

COMPLAINTS MECHANISM

SG/E/2021/06

BANJA LUKA-DOBOJ MOTORWAY (BOSNIA AND HERZEGOVINA)

INITIAL ASSESSMENT REPORT

3 AUGUST 2022

BANJA LUKA-DOBOJ MOTORWAY

Initial Assessment Report

Complaint confidential

No

External distribution

Complainant

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Inspector General
Relevant EIB services

Disclaimers

This report is based on the information available to the EIB Group Complaints Mechanism up to 10 June 2022.

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

The EIB Group Complaints Mechanism

The EIB Group Complaints Mechanism is a tool enabling resolution of disputes in case 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 judgement 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, with applicable law, or with the principles of good administration. Maladministration may relate to EIB Group decisions, actions or omissions. This may include the environmental or social impacts of the EIB's projects and operations.

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

The Initial Assessment Report

The initial assessment generally aims to¹:

- Clarify the concerns raised by the complainant, to better understand the complainant's position as well as the views of other project stakeholders (project promoter, national authorities, etc.);
- Understand the validity of the concerns raised;
- Assess whether and how the project stakeholders (e.g. complainant, the relevant EIB Group services and the project promoter) could seek resolution of the issues under complaint;
- Determine if further work by the EIB-CM is necessary and/or possible (investigation, compliance review or mediation between the parties) to address the allegation or resolve the issues raised by the complainant.

¹ As outlined in Article 2.2.1 of the [EIB-CM Procedures](#).

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GLOSSARY

BiH	Bosnia and Herzegovina
EIB	European Investment Bank
EIB-CM	EIB Group Complaints Mechanism Division
EUR	Euro
Project	Banja Luka-Doboj Motorway
Promoter	JP Autoputevi Republike Srpske (Republika Srpska Motorway Company)
RS	Republika Srpska

EXECUTIVE SUMMARY

This report concerns a complaint lodged by an individual regarding the Banja Luka-Doboj Motorway project in Republika Srpska (RS), Bosnia and Herzegovina (BiH). The EIB financed construction of the western section of the motorway, i.e. the 35.3 km long section between Banja Luka (Mahovljani interchange) and Prnjavor. The EIB financed section has been completed and has been in use since October 2018. The European Bank for Reconstruction and Development financed the eastern section of the motorway between Prnjavor and Doboj (Johovac interchange), which has also been completed.

Based on its initial assessment, the EIB-CM decides to carry out a compliance review of the alleged failure to restore the complainant's land to its original state.

The outcome of the compliance review process will be communicated to the complainant through the EIB-CM's Conclusions Report.

1 THE PROJECT

- 1.1 The Banja Luka-Doboj Motorway project concerns the construction of a motorway between Banja Luka and Doboj in Republika Srpska (RS), Bosnia and Herzegovina (BiH). The EIB financed construction of the western section of the motorway, i.e. the 35.3 km long section between Banja Luka (Mahovljani interchange) and Prnjavor (hereinafter the project)². The project has been completed and has been in use since October 2018. The European Bank for Reconstruction and Development financed the eastern section of the motorway between Prnjavor and Doboj (Johovac interchange), which has also been completed.
- 1.2 JP Autoputevi Republike Srpske, the public motorway company of RS, is implementing the project (the promoter). The EIB Board of Directors approved the EIB's loan for the project on 4 June 2013. The finance contract for the project was signed on 16 December 2013. The total project costs amounted to EUR 565 m, of which EUR 207 m as being financed from the EIB loan.

2 THE COMPLAINT

- 2.1 In March 2021, the EIB Group Complaints Mechanism Division (EIB-CM) received a complaint from an individual residing in the project's area.
- 2.2 The complainant explains that he offered two plots of land to the contractor, to be used as a landfill and a passage. He agreed with the contractor that, after its use, the land would be restored to its original state so that it is used as agricultural land. However, he contends that this was not done correctly and that two plots are often flooded. During the meeting with the EIB-CM referred to in § 3.2 of this report, the complainant argued that a third plot he owns is covered by waste material from the construction of the motorway.

