

COMPLAINTS MECHANISM

SG/E/2019/06

SG/E/2021/05

SG/E/2021/06

SG/E/2021/07

BANJA LUKA–DOBOJ MOTORWAY (BOSNIA AND HERZEGOVINA)

CONCLUSIONS REPORT
27 OCTOBER 2023





SG/E/2021/0706, SG/E/2021/05, SG/E/2021/06 and SG/E/2021/07 Banja Luka–Doboj Motorway (Bosnia and Herzegovina) Conclusions Report

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Disclaimers

The conclusions presented in this report are based on the information available to the EIB Group Complaints Mechanism Division up to 10 March 2023. The conclusions are addressed solely to the EIB.

In case of discrepancies between language versions, the English version prevails.

EIB Group Complaints Mechanism — Conclusions Report

The EIB Group Complaints Mechanism

The EIB Group Complaints Mechanism is a tool enabling the resolution of disputes if any member of the public feels that the European Investment Bank (EIB) might have done something wrong, i.e. if it has committed an act of maladministration. The Complaints Mechanism is not a legal enforcement mechanism and will not substitute the judgment of competent judicial authorities.

Maladministration means poor or failed administration. It occurs when the EIB fails to act in accordance with a rule or principle that is binding upon it, including its own policies, standards and procedures. The concept of maladministration includes failure by the EIB to comply with human rights, applicable law or the principles of good administration. Maladministration may relate to the EIB Group's decisions, actions or omissions, and this may include the environmental or social impact of the EIB's projects and operations.

One of the main objectives of the Complaints Mechanism is to ensure the right to be heard and the right to complain. For more information on the Complaints Mechanism please visit: <https://www.eib.org/en/about/accountability/complaints/index.htm>.

Please note: Complainants that are not satisfied with the EIB reply to their complaint may file a complaint of maladministration against the EIB with the European Ombudsman¹.

¹ Available [here](#). For more information, see [here](#), Section § 4.5.

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GLOSSARY

BiH	Bosnia and Herzegovina
Complainants	the inhabitants of three villages (Naseobina Hrvaćani, Hrvaćani and Drugovići) in the municipalities of Prnjavor and Laktaši
EBRD	European Bank for Reconstruction and Development
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EIB-CM	EIB Group Complaints Mechanism Division
ESAP	Environmental and Social Action Plan
ESCS	Environmental and Social Completion Sheet
ESDS	Environmental and Social Data Sheet
ESPS	EIB Statement of Environmental and Social Principles and Standards
IAR	Initial Assessment Report
LARP	Land Acquisition and Resettlement Plan
Project	Banja Luka–Doboj Motorway
Promoter	Autoputevi Republike Srpske (the Republika Srpska Motorway Company)
RS	Republika Srpska

EXECUTIVE SUMMARY

This report concerns four complaints regarding a project financed by the European Investment Bank (EIB): a motorway between Banja Luka and Doboj in Republika Srpska (RS), an entity in Bosnia and Herzegovina (BiH). The four complaints were received by the EIB Complaints Mechanism Division (EIB-CM) in 2019 and 2021.

All four complaints were submitted by inhabitants of the following villages in the municipalities of Prnjavor and Laktaši: (i) Naseobina Hrvacani, (ii) Hrvacani and (iii) Drugovići. There are three allegations with 42 sub-allegations in total .

Based on its inquiry, the EIB-CM finds that the project-applicable standards were complied with in relation to one allegation, concerning spatial planning I, but not fully complied with in relation to the remaining two allegations, concerning involuntary resettlement (A) and community health and safety (B). One community health and safety (B) sub-allegation and 13 involuntary resettlement (A) sub-allegations remain to be resolved as part of the land acquisition and resettlement plan (LARP). An additional two involuntary resettlement (A) sub-allegations and six community health and safety (B) sub-allegations remain to be resolved through dedicated corrective actions.

