promoter and the Municipality of Larnaca. These preparatory meetings were used by the team to explain the mediation process (summarised in the EIB-CM's letters to the interested parties dated 16 September 2013), its objectives and advantages as well as to prepare the ground for the plenary meeting, notably a first discussion on the possible options to be explored during the plenary.
- 3.3 A plenary meeting took place on 24 September 2013 during which the concerns and interests of both parties were explored and possible solutions to address those concerns were discussed. This meeting resulted in an action plan for further investigation of the technical and financial feasibility of the options proposed. The parties committed to report back to the EIB-CM on the advancement of the action plan.
- 3.4 Following this exploratory phase, the parties reached an agreement on the options to be implemented which was formalised in a Mediation agreement dated 7 January 2014 and signed by both parties.

4. CONCLUSION

Following the positive outcome of the mediation initiative, and whilst being engaged in following up the satisfactory implementation of the options agreed by the parties, the EIB-CM considers the case closed and proceeds to file it.

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25 February 2014

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25 February 2014