² <https://www.eib.org/en/projects/pipelines/all/20110622>

3 WORK PERFORMED

- 3.1 § 4.2.1 of the EIB Group Complaints Mechanism Policy (Policy)³ and § 2.1.3 of the EIB Group Complaints Mechanism Procedures (Procedures)⁴ require the EIB-CM to carry out the initial assessment of the complaint. The objective of the initial assessment is to clarify the concerns raised by the complainant, understand the complainant's position and the validity of the concerns raised as well as to determine if further work by the EIB-CM is necessary and/or possible in order to address the allegation or resolve the issues raised by the complainant⁵. The further work may include compliance review or collaborative resolutions process (e.g. mediation). This report contains the results of the EIB-CM's initial assessment.
- 3.2 As per § 2.2.2 of the Procedures, during the initial assessment the EIB-CM: (i) had an initial meeting with the EIB services; (iii) had a meeting with the promoter; (iv) liaised with the complainant with the support of an interpreter; (iii) reviewed EIB project documents; (iv) reviewed documents provided by the complainant; (v) reviewed its own documents regarding the same project⁶.
- 3.3 In the context of its initial assessment, the EIB-CM carried out a preliminary review of the concerns raised in the complaint, the information provided by the promoter or gathered by the EIB-CM as part of this and/or previous inquiries concerning this project.

However, due to the COVID-19 pandemic, the EIB-CM team could not travel on site during the initial assessment phase.

- 3.4 The regulatory framework, which is relevant for the present case, includes:
- The EIB's policies, procedures and standards such as the EIB Statement of Environmental and Social Principles and Standards and the related Handbook of 2010. Alongside the EIB standards applicable to the present case, the EIB-CM also considers relevant the guidance note on involuntary resettlement, the guidance note on occupational and community health and safety, and the guidance note on public consultation and participation in project preparation; and.
 - RS legislation.

³ Available at: [EIB GROUP COMPLAINTS MECHANISM POLICY](#).

⁴ Available at: [EIB GROUP COMPLAINTS MECHANISM PROCEDURES](#).

⁵ § 2.2.1 of the [EIB GROUP COMPLAINTS MECHANISM PROCEDURES](#).

⁶ [Conclusions Report SG/E/2016/24](#); [Initial Assessment Report SG/E/2019/03](#); [Conclusions Report SG/E/2019/03](#); [Initial Assessment Report SG/E/2019/06](#); [Dispute Resolution Report SG/E/2019/06](#); [Closing letter SG/F/2019/03](#).

- 3.5 The EIB's standards require the promoter to avoid or minimise the risks of adverse impacts on the safety of the local population that may arise from project activities. In addition, the EIB's standards require the EIB to ensure that social aspects of the project, such as community health and safety, have been integrated into the project⁷.
- 3.6 The EIB-CM notes that the promoter's website⁸ contains information on the project. However, this information is not sufficient for the EIB-CM to form its reasoned opinion on the allegations submitted by the complainant.

4 WAY FORWARD

- 4.1 The EIB-CM has decided to carry out a compliance review due to the nature of the complaint.
- 4.2 The compliance review will concern the alleged failure to restore the complainant's land to its original state. The outcome of the compliance review process will be communicated to the complainant through the EIB-CM's Conclusions Report in accordance with §2.4.6 of the EIB-CM Procedures⁹.

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⁷ Guidance Note 4 of the 2010 v. of the EIB Environmental and Social Practices Handbook.

⁸ English version ["9th January" motorway, Banja Luka - Doboj | Autoputevi \(autoputevi.com\)](http://autoputevi.com); Serbian version ["9th January" motorway, Banja Luka - Doboj | Autoputevi \(autoputevi.com\)](http://autoputevi.com).

⁹ § 2.4.6 of the [EIB GROUP COMPLAINTS MECHANISM PROCEDURES](#).