The EIB-CM also finds that the EIB has carried out its role as required in relation to one allegation, concerning spatial planning (C), but has not fully carried out its role as required in relation to the remaining two allegations, concerning involuntary resettlement (A) and community health and safety (B). Although the EIB did not timely follow-up with the promoter on the preparation of LARP, the process seems to be intensifying lately. In 2021, the EIB was aware that certain aspects of the project have a negative social impact and may not be compatible with human rights reflecting the principles of the Charter of Fundamental Rights of the EU. As of November 2022, the EIB intensified its monitoring in order to address the outstanding issues.

Allegation	Outcome
A: Involuntary resettlement B: Community health and safety	Recommendation The EIB should: <ol style="list-style-type: none"> 1. Ask the promoter to prepare a LARP. 2. Agree on corrective actions with the promoter to improve project's impact on the local communities within ten months of the date of the Conclusions Report. 3. Monitor the implementation of the above two points until their completion. The EIB should take appropriate action in the event of unnecessary delays with the preparation and implementation of the LARP and the corrective actions.
C: Spatial planning	No grounds

1 BACKGROUND

1.1 Project

- 1.1.1 The project discussed here is a motorway between Banja Luka and Doboj in Republika Srpska (RS), an entity in Bosnia and Herzegovina (BiH). The final project investment costs stand at €453.45 million, of which €207 million was a European Investment Bank (EIB) loan².
- 1.1.2 The EIB financed the construction of the western section of the motorway, comprising a 35.3-km-long section between Banja Luka (the Mahovljani interchange) and Prnjavor³. The EIB-financed section has been completed and has been in use since October 2018⁴. The European Bank for Reconstruction and Development (EBRD) financed the eastern section of the motorway between Prnjavor and Doboj (the Johovac interchange), which has also been completed.
- 1.1.3 The EIB Board of Directors approved the loan in June 2013. Two finance contracts were signed, one in December 2013 and one in March 2018. The loan has been fully disbursed. JP Autoputevi Republike Srpske (the Republika Srpska Motorway Company; henceforth referred to as “the promoter”)⁵ co-signed the financed contract and implemented the project. Two construction companies (the contractor) carried out the construction work, and a supervision engineer oversaw the implementation of works.

1.2 Complaints

- 1.2.1 The report concerns four complaints received by the EIB Complaints Mechanism Division (EIB-CM), one in 2019 and three in 2021. All four complaints were submitted by inhabitants of the following villages in the municipalities of Prnjavor and Laktaši (henceforth referred to as “the complainants”): (i) Naseobina Hrvacani, (ii) Hrvacani and (iii) Drugovići⁶ with a joint population of 1277 inhabitants⁷.
- 1.2.2 The complaints concern the social impact of the motorway. There are three allegations, with 42 sub-allegations in total. The allegations are presented in Table 1. Their summary is presented in Annex I of the report.

² The initial estimates was €565 million, of which €207 million was to be an EIB loan. See [here](#) (accessed on 8 February 2023).

³ See [here](#) (accessed on 8 February 2023).

⁴ See [here](#) (accessed on 8 February 2023).

⁵ A public company with the purpose of managing motorways in RS.

⁶ § 1.1 of the Initial Assessment Report (IAR) for case SG/E/2019/06, available [here](#) (accessed on 8 February 2023); § 2.1 of the IAR for case SG/E/2021/05, available [here](#) (accessed on 8 February 2023); § 2.1 of the IAR for case SG/E/2021/06, available [here](#) (accessed on 8 February 2023); and § 1.2.1 of the IAR for case SG/E/2021/07, available [here](#) (accessed on 8 February 2023).

⁷ Please note that, according to the results of the 2013 census in Republika Srpska from the Republika Srpska Institute of Statistics (the last available census results), available [here](#) (accessed on 17 March 2023), Naseobina Hrvacani has 88 inhabitants, Hrvacani has 468 inhabitants, and Drugovići has 721 inhabitants.

Table 1 – Summary of the allegations

Allegations	Sub-allegations
A: Involuntary resettlement	The sub-allegations concern land property issues (e.g. construction of a motorway on a privately owned land; division of land leading to closure of local businesses; lack of access to property).
B: Community health and safety	The sub-allegations concern impact of the motorway on the local communities (e.g. suitability of a motorway underpass for pedestrians; left-over construction material; state of local roads).
C: Spatial planning	The sub-allegations concern a spatial plan's content and adoption procedure.

2 WORK PERFORMED

- 2.1.1 The EIB-CM carried out an initial assessment of all four cases (SG/E/2019/06, SG/E/2021/05, SG/E/2021/06 and SG/E/2021/07); this included initial meetings with the EIB services, a review of EIB documents and exchanges with the promoter and the complainants⁸. In the case of SG/E/2019/06, the initial assessment also included a site visit in October 2019⁹. For each of the four cases, the EIB-CM issued a separate Initial Assessment Report (IAR)¹⁰.
- 2.1.2 The IAR on SG/E/2019/06 recommended that the parties engage in a problem-solving facilitation process¹¹. The problem-solving facilitation process ended in March 2021 with the Dispute Resolution Report¹². The report concluded that the parties were able to reach agreements in some areas¹³. For those issues not agreed on, the report recommended the launch of a compliance review¹⁴.
- 2.1.3 The remaining three IARs (SG/E/2021/05, SG/E/2021/06 and SG/E/2021/07) all recommended the launch of a compliance review¹⁵.
- 2.1.4 In August 2022, the EIB-CM conducted another site visit. Following the site visit, the EIB-CM had numerous exchanges with the complainants, the promoter and the EIB services. The EIB-CM also reviewed numerous available documents and conducted open-source searches¹⁶. The EIB-CM was also in contact with the relevant EIB service handling allegations about fraudulent and corrupt practices.
- 2.1.5 Prior to the four cases outlined above, the EIB-CM conducted a compliance review of three other cases, namely SG/E/2016/24¹⁷, SG/F/2019/03¹⁸ and SG/E/2019/03¹⁹. These cases resulted in two Conclusions Reports and one letter, which are available on the EIB's website²⁰.

⁸ § 3.1 of the IAR for case SG/E/2019/06, § 3.2 of the IAR for case SG/E/2021/05, § 3.2 of the IAR for case SG/E/2021/06 and § 2.2 of the IAR for case SG/E/2021/07.

⁹ § 3.1 of the IAR for case SG/E/2019/06.

¹⁰ See footnote 6.

¹¹ § 5 of the IAR for case SG/E/2019/06.

¹² Available [here](#) (accessed on 8 February 2023).

¹³ § 4.1 of the Dispute Resolution Report.

¹⁴ § 4.2 of the Dispute Resolution Report.

¹⁵ See § 4.1 of the IAR for case SG/E/2021/05, § 4.1 of the IAR for case SG/E/2021/06 and § 3.1 of the IAR for case SG/E/2021/07.

¹⁶ See [here](#) and [here](#), for example.

¹⁷ See [here](#).

¹⁸ See [here](#).

¹⁹ See [here](#).

²⁰ See footnotes 17–19.

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- 2.1.6 Based on the information collected and analysed, the EIB-CM prepared this Conclusions Report. The EIB-CM decided to address all four cases in one Conclusions Report because of the similarities of the sub-allegations in the four cases and the overlaps between them.

3 REGULATORY FRAMEWORK

3.1 The EIB Group Complaints Mechanism

- 3.1.1 The EIB Group Complaints Mechanism Policy²¹ tasks the EIB-CM with handling complaints concerning alleged maladministration by the EIB²². Maladministration means poor or failed administration²³. Examples of maladministration include (i) unnecessary delays²⁴; (ii) failure by the EIB to comply with human rights, as reflected in the principles of the Charter of Fundamental Rights of the EU²⁵; and (iii) social impact from the EIB's activities²⁶.
- 3.1.2 The policy specifies that the EIB-CM reviews the EIB's activities with a view to determining whether maladministration attributed to the EIB has taken place²⁷. The EIB-CM compliance review includes a substantive review of compliance with standards in the case of complaints regarding social impact²⁸.

3.2 Project-applicable standards

- 3.2.1 The project needs to comply with the project-applicable standards. The project-applicable standards include: (i) EIB standards, (ii) national law and the relevant standards in EU law²⁹ and (iii) other requirements.
- 3.2.2 The project needs to be in line with the EIB standards included in the 2009 EIB Statement of Environmental and Social Principles and Standards (ESPS)³⁰ and the 2010 Environmental and Social Practices Handbook (henceforth referred to as "the Handbook")³¹. The Handbook includes specific standards for involuntary resettlement³² and community health and safety³³. For example, the Handbook contains requirements concerning (i) stakeholder participation in the resettlement process³⁴ and (ii) risks to and adverse impacts to community health, safety and security that may arise from the project³⁵.
- 3.2.3 The project also needs to be in line with the national law and the relevant standards in EU law. The BiH Constitution states that the rights and freedoms set forth in the European Convention

²¹ Available [here](#).

²² § 5.1.3 of the EIB Group Complaints Mechanism Policy.

²³ § 3.1 of the EIB Group Complaints Mechanism Policy.

²⁴ § 3.1 of the EIB Group Complaints Mechanism Policy.

²⁵ § 3.2 of the EIB Group Complaints Mechanism Policy.

²⁶ § 3.3 of the EIB Group Complaints Mechanism Policy.

²⁷ § 5.3.3 of the EIB Group Complaints Mechanism Policy.

²⁸ § 5.3.3 of the EIB Group Complaints Mechanism Policy.

²⁹ § 36 of the EIB Statement of Environmental and Social Principles and Standards (ESPS).

³⁰ Available [here](#) (accessed on 8 February 2023).

³¹ The EIB Environmental and Social Practices Handbook (2010).

³² Involuntary resettlement refers to (a) physical displacement (relocation or loss of shelter) and/or (b) economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition or restriction of access to natural resources. Land acquisition includes purchases of land and purchases of access rights. Restriction of access to natural resources includes loss of access to grazing land as a result of project activities. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition resulting in displacement. This occurs via (a) expropriation or restrictions on land use based on eminent domain, and (b) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail. From Guidance Note 1 on Involuntary Resettlement, the EIB Environmental and Social Practices Handbook (2010).

³³ Community health and safety refers to the promoter's responsibility to identify and to avoid or minimize the risks to and adverse impacts to community health, safety and security that may arise from project activities. From Guidance Note 4 on Occupational and Community Health & Safety, the EIB Environmental and Social Practices Handbook (2010).

³⁴ Guidance Note 1 on Involuntary Resettlement, the EIB Environmental and Social Practices Handbook (2010).

³⁵ Guidance Note 4 on Occupational and Community Health & Safety, the EIB Environmental and Social Practices Handbook (2010).

on Human Rights (and its Protocols) apply directly in BiH and have priority over all other law³⁶. The Convention states that no one should be deprived of his/her possessions except in the public interest and when subject to the conditions provided for by law³⁷. The Convention is consistent with the EU Charter of Fundamental Rights³⁸, which states that no one may be deprived of his/her possessions, except in the public interest, and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss³⁹.

- 3.2.4 Other national law requirements include those set out in (i) the RS Act on Spatial Planning and Construction⁴⁰, (ii) the RS Decision on Adoption of the Proposed Sub-division Plan for Banja Luka–Doboj Motorway under the Shortened Procedure⁴¹ and (iii) the Ordinance on the Permissible Limits of Sound Intensity and Noise⁴². For example, the RS Act on Spatial Planning and Construction stipulates that (i) the promoter may carry out construction works after it obtains the construction permit⁴³, and in line with the main design⁴⁴ attached to the permit⁴⁵; and (ii) the project must comply with the relevant spatial documents⁴⁶, including sub-division plans.
- 3.2.5 The project must also comply with the relevant permits, such as the Water Permit⁴⁷, and other agreed requirements. The latter include (i) the Environmental and Social Action Plan (ESAP)⁴⁸; (ii) the Construction Environmental & Social Management Plan⁴⁹; and (iii) the Guidelines for Road Design, Construction, Maintenance and Supervision.

3.3 Responsibilities of the EIB

- 3.3.1 In line with the ESPS, the responsibility for compliance with the project-applicable standards lies with the promoter⁵⁰. The promoter is required to report to the EIB all land acquisition data (including economic displacement)⁵¹. The ESAP requires the promoter to maintain and implement a grievance mechanism to ensure that stakeholders are able to raise their concerns about the project and that these concerns are addressed promptly⁵².

³⁶ Article II(2) of the Constitution of BiH, available [here](#) (accessed on 8 February 2023).

³⁷ Article 1 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, available [here](#), (accessed on 8 February 2023). Please note that, according to Article 5 of the Protocol, Article 1 of the Protocol is regarded as an additional article to the Convention.

³⁸ Available [here](#) (accessed on 8 February 2023).

³⁹ Article 17 of the Charter of Fundamental Rights of the European Union, available [here](#) (accessed on 8 February 2023).

⁴⁰ RS Act on Spatial Planning and Construction (OG RS Nos. [40/13](#), [106/15](#), [3/16](#) and [84/19](#)).

⁴¹ Decision on Adoption of the Proposed Sub-division Plan for Banja Luka–Doboj Motorway under the Shortened Procedure (OG RS No. 56/16).⁴² Ordinance on the Permissible Limits of Sound Intensity and Noise (OG SR BiH No. 46/89).

⁴² Ordinance on the Permissible Limits of Sound Intensity and Noise (OG SR BiH No. 46/89).

⁴³ Article 124 of the RS Act on Spatial Planning and Construction.

⁴⁴ The main design provides a technical solution of the object and the placement of the object in the space. From Article 100 of the RS Act on Spatial Planning and Construction.

⁴⁵ Articles 100(2) and 128(1) of the RS Act on Spatial Planning and Construction.⁴⁶ Article 26(a)(1) and (4) of the RS Act on Spatial Planning and Construction.

⁴⁶ Article 26(a)(1) and (4) of the RS Act on Spatial Planning and Construction.

⁴⁷ September 2018 Water Permit for the Banja Luka–Doboj Motorway.

⁴⁸ The ESAP was prepared owing to noted gaps between the EIA and the EBRD standards – see the June 2013 Environmental and Social Data Sheet (ESDS), available [here](#) (accessed on 8 February 2023). The ESAP describes the environmental and social mitigation and monitoring measures, the criteria for their successful implementation, and organisational measures to be implemented during the pre-construction, construction and operational stages of the project – § 1 of the January 2013 Environmental & Social Action Plan Banja Luka to Doboj Motorway: Section 1: Banja Luka to Prnjavor, available [here](#) (accessed on 8 February 2023).

⁴⁹ § 1.2 of the January 2013 Environmental & Social Action Plan Banja Luka to Doboj Motorway: Section 1: Banja Luka to Prnjavor.

⁵⁰ § 2 of the ESPS. The promoter is also responsible for implementing the measures outlined in the ESAP during construction and operation – §§ 1.2 and 1.3 of the January 2013 Environmental & Social Action Plan Banja Luka to Doboj Motorway: Section 1: Banja Luka to Prnjavor.

⁵¹ § 5.1.1 of the January 2013 Environmental & Social Action Plan Banja Luka to Doboj Motorway: Section 1: Banja Luka to Prnjavor.

⁵² § 2.3 of the January 2013 Environmental & Social Action Plan Banja Luka to Doboj Motorway: Section 1: Banja Luka to Prnjavor.

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- 3.3.2 According to national legislation and the Handbook, the responsibility for regulation and enforcement lies with the competent authorities⁵³.
- 3.3.3 The EIB will not finance projects that do not meet the project-applicable standards. This means that it will not finance projects that violate human rights⁵⁴. Whether or not the project meets the project-applicable standards is established as part of the EIB's project appraisal and monitoring.
- 3.3.4 The ESPS and the Handbook require the EIB to appraise the projects it finances⁵⁵, to ensure that social considerations have been integrated into the project⁵⁶. This includes a social appraisal⁵⁷ with the aim of satisfying itself that the projects it finances comply with the EIB's social safeguards⁵⁸. The appraisal takes place prior to signature of the finance contract⁵⁹.
- 3.3.5 Once it signs the finance contract, the EIB is required to monitor the project. The monitoring aims at ensuring compliance of the project with the EIB's approval conditions⁶⁰. This includes monitoring of whether or not contract conditions and undertakings related to the social matters were respected⁶¹. The EIB monitors projects based on reports provided by the promoter, as well as EIB site visits, information provided by the local community, etc.⁶².
- 3.3.6 Once the project is completed, the EIB publishes the project's Environmental and Social Completion Sheet (ESCS). The ESCS records the project's social impact, compliance with the social commitments made at the appraisal stage and reflected in the finance contract and, if applicable, any changes made to the ESAP during project implementation.
- 3.3.7 A breach of contract and/or poor project performance in other respects requires corrective action by the borrower, in agreement with the EIB⁶³. A failure by the promoter to agree on such action with the EIB and to take appropriate action may have financial and legal consequences for the promoter⁶⁴.

4 FINDINGS/OBSERVATIONS/ANALYSIS

4.1 Compliance with the project-applicable standards

- 4.1.1 As an example, one sub-allegation concerns suitability of a motorway underpass for pedestrians⁶⁵. The collected evidence shows that the underpass was not paved, the water canal was not built, and the pavement was not built. Once informed, the promoter initiated the following actions, which are required to bring the motorway underpass in line with the standards and make it suitable for pedestrians: (i) paving the approximately 900-m-long 118A-N road, including the section going through the underpass; (ii) building pavements in the underpass in line with the applicable standards; and (iii) building a water canal in the underpass.

⁵³ § 60 of the EIB Environmental and Social Practices Handbook (2010).

⁵⁴ § 6 of the ESPS Statement.

⁵⁵ § 17 of the ESPS Statement.

⁵⁶ § 101, item 10, of the EIB Environmental and Social Practices Handbook (2010).

⁵⁷ § 102 of the EIB Environmental and Social Practices Handbook (2010).

⁵⁸ § 23, item 3, of the EIB's Environmental and Social Practices Handbook (2010).

⁵⁹ For the EIB project cycle, see [here](#).

⁶⁰ § 258 of the EIB Environmental and Social Practices Handbook (2010).

⁶¹ § 259 of the EIB Environmental and Social Practices Handbook (2010).

⁶² § 8 of the ESPS.

⁶³ § 9 of the ESPS.

⁶⁴ § 9 of the ESPS.

⁶⁵ Donjani underpass (km 13+707.00).

4.2 Responsibilities of the EIB

- 4.2.1 As part of its appraisal in April 2013, the EIB noted that the ESAP was prepared due to gaps between the EIA and EBRD standards⁶⁶. In June 2013, the EIB Board of Directors approved the operation. When submitting the operation for approval, the EIB noted that the promoter had made available its (i) social policy and (ii) grievance mechanism to the public⁶⁷. This included (i) relevant publications in daily newspapers; and (ii) access to the information on the promoter's website, promoter's premises, and in the municipalities of Prnjavor and Laktaši⁶⁸. The promoter (i) put in place a procedure for the submission of project-related grievances⁶⁹ and (ii) made the grievance form accessible on its website⁷⁰.
- 4.2.2 Following the signing of the finance contract in December 2013, the EIB monitored the project's implementation. During the monitoring, the EIB received information from the promoter on the project's social aspects, including information about the submitted grievances.

Text Box 1 – The EIB and the resettlement activities⁷¹

The EIB set the creation of a land acquisition and resettlement plan (LARP) as a possible condition for the first disbursement if the EIB deemed the development of such a plan necessary when the detailed design (the subdivision plan) became available.

However, the EIB omitted to follow up on whether or not a LARP was needed after the adoption of the 2016 sub-division plan. As stated in the EIB-CM's October 2021 Conclusions Report, the EIB should have asked the promoter to prepare a LARP by February 2022⁷². Once a LARP is prepared, the EIB is required to monitor its implementation until the completion of the remaining expropriation cases.

The EIB started coordinating activities with the promoter in November 2022. As of March 2023, a LARP had not yet been prepared. However, in early 2023, the EIB intensified its communication with the promoter, showing a willingness to accelerate the LARP process.

- 4.2.3 In December 2021, the EIB issued the ESCS, listing involuntary resettlement and community health and safety as the major negative effects of the project⁷³. The EIB noted that, although most of those affected did not oppose the expropriation, a number of cases remained to be fully resolved⁷⁴. The EIB also noted that there were several concerns regarding the severance impact in (i) Naseobina Hrvaćani and (ii) Hrvaćani⁷⁵. As of November 2022, the EIB intensified its monitoring in order to address the outstanding issues, in line with the exchanges initiated by EIB-CM.

⁶⁶ June 2013 ESDS, available [here](#) (accessed on 8 February 2023).

⁶⁷ June 2013 ESDS, available [here](#) (accessed on 8 February 2023).

⁶⁸ June 2013 ESDS, available [here](#) (accessed on 8 February 2023).

⁶⁹ § 9.3 of the Construction Environmental & Social Management Plan.

⁷⁰ Available [here](#) (accessed on 8 February 2023).

⁷¹ For more information, see the conclusions report for case SG/E/2019/03, available [here](#) (accessed on 9 February 2023). The report concerns the resettlement of project-affected people and expropriation of their property caused by the construction of the Banja Luka–Doboj Motorway.

⁷² The deadline set was three months from the closure of the case. The case was closed in November 2021 – see the case description [here](#) (accessed on 10 February 2023).

⁷³ December 2021 ESCS, available [here](#) (accessed on 10 February 2023).

⁷⁴ December 2021 ESCS.

⁷⁵ December 2021 ESCS.

5 CONCLUSIONS

5.1.1 Based on its inquiry, the EIB-CM finds that the project-applicable standards were complied with in relation to one allegation, concerning spatial planning (C), but not fully complied with in relation to the remaining two allegations, concerning involuntary resettlement (A) and community health and safety (B). One community health and safety (B) sub-allegation and 13 involuntary resettlement (A) sub-allegations remain to be resolved as part of the LARP (see Text Box 1 and Annex I), including two that were submitted to the grievance mechanism in 2018. An additional two involuntary resettlement (A) sub-allegations and six community health and safety (B) sub-allegations remain to be resolved through dedicated corrective actions (see Annex I), in addition to the community health and safety-related action identified in case SG/E/2016/24 that still remains to be resolved (see Annex I). A summary of the allegations and a breakdown of the corresponding sub-allegations contained in Annex I is presented in Table 2. As an example, one sub-allegation concerns a motorway underpass that was not in line with the applicable standards. However, the promoter has initiated the following actions, which are required to bring the motorway underpass in line with the standards and make it suitable for pedestrians: (i) paving the approximately 900-m-long 118A-N road, including the section going through the underpass; (ii) building pavements in the underpass in line with the applicable standards; and (iii) building a water canal in the underpass.

Table 2 – Summary of the allegations and a breakdown of the corresponding sub-allegations

Allegations	Total number of sub-allegations	Breakdown of the sub-allegations	
A: Involuntary resettlement	15	13	To be dealt with as part of the LARP ⁷⁶
		2	Actions
B: Community health and safety	25	13	No grounds
		1	To be dealt with as part of the LARP ⁷⁷
		5	Friendly solution
		6	Actions
C: Spatial planning	2	2	No grounds

5.1.2 The EIB-CM also finds that the EIB has carried out its role as required in relation to one allegation, concerning spatial planning (C), but has not fully carried out its role as required in relation to the remaining two allegations, concerning involuntary resettlement (A) and community health and safety (B). Although the EIB did not timely follow-up with the promoter on the preparation of LARP⁷⁸, the process seems to be intensifying lately (see § 3.1.1 and Text

⁷⁶ This is in line with § 3.2 of the IAR for case SG/E/2021/07.

⁷⁷ This is in line with § 3.2 of the IAR for case SG/E/2021/07.

⁷⁸ The unnecessary delays in the preparation of the LARP are impacting 13 of the sub-allegations included in this Conclusions Report.

Box 1). In 2021, the EIB was aware that certain aspects of the project have a negative social impact and may not be compatible with human rights reflecting the principles of the Charter of Fundamental Rights of the EU (see §§ 3.1.1, 3.3.6 and 4.2.3). As of November 2022, the EIB intensified its monitoring in order to address the outstanding issues.

6 OUTCOMES

6.1.1 A summary of the allegations and their outcomes is presented in Table 3.

Table 3 – Summary of allegations and outcomes

Allegation	Outcome
A: Involuntary resettlement B: Community health and safety	Recommendation The EIB should: <ol style="list-style-type: none"> 1. Ask the promoter to prepare a LARP⁷⁹. 2. Agree on corrective actions with the promoter to improve project's impact on the local communities⁸⁰ within ten months of the date of the Conclusions Report⁸¹. 3. Monitor the implementation of the above two points until their completion. The EIB should take appropriate action in the event of unnecessary delays with the preparation and implementation of the LARP and the corrective actions.
C: Spatial planning	No grounds

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⁷⁹ For more info see Annex I. The promoter should be responsible for the implementation of LARP.

⁸⁰ For more info see Annex I. The corrective actions are a list of actions that are meant to address noted shortcomings regarding the project's compliance with the applicable standards.

⁸¹ This should include establishment of (i) adequate budgetary and staff resources, (ii) the timeline for the implementation of the relevant corrective actions and (iii) regular reporting to the EIB. The promoter should be responsible for the implementation of the corrective actions.

ANNEX I - SUMMARY OF THE SUB-ALLEGATIONS, CONCLUSIONS AND OUTCOMES

Outcomes	Sub-allegations	Conclusions
No grounds	(1), (6), (7), (8), (11); (35)	Access between Naseobina Hrvačani and Hrvačani seems suitable and to be of at least the same quality as before the construction of the motorway.
	(2); (4)	The Stegići overpass is in line with the project-applicable standards.
	(12)	The project has been implemented in line with the applicable spatial plans. The unbuilt Kojin Han interchange was never planned; the Donjani overpass was relocated and replaced by the Donjani underpass in the relevant spatial plans after the public consultation procedure.
	(13)	The public consultation for the sub-division plan has been carried out in line with the project-applicable standards.
	(15)	The motorway water drainage system appears to be working well and it appears that no water is emptied into private land.
	(20); (21)	Some project related developments do not have impact on health and safety. The old Crkvena riverbed does not seem to emit an odour and impact on human health of emissions of carbon monoxide appears to be very unlikely; by blocking off access to the pipe culvert, the promoter is promoting the health and safety of the local population.
	(40); (41)	In the event of rental agreements where the contractor has given back the property in a poorer condition than agreed, the person affected may inform the relevant inspection.
Actions to be included in the Corrective Action Plan	(3)	The Donjani underpass is not in line with the applicable standards. This issue should be resolved.
	(10); (37)	The bridge between Donjani underpass and the M16.1 road does not restore the pre-motorway levels of community health, safety. This issue should be resolved.
	(18); (28)	In some places around the motorway, the permitted noise levels have been exceeded. This issue should be resolved.
	(19)	The Sobanjska river is creating a swamp. This issue should be resolved.
	(39); (42)	Regulation of the Crkvena riverbed caused property damage. This issue should be resolved.
	Case SG/E/2016/24 allegations	The July 2020 supervision engineer instruction to the contractor to build the pavement on the bridge over the Crkvena river in the direction of the western part of the Drugovići village, protected in part by a steel safety guard rail, should be implemented.

LARP		
	(3), (14); (22); (23); (24); (25); (26); (27); (29); (30); (31); (32); (33); (34); (38)	The LARP should include 29 individuals encompassed by cases: SG/E/2019/03; SG/E/2019/06 and SG/E/2021/07.
Friendly solution (resolved during complaints handling)		
	(5)	After carrying out relevant improvements, the safety of the intersection of the Stegići overpass and road M16.1 appears to be in line with the level of safety on similar intersections in the area.
	(9); (36)	The identified left-over construction material has been cleaned up.
	(16)	The water supply to Buč is no longer negatively impacted by the motorway.
	(17)	The Crkvena riverbed has been widened to minimise the risk of flooding.

